



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हड्डको भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20250671MN000000D908

क	फाइल संख्या FILE NO.	CAAPL/COM/CUSP/1183/2023-APPEAL (S/49-246/CUS/AHD/2023-24)
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) :	AHD-CUSTM-000-APP-097-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	25.06.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order – In – Original No. SRT/CUS/ICD-SACHIN/DC/57/2022-23, dated 25.11.2022
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	25.06.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Hari Krishna Art, Plot No. 24, 3 rd Floor, Bhatena Indl. Co. – Op. Society, Udhna, Surat Gujarat – 395 002

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 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 (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 हजार मात्र), 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 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 :				
	<table border="0"> <tr> <td style="vertical-align: top;">सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td style="vertical-align: top;">Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td style="vertical-align: top;">दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td style="vertical-align: top;">2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंजिल, 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 रुपए 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 रुपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार 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 रुपए 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 १०% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के १०% 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.				
	<p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



Order-In-Appeal

M/s. Hari Krishna Art, Plot No. 24, 3rd Floor, Bhatena Indl. Co. – Op. Society, Udhna, Surat, Gujarat – 395 002 (hereinafter referred to as "the Appellant") have filed the present appeal against the Order-In-Original No. SRT/CUS/ICD-SACHIN/DC/57/2022-23, dated 25.11.2022 (herein after referred to as "the impugned order") passed by the Deputy Commissioner, Customs, ICD – Sachin, Surat (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that the Appellant had imported Capital Goods machinery, i.e., 02 sets of Computerized Embroidery Machine under EPCG Licence No. 5230009847, dated 13.12.2011 by saving Customs Duty amount of Rs. 5,05,539/- (Actual Duty Utilization of Rs. 2,70,850/-) under the cover of the below mentioned Bills of Entry at a concessional rate of duty @ 3% by availing the benefit of exemption available under Notification No. 103/2009 - Cus., dated 11.09.2009. The details of import are as per Table – I below:

TABLE - I

Sr. No.	Bill of Entry No. & date	Number of machinery imported and cleared	Duty saved / available as per EPCG Licence (In Rs.)	Total Duty Foregone / Debited at the time of clearance (In Rs.)	Bank Guarantee Amount (In Rs.)
1.	5567396, dated 26.12.2011	02 Sets	5,05,539/-	2,70,850/-	45,000/-

2.1 Against the said EPCG Licence No. 5230009847, dated 13.12.2011, the Appellant had executed a Bond dated 30.12.2011 before the Deputy/Assistant Commissioner of Customs, ICD – Sachin, Surat for an amount of Rs. 18,00,000/- backed by a Bank Guarantee No. 11/2011-12, dated 22.12.2011 for Rs. 45,000/- issued by the State Bank of Patiala, Ring Road, Surat. At the time of registration of the said EPCG Licence No. 5230009847, dated 13.12.2011, they had undertaken to fulfill the conditions of the Bond, the EPCG License, and the relevant Customs Notification before the Deputy / Assistant Commissioner of Customs, ICD – Sachin, Surat.

2.2 The said machinery, i.e., 02 sets of Computerized Embroidery Machine imported under the aforesaid EPCG Licence was installed at the factory / business premises declared by the Appellant, i.e., Plot No. 24, 3rd Floor, Bhatena Ind. Co. – Op. Society – 1, Udhna, Surat. Since, they were not registered with the Central Excise department, they had produced a copy of Installation Certificate dated 12.02.2012 issued by the Chartered Engineer, Shri J. J. Gandhi, Surat, certifying the receipt of the goods imported under the aforesaid Bill of Entry and its installation on 05.01.2012 at their declared factory / business premises.



