सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

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

DIN – 20251171MN0000515936

क	फ़ाइलसंख्या FILE NO.	S/49-362/CUS/AHD/23-24
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-323-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	11.11.2025
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	141/ADC/VM/O&A/2023-24 dated 15.09.2023
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	11.11.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	Shri Mohammad Umar, 234/13, East Islamabad, Ansari Road, Gola Kan, Meerut, Uttar Pradesh - 250002

1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन) ,वित्तमंत्रालय, (राजस्वविभाग)

	संसदमार्ग,नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहै.
	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.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगेज़केरूपमेंआयातितकोईमाल.
(a)	any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्य स्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसे कमीहो.
(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)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	कोर्टफीएक्ट,1870केमदसं.6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां,जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(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)	सम्बद्धदस्तावेज़ोंकेअलावासाथमूलआदेशकी 4 प्रतियां,यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद,फीस,दण्ड,जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु.1000/-(रूपएएकहज़ारमात्र),जैसाभीमामलाहो,सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क,मांगागयाब्याज,लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.1000/-
(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.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बंन्धमेंयदिकोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसी माशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क,केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं
	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 :

	सीमाशुल्क, केंद्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण,पश्चिमीक्षेत्रीयपीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**

	दूसरीमंज़िल,बहुमालीभवन,निकटगिरधरनगरपुल,असारवा,अहमदाबाद-380016	2nd 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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररुपए .	
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पांचहज़ाररुपए	
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहज़ाररुपए .	
(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)	इसआदेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके 10% अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके 10%अदाकरनेपर,जहांकेवलदंडविवादमेंहै,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) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.	
	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.	

Shri Mohammad Umar, 234/13, East Islamabad, Ansari Road, Gola Kan, Meerut, Uttar Pradesh - 250002 (hereinafter referred to as "the appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against Order in Original No. 141/ADC/VM/O&A/2023-24 dated 15.09.2023 (hereinafter referred to as "the impugned order") passed by the Additional Commissioner of Customs, Ahmedabad (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, facts of the case are that on the basis of Intelligence received by the Directorate of Revenue Intelligence, Ahmedabad (DRI) that the appellant, holding Indian Passport No. V9858732 would be departing for Sharjah (UAE) by Air Arabia Flight No. G9 482 on 09.10.2022 from SVPI Airport, Ahmedabad and would be smuggling foreign currency by concealing the same in the baggage.

2.1 Acting on the said intelligence, the officers of DRI, AZU, Ahmedabad identified and intercepted the appellant and his check-in-baggage was examined in presence of two independent panchas under Panchnama dated 09.10.2022. On examination of checked-in baggage of the appellant i.e. grey colour trolley bag, 300 notes of foreign currency 'Riyal' of 500 denominations totally amounting to 1,50,000 Riyal were found concealed in the trolley bag. These notes were concealed below plastic sheet pasted on the bottom of the bag. Further, on personal search of the appellant, 2530 Dirhams were also recovered. The value on the foreign currency in Indian Rupee comes to Rs.32,12,021.50, calculated on the basis of exchange rate notified under Notification No. 87/2022-Cus (NT) dated 06.10.2022. The appellant could not produce any document evidencing legitimate procurement of the said foreign currency. Thus, it appeared that the said foreign currency i.e. 1,50,000 Riyal and 2,530 Dirhams, totally amounting to Rs.32,12,021.50 was attempted to be smuggled/ exported out of India in contravention of Notification No. FEMA-6 (R)/ RB-2015 dated 29.12.2012 (Foreign Exchange Management (Export and Import of Currency) Regulations, 2015], [earlier Notification No. FEMA 6/RB-2000 dated 3rd May, 2000 (Foreign Exchange Management (Export and Import of Currency) Regulations, 2000). As the said foreign currency i.e 1,50,000 Rival and 2,530 Dirhams, totally amounting to Rs.32,12,021.50 was attempted to be smuggled/ exported out of India in contravention of various provisions, supra, the same became liable for confiscation under the provisions of Section 113(d) of the Customs Act, 1962. Therefore, the said foreign currency i.e. 1,50,000 Riyal and 2,530 Dirhams, totally amounting to Rs.32,12,021.50 along with the empty trolley bag and packing material were placed under seizure under the provisions of Section 110 of the Customs, Act, 1962 vide Panchnama and Seizure Memo dated 09.10.2022.

