**प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद**
"सीमाशुल्क भवन" ,पहली मंजिल ,पुराने हाईकोर्ट के सामने ,नवरंगपुरा ,अहमदाबाद – 380 009.
दूरभाष :(079) 2754 4630 **E-mail:** cus-ahmd-adj@gov.in फैक्स :(079) 2754 2343

**DIN:20261171MN0000F4ECB1**

**PREAMBLE**

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|---|---|---|---|
| A | फ़ाइल संख्या/ File No. | : | ACC/IGST/OTH/48/2026-ACC-AHMD-CUS-COMMRTE-AHMEDABAD |
| B | कारण बताओ नोटिस संख्या–तारीख /Show Cause Notice No. and Date | : | F. No. ACC/IGST/OTH/48/2026-ACC-AHMD-CUS-COMMRTE-AHMEDABAD dated 10.08.2026 |
| C | मूल आदेश संख्या/ Order-In-Original No. | : | 116/ADC/SR/O&A/HQ/2026-27 |
| D | आदेश तिथि/ Date of Order-In-Original | : | **23-11-2026** |
| E | जारी करनेकी तारीख/ Date of Issue | : | **23-11-2026** |
| F | द्वारापारित/ Passed By | : | **Shravan Ram**<br>Additional Commissioner,<br>Customs Ahmedabad |
| G | आयातक का नाम औरपता / Name and Address of Importer / Passenger | : | M/s. Space Applications Centre,<br>Department of Space, Government of India,<br>Ambawadi Vistar P.O. Ahmedabad-380015<br>(IEC: AMDCG0111E) |

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|---|---|
| | यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है। |
| (2) | कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क)अपील(, चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है। |
| (3) | अपील के साथ केवल पांच5.00) ) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए: |
| (i) | अपील की एक प्रति और; |
| (ii) | इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच5.00) ) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए। |
| (4) | इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा। |

**Brief Facts of the Case:-**

M/s. Space Applications Centre, Department of Space, Government of India, Ambawadi Vistar P.O. Ahmedabad-380015 (IEC: AMDCG0111E) (hereinafter referred to as "the claimant" or "the Noticee") imported two items i.e. one "Engineering Model 320X256MARS RMLS LS9199" and one "FM Model 320X256MARS RMLS LS9199" vide Bill of Entry No. 2924665 dated 18.10.2022. The goods were assessed to duty and were cleared for home consumption under Section 47 of the Customs Act, 1962 after payment of applicable customs duty of Rs. 90,89,022/- along with interest of Rs. 3,735/- vide Challan No. 2041331913 dated 19.10.2022. Accordingly, the imported goods were given Out of Charge on 19.10.2022. Item-wise Duty paid details as below :

**TABLE-A**

| Sr. No. | Bill of entry and Date | Item Description | Assessable Value | Duty Paid |
|---|---|---|---|---|
| 1 | 2924665 dated 18.10.2022 | One Engineering Model 320X256 MARS VLW RMLS LS 9199 | Rs. 3,37,84,000/- | Rs. 36,40,226/- |
| 2 | 2924665 dated 18.10.2022 | One FM Model 320X256 MARS VLW RMLS LS9199 | Rs. 5,05,68,880/- | Rs. 54,48,796/- |

2. Subsequently, the claimant reported that one of imported items i.e. "Engineering Model 320X25 6MARS RMLS LS9199" was found in non-functional condition. Consequently, the claimant decided to return the goods to the foreign supplier. The goods, being capable of being identified as the very goods imported under the aforesaid Bill of Entry, were exported out of India vide Shipping Bill No. 5133841 dated 04.11.2023, with Let Export Order (LEO) dated 09.11.2023

3. Thereafter, the claimant filed a refund claim for Rs.36,41,722/- for the duty paid for the item mentioned at Sr. No. 1 of Table-A, under Section 26A of the Customs Act, 1962 vide letter dated 19.04.2024 (received on 06.05.2024) on the ground that the imported goods were non-functional and had been exported to the overseas supplier. The refund claim was processed by the Department and, after examination of the documents submitted by the claimant, an amount of Rs.36,40,226/- was sanctioned vide Order-in-Original No. 34/AC/ACC/OIO/SAC/2024-25 dated 14.08.2024(RUD 1 of SCN) .