2.3 As per the conditions of Notification No. 103/2009 - Cus., dated 11.09.2009, the Appellant was required to fulfill the export obligation on FOB basis equivalent to Eight times the duty saved on the goods imported as specified on the Licence and Authorization, within a period of Eight years from the date of issuance of EPCG Licence. In the instant case, the EPCG Licence was issued to the Appellant on 13.12.2011 and accordingly, they were required to fulfill export obligation by 12.12.2019, i.e., within a period of Eight years from the date of issuance of Licence or Authorization and submit the Export Obligation Discharge Certificate (EODC) issued by the Regional DGFT Authority before the jurisdictional Customs authorities.

2.4 On completion of First Block of 1 – 6 years, a letter dated 20.09.2018 was issued to the Appellant requesting them to submit evidences regarding export to the extent of 50% of the total export obligation. However, the said letter was returned undelivered by the Postal Authorities. Subsequently, letters dated 07.02.2020, 21.02.2020 and 26.08.2021 were issued to the Appellant requesting them to furnish the copy of EODC or any extension issued by the Regional Authority, DGFT, Surat for fulfillment of export obligation. However, the Appellant had not responded to any of the above correspondences.

2.5 Since, no response was received from the Appellant, a letter from F. No. ICD-Sachin/DGFT/07/2020-21, dated 24.08.2021 was written to the Foreign Trade Development Officer, DGFT, Surat requesting to inform whether the EODC had been issued or any extension granted to the Appellant or any documents showing the fulfillment of the export obligation have been received by their office against the aforesaid EPCG Licence No. 5230009847, dated 13.12.2011. In response, the Assistant Director, Directorate General of Foreign Trade, Surat vide letter F. No. EPCG/Mis./2020-21, dated 25.08.2021 informed that till date no documents showing fulfilment of export obligation have been submitted by the said Appellant.

2.6 In view of the above, it appeared that the Appellant had failed to fulfill the export obligation as specified in the Licence and did not comply with the mandatory condition of the Notification No. 103/2009-Cus., dated 11.09.2009, the condition of EPCG Licence and also the conditions of the Bond executed and furnished by them. The Appellant neither produced the EODC issued by the DGFT, Surat nor could produce any documents showing extension granted by them for fulfilment of export obligation. Therefore, the Appellant was liable to pay Customs Duty not paid (i.e. saved) by them amounting to Rs. 2,70,850/- for clearance of the said 02 sets of the capital goods machineries imported vide Bill of Entry No. 5567396, dated 26.12.2011 along with interest at the applicable rate, in terms of conditions of the said Notification read with condition of the Bond executed by them read with Section 143 of the Customs Act, 1962. Further, the Bank Guarantee No. 11/2011-12, dated 22.12.2011 for Rs. 45,000/- issued by the State

Bank of Patiala, Ring Road, Surat, furnished by them against the aforesaid EPCG Licence



No. 5230009353, dated 09.08.2011 was required to be encashed and appropriated against the aforesaid recovery of Government dues.

2.7 Accordingly, a Show Cause Notice under F. No. ICD/Sachin/2361/2011-12, dated 22.11.2011 was issued to the Appellant, proposing as to why:

- i. The benefit of concessional rate of duty @ 3% for EPCG Scheme under Notification No. 103/2009-Cus., dated 11.09.2009 on the imported Computerized Embroidery Machine imported in the name of the Appellant Creation should not be denied;
- ii. Customs Duty amounting to Rs. 2,70,850/- being the duty foregone at the time of import under EPCG Licence should not be demanded and recovered from them along with interest in terms of Notification No. 103/2009-Cus., dated 11.09.2009 as amended, read with the conditions of Bond executed and furnished by them in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the said Bond. Further, why the Bank Guarantee No. 11/2011-12, dated 22.12.2011 for Rs. 45,000/- issued by the State Bank of Patiala, Ring Road, Surat should not be appropriated and adjusted towards the duty liability as mentioned above;
- iii. The imported Capital goods should not be held liable for confiscation under Section 111 (o) of the Customs Act, 1962 read with the conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification No. 103/2009-Cus., dated 11.09.2009 as amended from time to time;
- iv. Penalty should not be imposed under Section 112 (a) and Section 117 of the Customs Act, 1962;

