सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाष क्रमांक Tel. No. 079-26589281

DIN- 20261071MN000011CD51

क	फ़ाइल संख्या FILE NO.	S/49-03/CA-2/CUS/KDL/AUG/2025-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	KDL-CUSTM-000-APP-59-26-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.10.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	KDL/JC/08.RD/Gr.I/25-26 dated 23.04.2025, passed by the Joint Commissioner of Customs (In-Situ) , Kandla
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	26.10.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	The Assistant Commissioner of Customs (Gr-1), New Customs Building, Near Balaji Temple, Kandla Respondent: M/s BCL Industries & Infrastructure Ltd., Hazi Rattan Link Road, Post Box No. 71, Bhatinda, Punjab – 151005

1	**यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.**
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	**सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.**

	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.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क(	**बैगेज़ के रूप में आयातित कोई माल.**
(a)	any goods imported
(ख(	**भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में 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 उस के 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 मद सं.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 दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो**
(b)	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 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.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.	**मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं**

	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, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	**सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-**	
	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)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.**	
(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)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए**	
(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)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.**	
(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)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।	
(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.	**उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.**	
	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

The present appeal has been filed by the Assistant Commissioner of Customs (Gr-1), Custom House, Kandla ("hereinafter referred to as "Appellant"), under Section 128 read with 129D(4) of the Customs Act on the basis of Review Cum Authorization Order No. 03/OIO/2025-26 dated 08.07.2025, issued by the Commissioner of Customs, Kandla under Section 129D(2) of the Customs Act, 1962, against Order-in-Original No. KDL/JC/08/RD/Gr.I/2025-26 dated 23.04.2025 ("impugned order") passed by Joint Commissioner of Customs (Gr-1) (In-situ), Custom House, Kandla (hereinafter referred to as "the adjudicating authority"), in the case of M/s BCL Industries & Infrastructure Ltd., Hazi Rattan Link Road, Post Box No. 71, Bhatinda, Punjab ("the Respondent"), whereby the Bills of Entry detailed in Table below were ordered to be re-assessed at 30% Basic Customs Duty (BCD) under Sr. No. 57II(A) of Notification No. 50/2017-Customs dated 30.06.2017. The particulars of the impugned Bills of Entry are as under:

S N	Bill of Entry No. & Date	OIO No. & Date	Description of goods / CTH	Qty (MT)	Entry Inward granted on
1	5415268 dtd 01.03.2018	KDL/JC/08/RD/Gr.I/2025-26 dated 23.04.2025	Crude Palm Oil (Edible Grade), CTH 15111000	650	01.03.2018 at 04:00 hrs
2	5415396 dtd 01.03.2018	KDL/JC/08/RD/Gr.I/2025-26 dated 23.04.2025	Crude Palm Oil (Edible Grade), CTH 15111000	350	01.03.2018 at 04:00 hrs

2. BRIEF FACTS OF THE CASE

2.1 The Respondent imported Crude Palm Oil (Edible Grade) in bulk from Indonesia, which arrived at Kandla per Vessel MT Brillante V.1801. The vessel arrived at the Kandla anchorage on 17.02.2018 at 0945 hrs and declared readiness to the Port on 27.02.2018 (IGM No. 2188454 dated 27.02.2018). The vessel berthed at Kandla Oil Jetty No. 3 on 01.03.2018, and Entry Inward was granted on 01.03.2018 at 04:00 hrs.

2.2 The Respondent filed two home-consumption Bills of Entry, No. 5415268 and No. 5415396, both dated 01.03.2018, for clearance of 650 MT and 350 MT respectively (1,000 MT in aggregate) of the imported CPO, classifiable under CTH 15111000. The assessable value declared was Rs. 2,89,58,768/- under Bill of Entry No. 5415268 and Rs. 1,55,93,183/- under Bill of Entry No. 5415396 (aggregate Rs. 4,45,51,951/-). Both Bills of Entry were self-assessed and initially assessed on 01.03.2018 at 30% BCD in terms of Sr. No. 57II(A) of Notification No. 50/2017-Customs dated 30.06.2017, and duty was substantially debited against MEIS licence scrips on 01.03.2018.

