



## सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,  
चौथी मंज़िल 4th Floor, हड्कोभवन HUDCO Bhavan, ईश्वर भुवन रोड IshwarBhuvan Road,  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009 दूरभाषक्रमांक Tel. No. 079-  
26589281  
DIN – 20250571MN00003883EF

क	फाइलसंख्या FILE NO.	S/49-50/CUS/AHD/24-25
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-38-2025-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	21.05.2025
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	OIO No. 11/ADC/AB/HAZIRA/2023-24, dated 07.03.2024 passed by The Additional Commissioner of Customs, Hazira Port, Surat.
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	21.05.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s L & T Special Steels and Heavy Forgings Pvt. Ltd. A.M. Naik Heavy Engineering Complex, Gate No., Hazira Road, P.O. Bhata, Surat- 394510.
1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागया है।	
2.	This copy is granted free of cost for the private use of the person to whom it is issued.	
3.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतरीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन),वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकते हैं।	

<p>Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.</p>	
<p>निम्नलिखित सम्बन्धित आदेश/Order relating to :</p>	
(क)	बैगेज के रूपमें आयातित कोई माल.
(a)	any goods imported on baggage.
(ख)	भारतमें आयात करने हेतु किसी वाहनमें लादागयाले किन भारतमें उनके गन्तव्य स्थान पर उतारे नगए मालया उस गन्तव्य स्थान पर उतारे गए मालकी मात्रामें अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उसके साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मदसं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(ब)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीजों अन्यरसीद, फीस, दण्ड, जब्ती और विविध मादों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्रा) या रु. 1,000/- (रूपए एक हजार मात्रा), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर. 6 की दो प्रतियां, यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एकलाख या उससे कम होतो ऐसे फीस के रूप में रु. 200/- और यदि एकलाख से अधिक होतो फीस के रूप में रु. 1,000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs. 200/- (Rupees two Hundred only) or Rs. 1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs. 200/- and if it is more than one lakh rupees, the fee is Rs. 1000/-.
4.	<p>मदसं. 2</p> <p>के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि दिकोई व्यक्ति इस आदेश से आहत महसूस करता होतो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए. -3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवाकर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं</p>
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	<p>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवाकर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ</p> <p>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</p>



	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असार वा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन,सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागायाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहजाररुपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागायाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरूपयेपचासलाखसेअधिकनहोतो;पांचहजाररुपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागायाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहजाररुपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इसआदेशकेविरुद्धअधिकरणकेसाथने,मांगेगएशुल्कके 10% अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेहैं,यादंडके 10% अदाकरनेपर,जहांकेवलदंडविवादमेहै,अपीलरखाजाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरूपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	



**ORDER-IN-APPEAL**

M/s L & T Special Steels and Heavy Forgings Pvt. Ltd. A.M. Naik Heavy Engineering Complex, Gate No., Hazira Road, P.O. Bhata, Surat- 394510 (hereinafter referred to as "the Appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against the OIO No. 11/ADC/AB/HAZIRA/2023-24, dated 07.03.2024 (hereinafter referred to as the "impugned order") issued by The Additional Commissioner of Customs, Hazira Port, Surat. (hereinafter referred to as the "adjudicating authority").

2. Briefly stated, facts of the case are that the Appellant, holders of IEC 0309045771, is engaged in the manufacturing of heavy forging and for the purpose of their manufacturing process they had imported quick lime at Hazira Port. Further, the Directorate General of Revenue Intelligence (DGRI), Mangalore, conducted an investigation indicating that the Appellant and other importers misclassified imported Quick Lime (Calcium Oxide) under CTH 25221000, which is meant for crude quick lime and attracts concessional customs duty. However, laboratory analysis showed that the imported product had a high CaO content (above 94.4%), suggesting it was in purified form. As per Chapter 25 notes and the explanatory notes to CTH 2522, purified calcium oxide is excluded from this heading and should instead be classified under CTH 28259090, which covers chemically defined compounds under Chapter 28. The DGRI contends that this misclassification resulted in short payment of customs duty and IGST, thereby attracting recovery of differential duty along with applicable interest and penalties under the Customs Act, 1962.

2.1 On the basis of investigation conducted by DGRI, the Appellant was initially issued a Show Cause Notice bearing F. No. DRI/BZU/MRU/1/ENQ-10(INT-01)/2020 dated 30.12.2020, issued by the Additional Director, DRI, BZU, Bangalore proposing that the concessional duty benefit claimed under CTH 25221000 in terms of SI No. 120 of Notification No. 50/2017- Customs dated 30.06.2017, wherein the BCD @5%, SWS @10% on BCD and IGST @5% be denied, and the Appellant be liable to pay differential customs duty amounting to Rs.35,11,607/- along with applicable interest under Section 28AA and recovery of duty under Section 28(1) of the Customs Act, 1962.