2.8 The Adjudicating Authority, vide the impugned order, has passed order as detailed below:

- i. He disallowed the benefit of concessional rate of duty @ 3% for EPCG Scheme under Notification No. 103/2009-Cus., dated 11.09.2009 on Machines under reference imported in the name of the Appellant;
- ii. He confirmed the demand of Customs Duty amounting to Rs. 2,70,850/- being the duty foregone at the time of import of Capital Goods under EPCG Licence in terms of Notification No. 103/2009-Cus., dated 11.09.2009 as amended, read with the conditions of Bond executed along with interest and ordered the same to be recovered in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the above mentioned Bond;
- iii. He ordered to appropriate the amount of Rs. 45,000/- by encashment of the Bank Guarantee No. 11/2011-12, dated 22.12.2011 for Rs. 45,000/- issued by the State Bank of Patiala, Ring Road, Surat backed against the Bond and as the same has already been encashed and deposited in Government exchequer vide TR – 6



Challan No. 31/22-23, dated 20.07.2022, he ordered the same be adjusted against the duty liability confirmed at (ii) above;

- iv. He confiscated the subject imported Capital goods imported by the Appellant under Section 111 (o) of the Customs Act, 1962 read with the conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification No. 103/2009-Cus., dated 11.09.2009. However, he gave an option to redeem the said goods on payment of redemption fine of Rs. 67,700/- under Section 125 of the Customs Act, 1962;
- v. He imposed penalty of Rs. 27,000/- upon the Appellant under Section 112 (a) of the Customs Act, 1962;
- vi. He imposed penalty of Rs. 27,000/- upon the Appellant under Section 117 of the Customs Act, 1962;

3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal. The Appellant have, inter-alia, raised various contentions and filed detailed submissions as given below in support of their claims:

- They have already applied for Amnesty Scheme under DGFT on dated 22.06.2023;
- The EPCG License No. 5230009847, dated 13.12.2011 was never cancelled by the DGFT. On the contrary they shall apply to the DGFT, Surat with all the relevant documents for issue of Export Obligation Discharge Certificate (EODC). As soon as we receive the copy of EODC, we shall submit the same;
- EPCG License not cancelled by the DGFT, then any customs duty demanded by Customs department is without authority of law. Once, Advance License is granted by the DGFT, the Customs authorities cannot refuse exemption on an allegation that there was misrepresentation as held by Supreme Court in the case of M/s. Titan Medical Systems vs. CC reported at 2003 (151) ELT 254 (SC). The ratio of this judgment is squarely applicable to the present case;
- EPCG license have been issued by the DGFT and EODC will be issued by the DGFT, under this circumstances, the demand of Customs duty, for not fulfillment of export obligation is erroneous and beyond his jurisdiction. Therefore, the impugned order needs to be set aside;
- When the demand of duty does not survive then automatically no interest can be demanded and penalty imposed needs to be set aside; that they have paid duty and interest as per Amnesty Scheme;
- In the present case, import of Capital Goods was exempt under EPCG policy of DGFT. According to the policy of EPCG, they had not fulfilled export obligation and they have paid the Customs Duty along with interest and submitted the evidence to the adjudicating authority and DGFT. According to EPCG policy, they shall submitted all the documents to the DGFT, Surat for issuance of EODC.



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Once the EODC is issued by DGFT, then Customs department cannot say that exemption under EPCG policy is wrongly taken. Under this circumstances, the provision of Section 111 (o) of the Customs Act, 1962 cannot be invoked; .

PERSONAL HEARING:-

4. Personal hearing in the matter was held on 18.06.2025 in virtual mode. Shri Mukund Chauhan, Advocate appeared for hearing on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum. He further submitted a letter dated 05.06.2025 conveying that the Appellant have under the Amnesty Scheme as per P. N. No. 02/2023, dated 01.04.2023 made an application ANF-5, and paid the Customs Duty along with interest and submitted letter to DGFT, Surat to settle the case. It has been further conveyed that the DGFT, Surat had considered the payment of duty under Amnesty Scheme and issued EODC (Final Duty Paid Regularization Letter, dated 01.01.2024) against EPCG License No. 5230009847, dated 13.12.2011 from F. No. 52EEEPC01672AM24 and enclosed the copy of the same.