2.3 Notification No. 29/2018-Customs dated 01.03.2018 amended Sr. No. 57IIA of Notification No. 50/2017-Customs and enhanced the BCD rate applicable to CPO from 30% to 44%. Out of Charge under Section 47 of the Customs Act, 1962 was withheld for the subject Bills of Entry on the ground that the enhanced rate applied; the Bills of Entry were re-assessed by the proper officer at the enhanced rate of 44% BCD, resulting in a differential duty (inclusive of cess and IGST) of approximately Rs. 46,82,633/- on Bill of Entry No. 5415268 and Rs. 25,21,418/- on Bill of Entry No. 5415396 (aggregate approximately Rs. 68,61,000/-, as also reflected in the Respondent's subsequent refund claim referred to below).

2.4 The Respondent did not accept the re-assessment and, vide letters dated 05.03.2018 and 06.03.2018, contended that since Entry Inward for the vessel was granted at 04:00 hrs on 01.03.2018, prior in point of time to the issuance of Notification No. 29/2018-Customs, the enhanced rate of duty was not applicable, and requested a speaking order under Section 17(5) of the Customs Act, 1962. Without prejudice, the Respondent paid the differential duty under protest — the GST component of Rs. 21,48,741/- for Bill of Entry No. 5415268 vide Challan No. 2021823067 dated 08.03.2018 and Rs. 11,57,014/- for Bill of Entry No. 5415396 vide Challan No. 2021823138 dated 09.03.2018, the differential BCD and cess component having been met through additional debits against MEIS licence scrips — and obtained clearance of the goods.

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2.5 No speaking order under Section 17(5) was issued by the proper officer at the material time. The Respondent thereupon filed an appeal before the Commissioner of Customs (Appeals), Ahmedabad, who, vide Order-in-Appeal No. KDL-CUSTM-000-APP-056 to 066-18-19 dated 30.11.2018, remitted the matter to the proper officer with a direction to examine the available facts, documents and submissions and pass a speaking order in accordance with the principles of natural justice, without expressing any opinion on the merits of the dispute.

2.6 Pursuant to the remand, the Respondent submitted a request dated 01.04.2022 to the Refund Section, Custom House, Kandla, for refund of Rs. 68,61,000/- (the additional duty paid on account of the enhancement), referring to the 2018 remand order. Letters from the Refund Section dated 07.01.2025 and 25.02.2025 sought to ascertain whether any Order-in-Original had been issued in respect of the subject Bills of Entry. A personal hearing was thereafter fixed for 04.04.2025 vide letter dated 28.03.2025, and Shri Parminder Singh Ahluwalia, Authorised Signatory of the Respondent, appeared in advance on 01.04.2025, reiterating the submissions made in 2018 and additionally placing on record a duty-calculation sheet, challan copies, the refund documents filed on 01.04.2022, and a clarification letter with a chronology of events, requesting that the matter be decided on merits.

2.7 The Joint Commissioner (In-situ), Group-1, by the impugned Order-in-Original dated 23.04.2025, held that since the Bills of Entry were filed, assessed at 30% BCD and debited against the MEIS licence on 01.03.2018 i.e., before the issuance of Notification No. 29/2018-Customs, the enhanced rate of 44% was not applicable, relying on a Statement of Facts (SOF) issued by the vessel's agents recording Entry Inward and customs clearance timings, and ordered re-assessment of both Bills of Entry at 30% BCD under Notification No. 50/2017-Customs, Sr. No. 57II(A).

2.8 The impugned order was reviewed by the Commissioner of Customs, Custom House, Kandla under Section 129D(2) of the Customs Act, 1962, who, vide Review/Authorisation Order No. 03/OIO/2025-26 dated 08.07.2025, formed the opinion that the impugned order is not legal and proper and directed the Assistant Commissioner (Gr-1), Custom House, Kandla to file the present appeal before this forum. The said Review Order was communicated to the authority empowered to file the appeal on 10.07.2025. The appeal in Form C.A.-2 was accordingly forwarded to this office vide letter F.No. CUS/AG/MISC/560/2025-GR-1 dated 29.07.2025 and received in this office on 04.08.2025.

3. GROUNDS OF THE DEPARTMENTAL APPEAL

The Appellant Department has, in substance, raised the following grounds against the impugned order:

(i) On verification of the EDI system records, it is found that the subject Bills of Entry were actually filed at 20:09 hrs and 20:21 hrs respectively on 01.03.2018 (i.e., in the evening), and not in the morning hours as suggested by the Respondent's chronology and as recorded in the impugned order.

