

	<p>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421 Phone No.02838-271165/66/67/68 FAX.No.02838- 271169/62, Email: adj-mundra@gov.in</p>	
A. File No.	:	GEN/ADJ/COMM/528/2025-Adjn-O/o Pr Commr-Cus-Mundra
B. Order-in-Original No.	:	MUN-CUSTM-000-COM-048-25-26
C. Passed by	:	Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order Date of issue:	:	29.12.2025 29.12.2025
E. SCN No. & Date	:	18/2025-26/COMM/N.S./Adjn/MCH dated 27.08.2025
F. Noticee(s) / Party / Importer	:	M/s Arvind Limited (IEC 0888003421)
G. DIN	:	20251271MO0000999B91

- यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए 3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.
4. उक्त अपील के साथ -/ 1000 रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो 5000/- रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बेंचआहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s Arvind Limited (IEC 0888003421) having address at Plot No. A15 to A18, Block No. 1059, Dharti Apollo Industrial Park, Chhatral, Gandhinagar, Taluka-Kalol, PIN-382729 (hereinafter referred as “The Importer” for the sake of brevity) was importing woven fabrics of polyester filaments having various width and length under CTH 54076900 since August, 2023 through their Custom Broker M/s Transmarine Corporation. The details of B/E were as per the Annexure-A to the Show Cause Notice.

2. On Scrutiny of EDI data, it was noticed that during assessment of item classifiable under CTI 54076900, EDI system was calculating BCD @ Rs. 36/kgs whereas Customs Tariff Act, 1975 published by various authors/publishers like BDP, Arun Goel, R.K Jain etc. mentioned rate of BCD as Rs. 36/SQM in respect of said CTH. Further, CTH 5407 reads as under :-

5407 Woven Fabrics of synthetic filament yarn, including woven fabrics obtained from material of heading 54.07

54076900 -- Others

3. In this regard, kind attention is invited to following references :-

3.1 Attention is drawn to Para 97(b) of Finance Bill, 2022 which amended First Schedule of Customs Tariff Act, 1975 with effect from the 1st May, 2022. Para (xli) is reproduced as below:-

“(xli) for the entry in column (4) occurring against tariff item 5407 69 00, the entry “20% or Rs. 36 per sq. metre, whichever is higher” shall be substituted”;

3.2 Attention is also invited to Notification No. 07/2022-Customs dated 01.02.2022 whereby the following entry was inserted :-

(xviii) After S. No. 33 and the entries relating thereto, the following S. No. and entries shall be inserted, namely :-

(1)	(2)	(3)	(4)
“33A.	54076900	All goods	20% or Rs. 36/sqm whichever is higher”

4. However, on perusal of Tariffs uploaded at official website of CBIC, it was noticed that all the Tariffs (i.e. Tariff as on 01.02.2022, Tariff as on 01.05.2022, Tariff as on 01.02.2023 and onwards) mention the rate of BCD for the said CTH as 20% or Rs. 36/kgs. whichever is higher, which is different from the rate of BCD prescribed under Finance Bill, 2022, as the same has been prescribed as 20% or Rs. 36/ SQM whichever is higher.

5. From the above, prima facie, it appears that there is a mismatch of duty structure against Tariff Entry 54076900 as feeded in EDI system vis-à-vis Para 97(b)(xli) of Finance Bill, 2022 read with Budget Notification No. 07/2022-Cus dated 01.02.2022 that caused huge bearing on revenue implication.

6. Accordingly, past import data for the CTH 54076900 has been checked for Mundra Port and it was noticed that M/s Arvind Limited imported goods under HSN code 54076900 and BCD was levied @ Rs. 36/Kgs instead of Rs. 36/SQM in system which resulted in short levy of Customs Duties.

7. Prime facie, it appears that due to system issue, importer M/s Arvind Limited short paid duty amount of Rs. 3,47,66,566/- (Rs. Three Crore Forty-Seven Lacs Sixty-Six Thousand Five Hundred Sixty-Six). The detailed Calculation sheet along with list of Bills of Entry was as per Annexure-B to the SCN.

