



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंजिल 4th Floor, हड्को बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20251071MN000000C077

क	फ़ाइल संख्या FILE NO.	F.No. S/49-172/CUS/AHD/2024-25
ख	अपीलआदेश संख्या ORDER-IN- APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-295-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	27.10.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Bill of Entry No. 4328978 dated 04.07.2024 filed with ICD-Tumb.
	अपील आदेश जारी करने की दिनांक ORDER-IN-APPEAL ISSUED ON:	27.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Great White Global Pvt. Ltd. Survey No. 32/2, 35/2, 36, 36/1, 38, 39, Village - Gundalv, Taluka - Pardi, Valsad, Gujarat - 396195.
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 (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 हैं।
	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)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods imported on baggage.
(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 दस्तावेजों 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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां। 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 सम्बन्ध 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, केन्द्रीय 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	2 nd 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 हजार 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 तो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रुपए	
(ब)	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 हजार 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

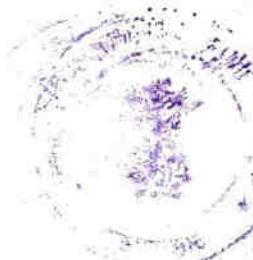
M/s. Great White Global Pvt. Ltd., Survey No. 32/2, 35/2, 36, 36/1, 38, 39, Village - Gundalv, Taluka - Pardi, Valsad, Gujarat - 396195 (hereinafter referred to as 'the appellant') has filed the present appeal against assessment of Bill of Entry No. 4328978 dated 04.07.2024 filed with ICD-Tumb (hereinafter referred to as 'the impugned Bill of Entry').

2. Facts of the case, in brief, are that the appellant has filed the impugned Bill of Entry for import of copper wires. The name of the supplier has been shown in the Bill of Entry as Metrod (OFHC) Sdn. Bhd., Malaysia. Vide Sr.No.8 of Notification No. 1/2020-Customs (CVD) dated 08.01.2020, Countervailing Duty ('CVD') @2.47% was imposed on Continuous Cast Copper Wire originating from Malaysia and produced by M/s. Metrod Malaysia Sdn. Bhd.

3. The foreign producer viz. M/s. Metrod (Malaysia) Sdn. Bhd. and Others have filed Anti Dumping Appeal No. 50987 of 2020 and Others with Hon'ble CESTAT, New Delhi. Vide Final Order No. 51069-51072/2021 dated 08.03.2021 [2021 (3) TMI 404 - CESTAT New Delhi], Hon'ble CESTAT set aside imposition of 2.47% CVD, as mentioned at Sr.No.8 of the Notification dated 08.01.2020 and allowed all the four Anti-Dumping Appeals including Appeal No. 50987 of 2020.

4. According to the appellant, in respect of goods being imported under impugned Bill of Entry dated 04.07.2024, the appellant had filed a checklist on the ICEGATE portal without adding CVD, giving reference to the CESTAT order. However, a query was raised on the portal with respect to levy of CVD. In its reply, the Appellant reiterated that consequent to setting aside of Sr.No. 8 of the Notification No. 1/2020-Customs (CVD) by the Hon'ble CESTAT by order dated 08.03.2021, no CVD is payable on the goods being imported. However, ignoring the response submitted by the Appellant, the impugned Bill of Entry dated 04.07.2024 has been assessed with CVD of 2.47%.

5. The Appellant has stated to have submitted a letter dated 15.07.2024 to the Deputy/Assistant Commissioner of Customs, ICD-Tumb, in which they have filed objection to the assessment being made, and also requested to provide specific reasons and legal basis for levying 2.47% CVD despite of the Order passed by Hon'ble CESTAT. The appellant further mentioned that they did not agree with assessment however, as the material was urgently required at their production plant, they have deposited the CVD amount under

protest, for clearing the goods. The appellant has also requested a reasoned order be passed forthwith.

6. The appellant has submitted a printout of **email dated 16.07.2024**, 2:06 PM, sent from the email id, 'icdtumb@gmail.com' in respect of the same Bill of Entry No. 4328978 dated 04.07.2024 filed by them with ICD-Tumb. Content of the said email is as under:

"Subject: Re: Bill of Entry No. 4328978 dated 04.07.2024

Please refer to your letter dated 15.07.2024 regarding request for reasons for application of Countervailing duties in non-compliance with the Hon'ble CESTAT order dated 08.03.2021 in reference of Bill of Entry No. 4328978 dated 04.07.2024.