(ii) Notification No. 29/2018-Customs was issued on 01.03.2018 itself, the very date on which the Bills of Entry were filed, and was displayed on the CBIC website on that date, bearing the endorsement "To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)".

(iii) The adjudicating authority failed to ascertain the precise time of issuance of Notification No. 29/2018-Customs and proceeded solely on the basis of the time of Entry Inward (04:00 hrs), without examining the EDI-recorded time of filing of the Bills of Entry.

(iv) As per Section 25(4) of the Customs Act, 1962 (as amended with effect from 14.05.2016), every notification issued under Section 25(1) comes into force "on the date of its issue by the Central Government for publication in the Official Gazette"; the requirement of actual e-publication (which, in the present case, occurred only on 06.03.2018) is not, on the Department's reading, a precondition for the notification coming into force.

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(v) The Department places reliance on its own pending challenge, by way of Special Leave Petition Nos. 4845-4846/2023, before the Hon'ble Supreme Court against the CAV Judgment dated 11.11.2022 of the Hon'ble Gujarat High Court in the case of M/s Adani Wilmar Ltd. (Case Nos. 8057-8058/2019), which had followed the view of the Hon'ble Andhra Pradesh High Court in Ruchi Soya Industries Ltd. and held that a notification is enforceable only from the date of its actual e-publication.

(vi) It is contended that the adjudicating authority failed to appreciate the Department's stand in the pending SLP and failed to correctly apply Section 25(4) of the Customs Act, 1962, as amended; consequently, the impugned order re-assessing the Bills of Entry at 30% BCD is not legal and proper and is liable to be set aside, with the matter remanded for re-adjudication.

4. Personal Hearing:

A personal hearing in the appeal was held on 15.10.2026, which was attended by Shri Vikas Mehta, Consultant, on behalf of the Respondent. He reiterated the submissions made in the appeal memorandum. He further submitted that the Department has filed the present appeal only on the ground of its pending Special Leave Petition against the judgment of the Hon'ble Gujarat High Court in the case of M/s Adani Wilmar, and that the said judgment has not been stayed. Having heard the Respondent and perused the record, I proceed to decide the appeal on merits.

5. Discussion & Findings

5.1 I have carefully gone through the impugned Order-in-Original, the Review/Authorisation Order No. 03/OIO/2025-26 dated 08.07.2025, the grounds of appeal, the appeal memorandum in Form C.A.-2, and the material available on record.

5.2 The impugned order was passed on 23.04.2025. The Review Order under Section 129D(2) of the Customs Act, 1962 was passed on 08.07.2025, i.e., well within the period of three months prescribed under Section 129D(3) for review of an adjudicating authority's order, and was communicated to the authority empowered to file the appeal on 10.07.2025. The present appeal in Form C.A.-2 was forwarded to this office under cover of letter dated 29.07.2025 and was received in this office on 04.08.2025, i.e., within one month of communication of the Review Order, as required under Section 129D(4) of the Customs Act, 1962. The appeal is accordingly maintainable and is taken up for decision on merits.

5.3 The short issue arising for determination in this appeal is whether Notification No. 29/2018-Customs dated 01.03.2018, enhancing the Basic Customs Duty on the subject goods from 30% to 44%, was in force and applicable to Bills of Entry No. 5415268 and No. 5415396, both dated 01.03.2018, and whether, consequently, the impugned Order-in-Original re-assessing the said Bills of Entry at 30% BCD is legal and proper.

5.4 Section 25(4) of the Customs Act, 1962 deals with the date from which a notification issued under Section 25 comes into force. Before 14.05.2016, the provision stated that such notification would come into force on the date of its issue by the Central Government for publication in the Official Gazette and would also be published and offered for sale on that date by the Directorate of Publicity and Public Relations of the Board. With effect from 14.05.2016, clause (b) was omitted, and the provision now states that such notification shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette. The issue in the present case is the meaning of the words "issue by the Central Government for publication", and whether a notification becomes effective merely on being internally signed and uploaded for publication or only when it is actually published and made available to the public.