2.2 Further, from the records of EDI System, it had been observed that the Appellant had continued the practice of importing 'Quick Lime' by classifying the same under CTH 25221000 instead of CTH 28259090. Therefore, the documents related to further period in the same issue were asked from M/s Express Cargo Movers (the Customs House Agent of the Appellant). The



documents of imports of the subject goods under contention were submitted by the CHA for further period on 27.08.2023. From the scrutiny of the records and documents available, it was observed that the Appellant had imported 22,42,290 kgs of quick lime from the supplier, M/s. Carmeuse Majan LLC (SFZ), Salalah, Sultanate of Oman, vide 24 Bills of Entry at Hazira Port, and the chemical report, for all the imports in the Bills of Entry, suggested that total CaO present in the impugned goods is above 94.38%, therefore, they had misclassified the imported quick lime under CTH 2522 instead of CTH 2825 and thus the same was not eligible for exemption in terms of Sr. No. 120 of the said Notification and hence was leviable to Basic Customs Duty @ 7.5% Ad Valorem in accordance with the Sr. No. 169 of the Notification No: 50/2017- Cus, dated 30.06.2017 and IGST @ 18% as per entry Sl. No. 39 of Schedule-III to Notification No. 01/2017-Integrated Tax (Rate), dated 28.06.2017. However, the Appellant had paid Basic Customs Duty @5% and IGST @5% by classifying the imported product viz. Quick Lime under CTH 25221000. Therefore, Appellant had short paid Customs duty amounting to Rs. 32,40,221/- leviable on their imports for the said 24 Bills of Entry.

2.3 Accordingly, a SCN. F. No. CH/Hazira/LTSSHF/1521/2023-24 dated 11.09.2023 was issued to the Appellant proposes as to why:

- (i) the self-assessments in the classification of quick lime CTH 25221000 declared by the Appellant at the time of import of quick lime in respect of the 24 bill of entries, should not be rejected as not in order and instead be classified under tariff item 28259090 of the Customs Tariff and that Customs duty on the subject goods should not be levied at applicable rates corresponding to the tariff item 28259090;
- (ii) the differential Customs duty amounting to Rs.32,40,221/- on impugned goods, should not be demanded and recovered from Appellant under Section 28(1) of the Customs Act, 1962;
- (iii) the applicable interest should not be recovered from Appellant on the said differential Customs duty, under Section 28AA of the Customs Act, 1962;

3. The Show Cause Notice was adjudicated by the adjudicating authority vide the impugned order, wherein the adjudicating authority had passed the order as detailed below:

- (i) I reject the classification of the subject goods under CTH 25221000 and order to classify the subject goods under CTH

28259090 and hereby order that customs duty on the subject goods be levied at applicable rates corresponding to the custom tariff item 28259090.

(ii) I confirm the demand of the differential customs duty amounting to Rs. 32,40,221/- under Section 28(1) Custom Act and order recovery of the confirmed duty.

(iii) I order recovery of interest on the confirmed customs duty under Section 28AA Custom Act.

4. Being aggrieved with the impugned order, the Appellant have filed the present appeal and mainly contended the following:

- That the Adjudicating authority erred in rejecting the classification of the imported goods as "Quicklime" under CTH 25221000 and instead classifying them under CTH 28259090. The impugned goods were manufactured by calcination of limestone and contained CaO in the range of 94.47% to 96.3%, with impurities inherited from the raw material source and not artificially removed or purified.
- The Adjudicating authority has misread HSN Explanatory Note 11 to Heading 2825, which covers only calcium oxide in the *pure state*, typically of approximately 98% purity and obtained by calcining precipitated calcium carbonate. The impugned goods are not derived from such refined sources and do not meet the criteria for Heading 2825.
- The reliance on ASTM C911-06 and IS 1540 (Part I)-1980 is misplaced, as these standards are not meant for lime used in metallurgical processes. No standard cited in the SCN is applicable to the Appellant's usage of quicklime in steel manufacturing.
- Chapter Note 1 to Chapter 25 allows classification of calcined products specifically mentioned in the headings—CTH 2522 specifically includes Quicklime, even if obtained through calcination. Hence, its inclusion is valid despite the general exclusion of calcined products in other headings.
- The 98% CaO threshold is not a statutory criterion but merely a descriptive reference in HSN notes for certain high-purity forms of calcium oxide. Applying this benchmark mechanically without regard to trade practice, usage, and source of raw material is arbitrary and incorrect.