In this regard, it is informed that as per the Para III (d) of the Minutes of the meeting of NAC 4/4a (metal products) held on 04.04.2024, it has been decided that "until the Notification No. 1/2020-Cus (CVD), dated 08.01.2020, is amended, the CVD is to be levied on imports of "Continuous Cast Copper Wire Rods" from Malaysia, as provided under the subject Notification. Further, protective demand is to be issued in respect of consignments which have been cleared without levying CVD thereon."

This is for information.

Regards

ICD Tumb"

7. Being aggrieved against assessment of **Bill of Entry No. 4328978 dated 04.07.2024** read with the reasons mentioned in the email dated 16.07.2024, the appellant has filed the present appeal, mainly on the following grounds.

GROUNDS OF APPEAL (Gist)

8. At the very outset, the appellant submitted that despite their request, a speaking order has yet not issued by the adjudicating authority under Section 17(5) of the Act. It is trite that non-issuance of a speaking order severely impairs the right to file an appeal by the assessee and is therefore, violative of the principles of natural justice. It is, therefore, submitted that the impugned assessment having been made without issuing a reasoned order, is liable to be set aside on this count itself.



9. Without prejudice to the above, the appellant submitted that in any case, vide the impugned assessment, the Department is seeking to re-agitate the issue already settled by the Learned CESTAT, vide its Order dated 08.03.2021 in the case of Metrod Malaysia, wherein CVD imposable on the imports of impugned goods manufactured by Metrod Malaysia has already been set aside. As the said decision of the Hon'ble CESTAT has not been further challenged by either the Ministry of Finance or DGTR, thus, the said Order has attained finality qua the Department. Once this is the position, the Department has no authority to invoke Entry 8 of Notification No. 1 dated 08.01.2020 which admittedly has been set aside by the Learned CESTAT vide order dated 08.03.2021.

10. Moreover, as undisputedly the said order has not been stayed by the Hon'ble Supreme Court or any other court till date, the Department is bound to comply with the same.

11. Without prejudice to the above, though no reasoned order has yet been issued, by the email dated 16.07.2024, the Department has made a reference to the minutes of the National Assessment Committee 4/4a meeting dated 04.04.2024, wherein apparently a decision was taken that until the Notification No. 1/2020-Cus (CVD), dated 08.01.2020, is amended, CVD in terms of Sr. No. 8 of Notification no. 1/2020-Cus (CVD) would remain payable, even though the same has been set aside by the Ld. CESTAT.

12. In this regard, the Appellant submits that this position is clearly in the teeth of the order passed by the Hon'ble CESTAT, and thereby violative of doctrine of judicial discipline and *stare decisis*. The appellant placed reliance on the decision of the Hon'ble Supreme Court in case of *Kamalakshi Finance Corporation Ltd.* reported at **1991 (55) ELT 433 (SC)**, wherein it was held that the principles of judicial discipline require that the orders of the higher appellate authorities shall be followed unreservedly by the subordinate authorities.

13. Without prejudice to the above, the appellant submitted that there is no requirement under the law for amendment of any Notification or any provision, once the same has been set aside by the jurisdictional authority. An appeal under Section 9C of the Customs Tariff Act, 1975, lies before the CESTAT against a notification imposing CVD. Therefore, once order is issued by the appellate forum (i.e. the CESTAT), the Notification has to be read with the order of the Hon'ble CESTAT and no separate modification in the Notification is warranted. The appellant therefore submitted that the assessment made in the impugned Bill of Entry is without authority of law and hence, *ex-facie* perverse.




14. Without prejudice to the above, the appellant further submitted that the said minutes of NAC meeting dated 04.04.2024 has already been stayed by the Hon'ble Gujarat High Court by order dated 26.07.2024, issued in SCA No. 10814 of 2024. As such, the assessment made in terms of the decision taken in the said meeting deserves to be set aside forthwith.

15. On the above grounds the appellant has requested to quash and set aside the assessment made on Bill of Entry No. 4328978 dated 04.07.2024, to the extent it levies CVD @ 2.47% and allow the Appeal with consequential relief.

16. One set of the appeal memorandum has been sent to the Deputy Commissioner, ICD-Tumb, vide this office letter F.No. S/49-172/CUS/AHD/2024-25/3452 dated 08.11.2024 for comments on this appeal. In the said letter, it was also asked that whether the appellant has confirmed his acceptance of re-assessment in writing as per Section 17(5) of the Customs Act, 1962. However, no reply thereof has been received. So, I proceed to the decide the appeal on the basis of documents submitted by the appellant.

17. As this appeal has been filed against assessment of Countervailing Duty, which is stated to have been paid before clearance of goods, Pre-Deposit under the provisions of Section 129E of the Customs Act, 1962, does not require.