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5.5 The correct legal position regarding the date on which a notification under Section 25 of the Customs Act, 1962 comes into force has been settled by the Hon'ble Supreme Court in Union of India v. G.S. Chatha Rice Mills, 2020 (374) E.L.T. 289 (S.C.). In that case, a notification enhancing duty was uploaded on the e-Gazette on a particular date and time, while some Bills of Entry had already been filed on the same date. The Hon'ble Supreme Court held that an electronically published notification comes into force from the date and time of its actual e-publication and not merely from the date mentioned on the notification or from an earlier internal act of signing for publication. The Court held that a subordinate legislation imposing a new burden cannot operate against persons before it is made known to them. Accordingly, the Bills of Entry filed before the actual e-publication were held not to be liable to the enhanced rate of duty.

5.6 The same principle was directly applied to Notification No. 29/2018-Customs dated 01.03.2018 by the Hon'ble Gujarat High Court, the jurisdictional High Court, in Adani Wilmar Ltd. v. Union of India, Civil Miscellaneous Application No. 8057 of 2019, decided on 11.11.2022. The case involved the very same Notification No. 29/2018-Customs. The Hon'ble Gujarat High Court found that although the notification was dated 01.03.2018, it was digitally signed and uploaded for e-publication only on 06.03.2018 at 19:15 hours. The Court therefore held that the notification came into force only on 06.03.2018, when it was actually published in the Official Gazette. Consequently, the enhanced rate of duty under the notification was not applicable to Bills of Entry presented before that date. The petitioner was accordingly held entitled to clear the goods at the rate applicable before the amendment.

5.7 The same position was subsequently considered and affirmed by the Hon'ble CESTAT, Bangalore Bench, in Adani Wilmar Ltd. v. Commissioner of Customs, Bangalore, Customs Appeal No. 20277 of 2020, Final Order No. 20010/2023 dated 03.02.2023. In that case also, the issue was whether Notification No. 29/2018-Customs came into force on 01.03.2018, the date mentioned on the notification, or on the date of its actual e-publication. After considering the Government of India's 2015 press release regarding exclusive e-publication of Gazette notifications, the requirement of digital signing before e-publication, and the judgment of the Hon'ble Gujarat High Court in Adani Wilmar, the Tribunal held that a notification cannot be treated as published unless it is digitally signed. Since Notification No. 29/2018-Customs was digitally signed only on 06.03.2018, the Tribunal held that it came into force only on that date. The order of the Commissioner (Appeals) taking a contrary view was set aside and refund of the differential duty was allowed. Since this decision relates to the very same notification and is of the appellate forum to which further appeal from this office would lie, the same is entitled to considerable weight and is respectfully followed.

5.8 The Department does not dispute that Notification No. 29/2018-Customs was actually e-published in the Gazette of India only on 06.03.2018. This fact is also specifically stated in Grounds (ii) and (iv) of the appeal memorandum. However, the Department contends that the notification had already come into force on 01.03.2018 because it had been issued/displayed on the CBIC website on that date. The Department has also argued that the view taken by the Hon'ble Gujarat High Court in Adani Wilmar, as well as the view of the Hon'ble Supreme Court in G.S. Chatha Rice Mills and the Hon'ble CESTAT, Bangalore Bench in the Adani Wilmar case, should not be followed because SLP Nos. 4845-4846/2023 are stated to be pending before the Hon'ble Supreme Court. At the personal hearing, the Respondent, through its

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Consultant, has on the other hand submitted that the said judgment of the Hon'ble Gujarat High Court in Adani Wilmar has not been stayed and therefore continues to bind this authority.

5.9 The department has further contended that the judgement of the Hon'ble Gujarat High Court in *Adani Wilmar Ltd. vs. Union of India* is presently under challenge before the Hon'ble Supreme Court in SLP Nos 4845-4846/2023 and therefore, the said judgement ought not to be relied upon. I find no merit in this contention. Mere pendency of a Special Leave Petition against a judgment of a High Court does not amount to a stay of that judgment. Unless the Hon'ble Supreme Court expressly stays the operation of the judgment under challenge, the judgment continues to have binding effect. There is nothing on record to show that the Hon'ble Supreme Court has stayed the judgment of the Hon'ble Gujarat High Court in Adani Wilmar, or the subsequent order of the Hon'ble CESTAT, Bangalore Bench following the same. There is also nothing to show that the Hon'ble Supreme Court has taken any view contrary to its earlier decision in G.S. Chatha Rice Mills. Therefore, a quasi-judicial authority functioning within the State of Gujarat is required to follow the law declared by the jurisdictional High Court and by the Tribunal to which appeals from this office lie. It is also bound by the law declared by the Hon'ble Supreme Court under Article 141 of the Constitution of India. The mere fact that the Revenue has filed a further appeal cannot be a ground for not following the binding precedent. Accordingly, this ground of appeal fails. Further the department is at the liberty to exercise the instruments available, which may be utilized to recover the dues, in case appeal of the department succeeds.