8. Accordingly, Summons dated 26.09.2024 (RUD-1) was issued to importer to appear on 14.10.2024 for tendering their statement. However, importer vide letter dated 07.10.2024 (RUD-2) requested to reschedule the date of summons after one month. Accordingly, re summon dated 16.10.2024 (RUD-3) were issued to importer to appear on 07.11.2024.

9. Further, importer vide letter dated importer submitted his representation dated 21.10.2024 (RUD-4) to Chief Commissioner of Customs, Ahmedabad wherein he interalia submitted that “they are manufacturer and importer of Technical Textile products “Woven Fabrics of Polyester Filaments” falling under Customs tariff 54076900. In the Budget 2022, the applicable Customs rate was changed to Rs. 36 per Sq. Meter, however, this change is not noticed and given effect in customs portal and government tariff available online. Resultantly, the assessment was made at incorrect rate of duty i.e. 36 Per Kg and further requested to arrange corrections in customs portal and government tariff. They further prayed for

issuance for notification under Section 28A of the Customs Act for waiver of duty from finance act, 2022 to till date. They further requested to direct SIIB (Mundra) for not issuing summons, however, notice if any, may be issued.

10. Further, importer vide letter dated 26.05.2025 (RUD-5) has informed that they had made representation to the CBIC, Chief Commissioner, Joint Secretary, and the Textile Commissioner. Textile Commissioner had also made a representation to Ministry of Textiles in this matter for issuance of an exemption Notification under section 28A of the Customs Act. However, they had paid the differential duty amounting to Rs. 3,47,66,566/- (Rs. Three Crore Forty-Seven Lacs Sixty-Six Thousand Five Hundred Sixty-Six) under protest so that the burden of interest does not pile up. They further requested that interest may be waived off in the typical circumstances of the case in as much as the short payment is not owing to the fault of the importer.

11. In view of above, prima facie, it appears that due to non updation of duty structure in ICES system, M/s Arvind Limited short paid differential duty amounting to Rs. 3,47,66,566/- (Rs. Three Crore Forty-Seven Lacs Sixty-Six Thousand Five Hundred Sixty-Six) along with applicable interest under section 28AA of the Customs Act, 1962. However, on being pointed out by department, the same were paid under protest by the importer vide Challan No. 9080941365 dated 19.05.2025.

12. Further, a pre-consultative letter dated 25.06.2025 (RUD-6) was issued to M/s Arvind Limited to consider the payment made by them “under protest” towards this differential duty liability as detailed in foregoing paras without any protest and to further pay the interest applicable under 28AA of the Customs Act, 1962 within 30 days upon receipt of this letter so that matter can be concluded under section 28(2) of the Customs Act, 1962. However, no reply has been received till date.

13. Accordingly, M/s Arvind Limited (IEC-0888003421) was called upon to show cause as to why: -

- (i) The differential duty payment amounting to Rs. 3,47,66,566/- (Rs. Three Crore Forty-Seven Lacs Sixty-Six Thousand Five Hundred Sixty-Six) should not be demanded under section 28(1) of the Customs Act, 1962 and payment of Rs. 3,47,66,566/- made vide Challan No. 9080941365 dated 19.05.2025 “Under protest” should not be adjusted toward this differential duty liability.

- (ii) Interest applicable on the above said differential duty should not be recovered under section 28AA of the Customs Act, 1962 from M/s Arvind Limited.

14. RECORDS OF PERSONAL HEARING: Following the principles of natural justice, opportunities of personal hearing were granted on 11.11.2025, 25.11.2025 & 15.12.2025. Shri Rajeev Pillai, Authorised Representative of M/s. Arvind Limited appeared for hearing on 15.12.2025. He submitted that although the duty structure was revised in February-2022, no corresponding changes or upgradation were carried out in the EDI System. He further stated that the Customs Broker had filed the Bills of Entry at the merit rate of duty of Rs. 36/Kg, as reflected in the system. Accordingly, he contended that there was a mismatch at both ends, i.e. on the part of the Department as well as on the part of the Importer. He further re-iterated the written submissions dated 20.11.2025 and requested waiver of interest.