PERSONAL HEARING:

18. Opportunities for Personal Hearing through video conference were granted to the appellant on 13.05.2025, 18.06.2025 and 10.09.2025. Vide email dated 10.09.2025, the appellant sought adjournment and requested to reschedule the PH after 15 days. In order to follow the principles of natural justice, a common Personal Hearing was fixed on 15.10.2025 in respect of three appeals filed by the appellant, which was attended by Ms. Ananya Maitin, Advocate of M/s. TLC Legal, on behalf of the appellant. She reiterated the written submissions made at the time of filing of appeal. Further, she submitted a copy of an Order dated 26.07.2024 of Hon'ble High Court of Gujarat in SCA No. 10814/2024 in appellant's own case. She also relied upon the decision Hon'ble Bombay High Court in the matter of *Dimension Data India Pvt. Ltd. Vs. Commissioner of Customs - 2021 (376) ELT 192 (Bom.)* and stated that Section 149 of the Customs Act empowers the proper officer to amend the Bill of Entry at any future point of time, so as to enable sanction of excess duties paid by them.



DISCUSSION REGARDING TIME-LIMIT FOR FILING APPEAL

19. It is to be decided as to whether the present appeal has been filed within the time-limit, as prescribed under the provisions of Section 128(1) of the Customs Act, 1962 or not. Section 128(1) states that an appeal before Commissioner (Appeals) can be filed within sixty days from the date of communication of decision or order.

20. In the present case, the appeal has been filed on **09.09.2024**. The particulars mentioned by the appellant at Sr. Nos. (1) to (4) of the Form No. C.A.-1 are as under:

FORM NO. C.A.-1 [See Rule 3 of the Customs (Appeal) Rules, 1992]	કાર્યાલય આનુયુદ્ધ સીમા શુલ્ક (અપીલ), અંગ્રેઝરીયા. 09 SEP 2024 OFFICE OF THE COMMISSIONER CUSTOMS (APPEALS), AHMEDABAD.
Form of Appeal to the [Commissioner (Appeals)] under Section 128 of the Customs Act, 1962	
(1) Appeal No : <u>172</u> of 2024	(2) Name and address of the appellant : Great White Global Pvt. Ltd., Survey No. 32/2, 35/2, 36, 36/1, 38, 39, Village - Gundalav, Taluka-Pardi, Valsad, Gujarat-396 195
(3) Designation and address of the officer passing the decision or order appealed against and the date of the decision or order.	: Email dated <u>16.07.2024</u> along with Bill of Entry No. <u>4328978</u> dated <u>04.07.2024</u> assessed by Deputy Commissioner of Customs, Inland Container Depot (ICD) - Tumb, S. No. 44/1/P.K. 2, Village-Tumb, Tal: Umbergaon, Dist: Valsad, Gujarat-396 150. Date of the Order: <u>16.07.2024</u>
(4) Date of communication of the decision or order appealed against to the appellant.	: <u>16.07.2024</u>

21. From the above particulars mentioned in the Form C.A.-1, it can be seen that the appellant has filed appeal against Email dated 16.07.2024 along with Bill of Entry No. 4328978 dated 04.07.2024. However, in the 'Reliefs Claimed' portion in the appeal memorandum, the appellant has requested to quash and set aside the assessment made on Bill of Entry No. 4328978 dated 04.07.2024 without any reference to the Email 16.07.2024.

22. After going through the appeal memorandum, I am of the view that the appeal has



been filed against assessment of Bill of Entry No. 4328978 dated 04.07.2024, but the appellant has also challenged the Email dated 16.07.2024 through which the reasons for application of CVD were communicated.

23. Now, I shall examine whether the present appeal filed on 09.09.2024 against the assessment of Bill of Entry No. 4328978 dated 04.07.2024, has been filed within time-limit or not. The appeal against assessment is required to be filed within 60 days from the date of communication of assessment as per Section 128(1) of the Customs Act, 1962. So, it is to be ascertained on which date the assessment/re-assessment of the impugned Bill of Entry has been communicated to the appellant. **Section 153** of the Customs Act, 1962, prescribes **modes for services of notice, order etc.** As per **clause (ca)** of Sub-Section (1) of Section 153, an order, decision, etc. may be served by **making it available on the common portal**. As per Section 2(7B) of the Customs Act, 1962, the term 'common portal' has been defined as Common Customs Electronic Portal referred to in Section 154C. Notification No. 33/2021-Cus (NT) dated 29.03.2021 has been issued under the provisions of Section 154C, through which the URL <https://icegate.gov.in> has been notified as 'common portal'. So, I am of the view that the assessment/re-assessment of Bill of Entry done through Customs EDI System and made available in the common portal ICEGATE is to be treated as served to the appellant as per the provisions of Section 153(1)(ca) of the Customs Act, 1962, as amended by the Finance Act, 2021. So, the appellant was required to file appeal within the normal period of 60 days from the date the assessment/re-assessment.