5.10 I have also considered the Department's contention regarding the exact time of filing of the subject Bills of Entry. The Department states that the EDI system records the time of filing as 20:09 hrs and 20:21 hrs on 01.03.2018 for Bills of Entry No. 5415268 and No. 5415396 respectively, whereas the Respondent had stated, and the impugned order had accepted without independent verification, that the Bills of Entry were filed in the morning hours. Although the impugned order could have recorded a specific finding on this issue, the difference is not material in the present case. Both versions relate to the same date, i.e. 01.03.2018. Since Notification No. 29/2018-Customs did not come into force at any time on 01.03.2018 and was actually published only on 06.03.2018, the enhanced BCD of 44% could not apply to the subject Bills of Entry, whether they were filed in the morning or in the evening on 01.03.2018. For the same reason, the proviso to Section 15(1)(a) relating to Bills of Entry presented before the grant of Entry Inward is also not decisive in the present case. Therefore, it is not necessary to give a final finding on whether the said proviso applies to the facts of this case.

5.11 I further note that the procedural defect which had resulted in the earlier remand by Order-in-Appeal No. KDL-CUSTM-000-APP-056 to 066-18-19 dated 30.11.2018, namely, the absence of a speaking order under Section 17(5) of the Customs Act, 1962, has now been cured. The impugned Order-in-Original dated 23.04.2025 considers the facts of the case, the submissions of the Respondent, the relevant legal provisions and the material available on record, including the Statement of Facts issued by the vessel's agents. It also gives reasons for the conclusion reached. Therefore, the order is, in substance and form, a speaking order passed in compliance with the directions in the 2018 remand order and the requirements of Section 17(5) of the Customs Act, 1962. No further defect remains on this ground.

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5.2 In view of the above discussion, I hold that Notification No. 29/2018-Customs dated 01.03.2018 was not in force on 01.03.2018, when Bills of Entry No. 5415268 and No. 5415396 were presented. The notification came into force only on 06.03.2018, when it was actually published in the Official Gazette. This conclusion is supported not only by the judgment of the Hon'ble Supreme Court in G.S. Chatha Rice Mills, but also by the judgment of the jurisdictional Hon'ble Gujarat High Court and the order of the Hon'ble CESTAT, Bangalore Bench, both concerning the very same notification. Therefore, the applicable rate of duty on the subject Bills of Entry was correctly held by the adjudicating authority to be 30% BCD under Sr. No. 57II(A) of Notification No. 50/2017-Customs dated 30.06.2017, without the amendment made by Notification No. 29/2018-Customs. The finding recorded by the adjudicating authority on this issue is accordingly found to be in conformity with the applicable statutory and judicial position. The impugned Order-in-Original dated 23.04.2025 therefore does not suffer from any illegality or impropriety requiring interference in the present appeal. The grounds raised by the Department accordingly do not merit acceptance.

ORDER

6. In view of the discussion and findings recorded above, the appeal filed by the Department (Assistant Commissioner of Customs, Gr-1, Custom House, Kandla) against Order-in-Original No. KDL/JC/08/RD/Gr.I/2025-26 dated 23.04.2025 is rejected, and the impugned Order-in-Original is upheld.

Vishwajeet Singh 26.10.2026.

(Vishwajeet Singh)
Commissioner of Customs (Appeals),
Ahmedabad

26.10.2026

S/49-03/CA-2/CUS/KDL/2025-26

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Copy to:

1. M/s BCL Industries & Infrastructure Ltd., Hazi Rattan Link Road, Post Box No. 71, Bhatinda, Punjab – 151005 – Respondent.
2. The Assistant Commissioner of Customs (Gr-1), Custom House, Kandla – Appellant.
3. The Commissioner of Customs, Custom House, Kandla.
4. The Chief Commissioner of Customs, Gujarat Zone, Custom House, Ahmedabad.
5. Guard File.