14.1 Written Submissions:

- (i) The differential duty demand arises on account of the difference in rate of duty between Finance Act and as per the Government portal. The Government portal did not show the correct rate of duty leading to mutual mistake made by us, as well as by the Customs Department.
- (ii) We have made detailed representations before the Finance Ministry as well as the Textiles Ministry for proper notification for waiver of the differential duty and in our understanding, the same is pending for consideration. Therefore the outcome of that pending representation will apply to this matter.
- (iii) A government website is a digital tool for communication, while law is a set of rules enforced by the government. Laws are the mandatory guidelines that govern a society, and government websites are a modern, regulated platform used by the government to provide information and services.
- (iv) Information published on official government websites generally has a high degree of legal standing and is considered an official government publication. While it serves as a primary and reliable source of information, its specific legal effect can depend on the context and nature of the information provided. Websites like the e-Gazette portal (egazette.gov.in) and the India Code portal are official sources for publication of Acts, Rules, and notifications, which are legally binding.

The information provided on these specific platforms often has the same legal validity as their printed counterparts. Therefore, in our submission, the Government portal, relied upon by both sides, is correct and therefore the differential duty cannot be demanded.

DISCUSSION AND FINDINGS

15. I have carefully examined the records of the case, the allegations made in Show Cause Notice, the written submissions filed by the noticee, as well as the oral submissions made during the course of personal hearing. I note that there is no dispute with regard to the description, classification under CTI 54076900 and the fact of import of woven fabrics of polyester filament yarn by the noticee. The present proceedings arises on account of an alleged short-levy of Basic Customs Duty attributable to an inconsistency between the actual rate structure prescribed under the Finance Act, 2022 read with Notification No. 07/2022-Customs dated 01.02.2022 and that which was collected in EDI System. The relevant extract of the Notification is pasted below for reference purpose:

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Notification No.07/2022-Customs

New Delhi, the 1st February, 2022

G.S.R. ... (E). - In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 82/2017-Customs, dated the 27th October, 2017, published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i), *vide* number G.S.R. 1341 (E), dated the 27th October, 2017, namely:

In the said notification, in the Table, -

(xvii)	against S.No. 33, in column (3), for the entry, the entry "All goods" shall be substituted;			
(xviii)	after S.No. 33 and the entries relating thereto, the following S.No. and entries shall be inserted, namely: -			
	(1)	(2)	(3)	(4)
	"33A.	5407 69 00	All goods	20% or Rs. 36 per sq. mtr., whichever is higher";
(xix)	after S.No. 35 and the entries relating thereto, the following S.Nos. and entries shall be inserted, namely: -			
	(1)	(2)	(3)	(4)
	"35A.	5407 73 00	All goods	20% or Rs. 36 per sq. mtr., whichever is higher
	35B.	5407 74 00	All goods	20% or Rs. 23 per sq. mtr., whichever is higher";
(xx)	after S.No. 42 and the entries relating thereto, the following S.No. and entries shall be inserted, namely: -			
	(1)	(2)	(3)	(4)
	"42A.	5407 82 (except tariff item 5407 82 50)	All goods	20% or Rs. 25 per sq. mtr., whichever is higher";