24. From enquiry in ICEGATE website, it can be seen that the impugned Bill of Entry No. 4328978 dated 04.07.2024 has been **assessed on 15.07.2024**. So, as discussed in the above Para, the assessment was communicated and served to the appellant through the common portal of ICEGATE on **15.07.2024**, as per the amended provisions of Section 153(1)(ca) of the Customs Act, 1962. Therefore, the appellant was required to file appeal within **60 days, i.e. by 13.09.2024**, 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 **09.09.2024** in this office, i.e. within normal period of 60 days. So, the appeal has been admitted and being taken up for disposal.

FINDINGS

25. I find that vide letter dated 15.07.2025, the appellant has specifically informed to the Deputy/Assistant Commissioner of Customs, ICD-Tumb, to the effect that they do not agree



with the impugned re-assessment done by Customs with levy of 2.47% CVD. The appellant has requested to provide specific reasons and legal basis on which the impugned Bill of Entry has been re-assessed with CVD, despite the same having been set aside by Hon'ble CESTAT Final Order No. 51069-51072/2021 dated 08.03.2021. Vide the said letter dated 15.07.2025, the appellant has also sought a reasoned order. But, no reasoned order has been provided to them. Instead of passing the speaking order, as statutorily required under Section 17(5) of the Customs Act, 1962, merely an Email dated 16.07.2024 has been sent to the appellant, which has been reproduced in the above Para 6. In the said Email, Para III (d) of the Minutes of the meeting of NAC 4/4a (metal products) held on 04.04.2024, has been relied upon in which it has been mentioned that until the Notification No. 1/2020-Cus (CVD), dated 08.01.2020, is amended, the CVD is to be levied on imports of "Continuous Cast Copper Wire Rods" from Malaysia, as provided under the subject Notification. The name, designation and signature of the officer of Customs Department working at ICD-Tumb, who has sent the said email dated 16.07.2024 to the appellant, have not been mentioned in that email. So, the said email dated 16.07.2024 cannot be treated as a speaking order passed under Section 17(5) of the Customs Act, 1962.

26. I have seen the **Final Order No. 51069-51072/2021 dated 08.03.2021** passed by **Hon'ble CESTAT, New Delhi**, in respect of Anti Dumping Appeal No. 50897 of 2020 and Others filed by Metrod (Malaysia) Sdn. Bhd. and Others [2021 (3) TMI 404 - CESTAT New Delhi]. The concluding portion of the said Order is as follows:

"66. Thus, for all the reasons stated above, it is not possible to sustain the CVD levied for "other program" and if this program is excluded from the subsidy margin determination, the appellant would fall below the de minimis level. The imposition of 2.47% CVD on the appellant at serial no. 8 of the notification dated January 8, 2020 is, therefore, liable to be set aside.

67. Such being the position, it would not be necessary to examine the submission raised on behalf of the appellant that the drawn "Copper Wire" manufactured by the appellant is not akin to "Continuous Cast Copper Wire Rods".

68. In the result, the imposition of 2.47% CVD on the appellant at serial no. 8 of the notification dated January 8, 2020 is set aside and all the four Anti-Dumping Appeals, bearing numbers 50897 of 2020, 50894 of 2020, 50895 of 2020 and 50896 of 2020 are allowed."




27. From the above Final Order, it can be seen that the 2.47% CVD imposed on the subject goods produced by M/s. Metrod Malaysia Sdn. Bhd. and imported from Malaysia has been set aside by Hon'ble CESTAT, New Delhi. However, I observe that Section 9C of the Customs Tariff Act, 1975, has been amended retrospectively w.e.f. 01.01.1995 by Finance Act, 2023. Thus, the provisions regarding jurisdiction of Hon'ble CESTAT in entertaining appeals against Decision/Order/Notification in respect of imposition or non-imposition of CVD, have been amended retrospectively after issuance of the Final Order No. 51069-51072/2021 dated 08.03.2021 passed by Hon'ble CESTAT, New Delhi. However, there is nothing on record to show that whether Union of India / Customs Department has filed any appeal with higher forum against the said Final Order dated 08.03.2021 passed by Hon'ble CESTAT, New Delhi.