2.2 Statement of the appellant was recorded under Section 108 of the Customs Act, 1962 on 09.10.2022 wherein he, inter-alia, stated that the purpose of his visit to Sharjah was to deliver the bag which he got from Mr. Sajid on 08.10.2022 at a place near to Hanuman Murti, Delhi Gate, Delhi. He was given trolley bag to deliver the same at Sharjah Airport and was told that one car will come and pick him up and would get the luggage exchanged from the bag to other bag, and then driver would take the empty trolley bag and would drop him at hotel, he first met Shri Sajit at Gandhinagar Textile Market in Delhi around January/ February, 2021, when he went there in connection with purchase of garments; that after few days, Shri Sajid called him to meet at Hanuman Murti, Delhi Gate, Delhi, where Shri Sajid offered him the work of delivering the bag to Dubai and also to bring a bag from Dubai at the time of returning from Dubai; Shri Sajid told that all the expenses viz. travel, lodging & boarding will be provided by him; Shri Sajid also offered that he would get Rs.5000/- per trip & 25 Dirhams per day during his stay abroad as pocket expenses; Shri Sajid booked ticket to Sharjah bearing E-Ticket No. 51435072808801 in Flight No. G9 482 dated 09.10.2022 from Ahmedabad to Sharjah and gave the ticket and trolley bag on 08.10.2022; that he had intentionally not declared the said foreign currency carried by him collectively amounting to equivalent to INR 32,12,021.50 before the Customs Authorities during his departure as he wanted to clear it illicitly from security checks; that he was fully aware of the fact that foreign currency in huge amount without any legitimate documents and without declaring before Customs is an offence under the provisions of the Customs Act, 1962 and Regulations; that Shri Sajid had informed about concealment of foreign currency.

2.3 A SCN was issued to the appellant proposing confiscation of 300 notes of Riyal of 500 denomination, 5 notes of Dirham of 500 denomination, 1 note of Dirham of 20 denomination and 2 notes of Dirham of 5 denomination, having equivalent value in Indian Rs.32,12,021.50 attempted to smuggle out of India contrary to the prohibition imposed in terms of Notification No. FEMA-6 (R)/RB-2015 dated 29.12.2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015, (Earlier Notification No. FEMA 6/RB-2000 dated 3rd May, 2000) (Foreign Exchange Management (Export and Import of Currency) Regulations, 2000)); read with Customs Act, 1962, which were seized vide Panchnama dated 09.10.2022 and Seizure Memo dated 09.10.2022 under Section 113

(d) of the Customs Act, 1962, for confiscation of empty trolley bag used to conceal the foreign currency and adhesive tape used to paste the foreign currency bundles to from a sheet, under Section 118 of the Customs Act, 1962 and for imposition of penalty upon the appellants under Section 114(i) of the Customs Act, 1962.

2.4 The Adjudicating authority, vide the impugned order, has ordered for absolute confiscation of the impugned foreign currencies i.e. 1,50,000 Riyal & 2530 Dirhams, totally amounting equivalent to Indian Rs.32,12,021.50 attempted to be improperly exported and seized under panchnama dated 09.10.2022 vide Seizure Order dated 09.10.2022, under Section 113 (d) of the Customs Act, 1962. The Adjudicating authority, has also ordered for absolute confiscation of the empty trolley bag in which the bundles of foreign currency in Riyal & Dirhams were concealed hidden and recovered/seized under Panchnama dated 09.10.2022 under Section 119 of the Customs Act, 1962. The adjudicating authority has also imposed penalty of Rs. 11,00,000/- on the appellant under Section 114(i) of the Customs Act,1962.

3. Being aggrieved with the impugned order, the appellant has preferred the present appeal wherein it has been mainly contended that;

- The adjudicating authority ought to have appreciated that the Department itself has come to the conclusion that the act and/or omission on the part of the Appellant was evade Customs duty. The evasion of the Customs duty can be done only in respect of dutiable goods and not in case of prohibited goods. The adjudicating authority ought to have appreciated that once the department or Respondent accepts that the goods are dutiable. The option of redemption of the goods as provided under section 125 of the Customs Act, 1962 will have to be given to the Appellant.
- The Appellant submits that in the fact and circumstances of the present case, absolute confiscation of the impugned dutiable goods would only mean interpreting or giving a meaning to the said sub section (1) of the section 125 of the Customs Act, 1962, in a manner neither authorized nor intended by the Act. Thus, redemption of dutiable goods on payment of fine in lieu of confiscation is what the legislature in its collective wisdom has proposed vide sub-section (1) of section 125 of the Customs Act, 1962, and the same is the intent of the legislature.
- The Appellant submits that without prejudice to the above contentions it is submitted that there are number of judgments of the Hon'ble Apex Court, the Hon'ble High Courts and the Hon'ble

Tribunal Court, wherein it has been held that gold is not a prohibited items and the same is restricted and therefore it should not be confiscated absolutely and option to redeem the same on redemption fine ought to be given to the person from whom it recovered. The Appellant submits that some of the judgments are listed below viz.