16. I find that during the relevant period, the ICES system erroneously calculated Basic Customs Duty at the rate of **"20% or Rs. 36 per kilogram, whichever is higher"** although, the applicable specific rate of duty for goods classifiable under CTI 54076900 was **"20% or Rs. 36 per square metre, whichever is higher"**. Based on EDI System duty rate, the Noticee paid duty @ Rs. 36 per Kgs though it was leviable @ Rs. 36 per Square metre. It is on this basis that the differential duty has been calculated in the SCN and proposed to be recovered. Noticee in principle also agreed with the fact that there was an error while paying duty at the time of clearance of the subject goods, but has contended that information published on official government websites should be treated as authoritative and they should not be asked to pay any more duty than the one levied & collected in EDI System. However, I am of the view that the short-levy due to non-updation of the amended rate in the ICES system cannot alter the legal position that duty is required to be levied and paid by the Importer in accordance with the provisions of the Customs Tariff Act, 1975 and the notifications issued thereunder. Systemic errors cannot override statutory provisions, and duty short-levied due to such reasons remains recoverable under the provisions of the Customs Act, 1962. Section 28(1) of the Customs Act, 1962 does not draw any distinction between a short-levy duty arising from an act or omission on the part of the importer and a short-levy arising due to an error in a system-driven assessment. The words "for any reason" used in the provision have a wide meaning and are meant to cover all cases of non-levy or short-levy of duty, except those cases that fall under the aggravated circumstances specified in Section 28(4) of the Customs Act, 1962. Therefore, once it is established that the applicable rate of duty was "Rs. 36 per square metre" but duty was collected at a lower rate, the essential ingredients for invocation of Section 28(1) of the Customs Act,

1962 stand satisfied. Accordingly, I hold that the recovery under Section 28(1) of the Customs Act, 1962 is maintainable for differential duty arising out of the undisputed short-levy in the present case.

17. The noticee has also argued that since the short-payment of duty was not due to any lapse on their part, interest should not be demanded in the facts and circumstances of the case. With respect to this claim, I find that Section 28AA of the Customs Act, 1962 provides that when a person is liable to pay duty under Section 28, such person is also required to pay interest at the notified rate, in addition to the duty, whether the duty is paid voluntarily or after its determination. The levy of interest follows automatically as a statutory consequence and the same is not optional in nature. While there is no doubt about bona fide conduct of the importer, it does not by itself extinguish or reduce the statutory liability to pay interest under Section 28AA of the Customs Act, 1962. In any scenario, the Customs Act, 1962 does not contain any provision empowering the adjudicating authority to waive or reduce interest payable under Section 28AA of the Customs Act, 1962. Thus, interest remains mandatorily payable.

18. It is further observed that the noticee had made representations to various authorities seeking issuance of an exemption notification to regularise the situation. However, no such notification has been issued till date granting waiver of duty or interest for the relevant period. Accordingly, I hold that the proposal in the Show Cause Notice for recovery of duty alongwith interest is legally sustainable.

19. I pass the following order:

ORDER

- i. I order to recover the differential duty of **Rs. 3,47,66,566/- (Rs. Three Crore Forty-Seven Lacs Sixty-Six Thousand Five Hundred Sixty-Six only)** from M/s. Arvind Limited, in respect of Bills of Entry covered under the subject SCN, under the provisions of Section 28(1) of the Customs Act, 1962.
- ii. I order to appropriate the amount of Rs. 3,47,66,566/- already paid vide Challan No. 9080941365 dated 19.05.2025 toward their duty liability.

- iii. I order to recover the applicable interest on the above said differential duty under the provisions of section 28AA of the Customs Act, 1962 from M/s Arvind Limited.

20. This order is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

(NITIN SAINI)

Commissioner of Customs, Mundra

DIN: 20251271MO0000999B91

By Mail/Speed Post & through proper/official channel:

To,

M/s Arvind Limited (IEC 0888003421),
Plot No. A15 to A18, Block No. 1059,
Dharti Apollo Industrial Park,
Chhatral, Gandhinagar, Taluka-Kalol-382729

Copy to:

- (i) The Chief Commissioner of Customs, CCO, Ahmedabad.
- (ii) The Deputy/Assistant Commissioner (Legal/Prosecution), CH, Mundra.
- (iii) The Deputy/Assistant Commissioner (Recovery/TRC), CH, Mundra.
- (iv) The Deputy/Assistant Commissioner (EDI), Customs House, Mundra.