*H*

- They have relied upon the various case laws, few of which are as under:
  - a. J.K. Paper Ltd. vs. Commissioner of Customs, Ahmedabad, CESTAT Final Order No. 10022/2024 dated 02.01.2024
  - b. Jindal Stainless (Hisar) Ltd. v. Commissioner of Customs, ICD, Patparganj - 2020 SCC OnLine CESTAT 167.
  - c. Sanyo Special Steel Manufacturing India Pvt. Ltd. v. Commissioner of Customs (NS-I), Nhava Sheva- CESTAT Mumbai Order No. A/85021/2024

### **PERSONAL HEARING**

5. Shri Aashish Chauhan, Advocate attended the personal hearing on 13.05.2025 in virtual mode on behalf of the Appellant. He reiterated the submission made in the appeal memorandum and stated that the issue regarding the classification of "Quicklime" has been decided by Hon'ble CESTAT, Ahmedabad, in the matter of J.K. Papers Limited (Final Order No. 10022/2024) dated 2 January 2024, referring to decisions from CESTAT Bangalore regarding Bhandari Minerals Pvt. Ltd. - 2015(324) ELT 395 and CESTAT Delhi pertaining to Jindal Stainless (Hisar) Ltd. 2020 SCC Online CESTAT 167 wherein it is held that the goods are appropriately classified under CTH 2522 1000 when the calcium oxide (CaO) content is less than 98%.

The current appeal concerns the impugned order issued in response to a periodical show cause notice. The Hon'ble Commissioner of Customs (Appeals), Ahmedabad, allowed the appeal related to the prior period, vide OIA No. AHD-CUSTM-000-APP-110-24- 25 dated 21 June 2024, which has been accepted by the department and submitted the copy of the same.

### **DISCUSSION & FINDINGS**

6. I have gone through the appeal memorandum filed by the appellant, records of the case and submissions made during personal hearing. The main contention in the appeal is whether the imported goods fall under CTH 2522 or CTH 2825. The department contention is that the goods fall under CTH 2825 whereas the Appellants contention is that the impugned goods fall under CTH 2522. Therefore, the main issues to be decided in present appeal are whether the impugned order classifying impugned goods under CTH 2825, confirming the differential duty along with interest under Section 28(1) and Section 28AA

respectively of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 Before going into the merits of the case, I find that as per CA-1 Form of the Appellant, the present appeal has been filed on 29.04.2024 against the impugned order dated 07.03.2024 which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

6.2 Now, I am going to decide the classification of the imported impugned goods. It is observed that the Appellant have heavily emphasized on the Judgment cited by the **Hon'ble CESTAT Ahmedabad, in the matter of J.K. Papers Limited (Final Order No. 10022/2024) dated 2 January 2024** and submitted the copy of the same stating that the Hon'ble CESTAT vide the said order has already decided the issue in the same matter and has classified the impugned goods under CTH 2522.

In view of the same, the relevant para of the said Judgment is reproduced as below:

“....

4. We have carefully considered the submission made by both the sides and perused the records. We find that the limited issue to be decided in this case is where the quicklime imported by the appellant is classifiable under CTH 2522 1000 or CTH 2825 9090 as a processed goods. There is no dispute on the fact that the CaO content in the quicklime is less than 98% i.e. between the 92-97% and the process carried out by the supplier is only calcination, these facts are not under dispute. On this identical facts, the very same issue has been considered by this Tribunal in the case of Jindal Stainless (Hisar) Ltd. vide order dated 25.08.2020, wherein the following order was passed:

....

From the above decision of this Tribunal, it can be seen that when only calcination process is carried out and CaO content is less than 98%, than the quicklime is correctly classification under CTH 2522 1000. Since, the identical facts involved in the present case, the ratio of the above decision is directly applicable in this case.



5. Accordingly, we set aside the impugned order and allow the appeal."

6.3 I find that the matter involved in the case of J.K. Papers Limited Vs Commissioner of Customs Ahmedabad decide by Hon'ble CESTAT Ahmedabad vide Final Order No. 10022/2024, dated 02.01.2024, is identical in nature and squarely covers the present case as they had also dealt with the classification of identical goods as that of the impugned goods in the present case. Further, it has also been observed that this office has allowed the appeal of the Appellant in the identical issue for the prior period, vide OIA No. AHD-CUSTM-000-APP-110-24-25 dated 21.06.2024 which has already been accepted by the Department. In view of the same, the adjudicating authority shall examine the facts of the case and decide the issue on the basis of the said Judgment of Hon'ble CESTAT, Ahmedabad.

7. In view of the above discussion, I allow appeal by way of remand to the adjudicating authority with the direction to pass the fresh speaking order in light of the aforesaid judgment.



(AMIT GUPTA)  
COMMISSIONER (APPEALS)  
CUSTOMS, AHMEDABAD

Dated - 21.05.2025

F. Nos. S/49-50/CUS/AHD/24-25



By Registered Post A.D.

To,

M/s L & T Special Steels and Heavy Forgings Pvt. Ltd.  
A.M. Naik Heavy Engineering Complex,  
Gate No., Hazira Road,  
P.O. Bhata,  
Surat- 394510

सत्यापित/ATTESTED

अधीक्षक/SUPERINTENDENT  
रमेश चूर्ण (अधीक्षक), अहमदाबाद,  
CUSTOMS (APPEALS), AHMEDABAD

**Copy to:**

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Customs Ahmedabad.
3. The Additional Commissioner of Customs, Hazira Port, Surat.
4. Guard File.