DISCUSSIONS & FINDINGS:-

5. I have carefully gone through the appeal memorandum filed by the Appellant, the grounds of appeal, as well as records of the case. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority disallowing the benefit of concessional rate of duty under Notification No. 103/2009 - Cus., dated 11.09.2009, confirming the demand of duty along with interest, confiscating the Capital goods under Section 111 (o) of the Customs Act, 1962 and imposing penalties upon the Appellant under Sections 112 (a) and Section 117 of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

6. Being aggrieved, the Appellant has filed the present appeal on 31.07.2023. The date of communication of the Order-In-Original dated 25.11.2022 has been shown as 02.06.2023. Therefore, the appeal has been filed within normal period of 60 days, as stipulated under Section 128 (1) of the Customs Act, 1962. Further, the Bank Guarantee of Rs. 45,000/- have been encashed and deposited vide TR – 6 Challan No. 31/22-23, dated 20.07.2022, thereby fulfilling the requirement of pre-deposit of filing the appeal as envisaged under the Section 129 E of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit and complies with the requirement of Section 129E of the Customs Act, 1962, the appeal has been admitted and being taken up for disposal on merits.

7. It is observed that the Advocate of the Appellant vide his letter dated 05.06.2025 has submitted the Final Duty Paid Regularization Letter issued by the DGFT, Surat under the Amnesty Scheme as per P.N. No. 02/2023 dated 01.04.2023 for one time



settlement of default in EO. However, it is observed that this fact have been brought before the appellate authority for the first time and the adjudicating authority had no occasion to consider the same. Hence, the veracity of the EODC in respect of the EPCG License No. 5230009847, dated 13.12.2011 and the eligibility of the Appellant to Amnesty Scheme needs verification from the original case records.

8. In view of the above, I find that remitting the present appeal to adjudicating authority for passing fresh order, after taking the submissions made by the Appellant in the present appeal on record, and pass fresh order for examining the EODC of the EPCG License No. 5230009847, dated 13.12.2011 and eligibility of the Appellant to Amnesty Scheme, has become sine qua non to meet the ends of justice. Accordingly, the case is remanded back to the adjudicating authority, in terms of sub- section 3 (b) of Section 128A of the Customs Act, 1962, for passing a fresh order by following the principles of natural justice. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs- 2004 (173) ELT 117 (Guj.), Judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and Judgments of Hon'ble Tribunals in case of Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del)] holding that Commissioner (Appeals) has power to remand the case under Section – 35A (3) of the Central Excise Act, 1944 and Section – 128A (3) of the Customs Act, 1962.

9. In view of above, I set aside the impugned order and allow the appeal filed by the Appellant by way of remand to the adjudicating authority for passing fresh order after considering the submissions made by the Appellant in the present appeal on record. The Adjudicating Authority shall examine the available facts, documents, submissions and issue speaking order afresh following principles of natural justice and legal provisions. No view on merits has been expressed in this order.

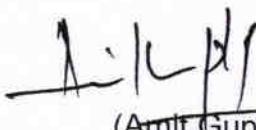
10. The appeal preferred by the Appellant is allowed by way of remand.



सत्यापित/ATTESTED
R. P. Patel
अधीक्षक/SUPERINTENDENT
सीमा शूलक (अधीक्षक), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.

F. No. CAAPL/COM/CUSP/1183/2023-APPEAL
(S/49-246/CUS/AHD/2023-24)

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

Date: 25.06.2025

By Registered Post A.D

To,

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2. Shri Mukund Chouhan (Advocate)
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Ring Road,
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Copy to:

1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
3. The Deputy Commissioner, Customs, ICD – Sachin, Surat.
4. Guard File.