(i) order no-69/14-Cus dated 07/04/2014 under the Revision Application filed under section 129DD of the Customs Act, 1962.

(ii) DHANAK MADHUSUDAN RAMJI Vs COMMISSIONER OF CUSTOMS (AIRPORT) MUMBAI [2009(237) E.L.T 280 (Tri-Mumbai)]

(iii) UNION OF INDIA Vs DHANAK MADHUSUDAN RAMJI Writ Petition No-1397 with 1022 of 2009, decided on 04-08-2009.

(iv) YAKUB IBRAHIM YUSUF V/S. COMMISSIONER OF CUSTOMS, MUMBAI reported in 2011 (263) E.L.T 685 (Tri.-Mumbai).

(v) SAPNA SANJEEV KHOLI V/S. COMMISSIONER OF CUSTOMS, AIRPORT, MUMBAI reported in 2008 (230) E.L.T. 305 (Tri-Mumbai).

(vi) Prem Kumar Vs. Customs, 2016 TMI 310.

(vii) Presh KanjiBhai Patel Vs. GOI 2011 (24) STR (248)

(viii) Commissioner of Customs Vs. Rajinder Narula 2017 (346) ELT 0009(BOM)

(ix) Sayed Gholamy Vs. Commissioner of Customs 2005 (179) ELT 401

(x) Suresh Hole Vs. Commissioner of Customs, Airport MUM 2015 (327) ELT 0555 (Tri.MUM)

The appellant prayed that Hon'ble Commissioner of Customs (Appeals) may please to pass an order to set aside the impugned order, return the currency to the Appellant and waived penalty imposed on the appellant or passed any order as and proper according to facts and circumstances of the case.

4. Personal hearing in the matter were scheduled on 05.06.2025, 18.06.2025, 01.07.2025 and 15.10.2025. However, no one appeared for personal hearing. As sufficient opportunities for personal hearing have been given, the appeal is taken up for decision on the basis of documents available on record.

5. Before going into the merits of the case, it is observed from the appeal memorandum, filed by the appellant that the impugned order dated 15.09.2023 was received by him on 25.09.2023 and the appellant has filed the appeal on 28.11.2023. The appeal against the impugned order is required to be filed within 60 days from the date of communication of order as per Section 128(1) of the Customs Act, 1962. Therefore, the appellant was required to file appeal within 60 days, i.e. by 24.11.2023, as per the provisions of Section 128(1) of the Customs Act, 1962. Whereas, in the case on hand, the appellant has filed appeal on 28.11.2023 in this office, i.e. after a delay of 4 days.

5.1 The provisions regarding condonation of delay in filing of appeal have been given in first Proviso to Section 128(1) of the Customs Act, 1962. Accordingly, the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days. Whereas, in the present case, the appellant has not filed any application for condonation of delay and not mentioned any cause, which prevented them for filing appeal within the normal period of sixty days. In absence of any application for condonation of delay and mention of any cause, which results into delay in filing of appeal, I am unable to condone the delay in filing of present appeal.

5.2 In view of the above position, I am of the view that the present appeal filed by the appellant is liable to be rejected on the ground of delay, as it has been filed beyond the period of sixty days from the date of communication of the impugned order and without showing any cause of delay.

6. In view of the above discussion, the appeal filed by the appellant is dismissed being time-barred, as per the provisions of Section 128 of the Customs Act, 1962.

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

सत्यापित/ATTESTED
अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

By Registered Post A.D.

F. No. S/49-362/CUS/AHD/2023-24 4322 Dated –11.11.2025

To,

(i) Shri Mohammad Umar, 234/13,
East Islamabad, Ansari Road,
Gola Kan, Meerut, Uttar Pradesh - 250002,

Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Principal Commissioner of Customs, Customs, Ahmedabad.
3. The Additional/Joint Commissioner of Customs, Ahmedabad.
4. Guard File.