28. Further, I have seen a copy of the **Order dated 26.07.2024 passed by Hon'ble High Court of Gujarat in SCA No. 10814 of 2024 filed by M/s. Great White Global Pvt. Ltd. and Anr.** In the said Order, Minutes of Meeting of National Assessment Centre – 4/4A (Metal Products) held on 04.04.2024 have been reproduced. In the said Minutes, it has been inter alia mentioned, *"It has been decided that until the Notification No. 1/2020-Cus (CVD), dated 08.01.2020; is amended, the CVD is to be levied on imports of "Continuous Cast Copper Wire Rods" from Malaysia, as provided under the subject Notification."* After perusing the Minutes, Hon'ble High Court has observed and directed as under:

"3. On perusal of the above Minutes, it is apparent that the National Assessment Centre has shown total disregard to the judicial pronouncement of the CESTAT vide final order No. 51069-51072/2021 dated 8th March, 2021 whereby, the CVD imposed on Malaysian exporter i.e. Metrod (Malaysia) Sdn. Bhd. was set aside and the Notification No.1/2020 dated 08.01.2020 was modified by the CESTAT to that effect.

4. Though it is recorded in the aforesaid Minutes that the Ministry of Finance has not filed an appeal against the decision of the Tribunal, the imports of Copper Wire exported by Metrod Malaysia have since been assessed at various ports without levy of CVD. It was decided that until Notification No.1/2020- Custom (CVD) dated 08.01.2020 is amended, the CVD is to be levied on imports of "Continuous Cast Copper Wire Rods" from Malaysia as provided under the subject Notification.

5. In our opinion, such decision is nothing but in clear contempt of the decision of the CESTAT dated 8th March, 2021.



6. *In view of the above, issue Notice, returnable on 2nd August, 2024. By way of ad-interim relief, the impugned Minutes of Meeting dated 04.04.2024 issued by the respondent No.3-National Assessment Centre as well as the letter issued by the Deputy Commissioner of Customs are hereby stayed till further orders."*

I find that the above-mentioned SCA No. 10814/2024 filed by the appellant is still pending before Hon'ble High Court of Gujarat.

29. Now, coming to merits of the present appeal, I find that the present case is squarely covered under the provisions of Section 17(5) of the Customs Act, 1962, which are as under:

"(5) Where any reassessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said reassessment in writing, the proper officer shall pass a speaking order on the reassessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be."

Despite of the above-mentioned statutory provision, no speaking order has been passed in the present case. The facts and reasons behind the not following the aforesaid provisions by the assessing officer are not available on record. Some of the contentions raised in the appeal memorandum have been raised for the first time in writing in this appeal. The adjudicating authority / assessing officer had no occasion to consider the same.

30. As per the provisions of Section 128A(3)(b)(ii), where no order or decision has been passed after re-assessment under Section 17, the Commissioner (Appeals) may refer the matter back to the adjudicating authority with directions for fresh adjudication or decision. As no speaking order has been passed in this case, I find that remitting the case to the proper officer for passing speaking order becomes *sine qua non* to meet the ends of justice.

31. In view of the above position, I am of the view that the present appeal filed by M/s. Great White Global Pvt. Ltd. is liable to be remanded to the adjudicating authority, i.e. Deputy/Assistant Commissioner of Customs, ICD-Tumb, for passing speaking order of assessment in terms of Section 17(5) of the Customs Act, 1962.



32. In view of the above discussion, I pass the following order:

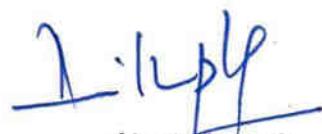
ORDER

I set aside the assessment of Countervailing Duty levied @2.47% as per Notification No. 1/2020-Customs (CVD) for the impugned Bill of Entry No. 4328978 dated 04.07.2024 and directs the Deputy/Assistant Commissioner of Customs, ICD-Tumb, to re-assess the impugned Bill of Entry by passing Speaking Order of assessment in terms of Section 17(5) of the Customs Act, 1962.

The appeal is allowed by way of remand.

While passing this order, no opinion or views have been expressed on merits of the case.




(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F.No. S/49-172/CUS/AHD/2024-25

Date: 27.10.2025

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To

M/s. Great White Global Pvt. Ltd.
Survey No. 32/2, 35/2, 36, 36/1, 38, 39,
Village - Gundalv, Taluka - Pardi,
Valsad, Gujarat - 396195.
(email: export@great-white.in)

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
(email: ccoaahm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
(email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Deputy/Assistant Commissioner of Customs, ICD-Tumb.
(email: cusicd-tumb@gov.in)

4. Ms. Ananya Maitin, Advocate, M/s. TLC Legal, Mumbai
(email: ananya@tlclegal.in info@tlclegal.in)

5. Guard File.