4. As per sub-section (1) of Section 26A of the Customs Act, 1962, retaliated as under:

"*Section 26A. Refund of import duty in certain cases. -*

1. *Where on the importation of any goods capable of being easily identified as such imported goods, any duty has been paid on clearance of such goods for home*

*consumption, such duty shall be refunded to the person by whom or on whose behalf it was paid, if -*

a. *the goods are found to be defective or otherwise not in conformity with the specifications agreed upon between the importer and the supplier of goods:*

*Provided that the goods have not been worked, repaired or used after importation except where such use was indispensable to discover the defects or non-conformity with the specifications;*

b. *the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported;*

c. *the importer does not claim drawback under any other provisions of this Act; and*

d. *(i) the goods are exported; or*

ii. *the importer relinquishes his title to the goods and abandons them to customs; or*

iii. *such goods are destroyed or rendered commercially valueless in the presence of the proper officer,*

*in such manner as may be prescribed and within a period not exceeding thirty days from the date on which the proper officer makes an order for the clearance of imported goods for home consumption under section 47:*

*Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Principal Commissioner of Customs or Commissioner of Customs for a period not exceeding three months:*

*Provided further that nothing contained in this section shall apply to the goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force."*

4.1 On examination of the records, it is noticed that the Shipping Bill No. 5133841 dated 04.11.2023 and Let Export Order (LEO) dated 09.11.2023, was effected more than one year after the Out of Charge (OOC) dated 19.10.2022. Further, it appeared that the claimant had not sought or obtained any extension of time from the jurisdictional Principal Commissioner or Commissioner of Customs under Section 26A(1) of the Customs Act, 1962.

5. From the above provisions, the Commissioner of Customs is authorized to give extension under section 26A(1), however, even if permission for re-export had been sought and granted by the Commissioner of Customs, the extension permissible under the law could not have stretched to one year. In the present case, however, the goods were exported after more than one year from the date of Out of Charge.

6. Whereas it is observed that the claimant has filed a refund claim under Section 26A of the Customs Act, 1962 on 19.04.2024 (received by Department on 06.05.2024). The sub-section 2 of section 26A is retaliated as under:

"(2) *An application for refund of duty shall be made before the expiry of six months from the relevant date in such form and in such manner as may be prescribed.*

*Explanation .- For the purposes of this sub-section, "relevant date" means,-*

a. *in cases where the goods are exported out of India, the date on which the proper officer makes an order permitting clearance and loading of goods for exportation under section 51;*

b. *in cases where the title to the goods is relinquished, the date of such relinquishment;*

c. *in cases where the goods are destroyed or rendered commercially valueless, the date of such destruction or rendering of goods commercially valueless.*"

However, the grant of refund under Section 26A is subject to fulfillment of the conditions prescribed under Section 26A(1) of the Act, including the condition that the defective or non-conforming imported goods are exported, abandoned, or destroyed/rendered commercially valueless within a period of thirty days from the date of Out of Charge, extendable by the Principal Commissioner/Commissioner of Customs for a period not exceeding three months upon sufficient cause being shown. It appeared from the records that the Out of Charge was granted on 19.10.2022, whereas the LEO was issued on 09.11.2023 i.r.o. Shipping Bill no. 5133841 for the mentioned goods, i.e., more than one year after the date of Out of Charge. Thus, the goods were not re-exported within the period prescribed under Section 26A(1) of the Customs Act, 1962. It therefore appeared that the claimant was not eligible for refund under Section 26A of the Act. Accordingly, the refund claim dated 19.04.2024, which culminated in the sanction of refund amounting to Rs. 36,40,226/-, appeared to have been wrongly and erroneously sanctioned, as the statutory conditions for grant of refund had not been fulfilled and the claim was barred by limitation.

7. Accordingly, letter bearing F. No. VIII/48-89/ACC/Audit/Group-2/2025-26 dated 30.09.2025(RUD-2 of SCN) was issued to the claimant informing the above facts and requested them to pay erroneous sanction of refund claim of Rs. 36,40,236/- along with applicable interest.

7.1 The claimant vide their letters dated 10.11.2025 and 16.01.2026(RUD 3 of SCN), *inter-alia* submitted that:-

i. Clause (a) of sub-section (1) of Section 26A of the Customs Act, 1962 describes three independent scenarios w.r.t. defective goods, as all three are bifurcated with word "or" under the said section.

ii. The present case fall under Sl.No. (i) i.e. the good are exported. Whereas the limit of 30 days applies to the condition under Sl.No.
(iii) only and is not to be applied in instant case.

iii. Sub-section (2) of Section 26A States, "an application for refund of duty shall be made before the expiry of six months from the relevant date in such form and in such manner as may be prescribed".

Further, in terms of clause (a) of Explanation below Section 26A(2), the relevant date for goods exported out of India is the date on which the proper officer makes an order permitting clearance and loading of goods for exportation under Section 51 i.e. relevant date) and hence, claim period of 6 months would be up to 03.05.2024.

iv. Refund application was filed with the proper authority vide application dated 19.04.2024 (copy enclosed for ready reference) which is within the said six-month period, in terms of Section 26A.

8. The reply submitted by the claimant was examined and the same was not acceptable for the following reasons:

i . The claimant has contended that the period of thirty days prescribed under Section 26A(1) of the Customs Act, 1962 is applicable only to clause (iii), i.e. where the goods are destroyed or rendered commercially valueless, and not to clauses (i) and (ii). This interpretation is not tenable. A harmonious reading of the provisions of Section 26A indicates that the statutory time limit prescribed therein applies uniformly to all permissible modes of disposal of defective imported goods, viz. re-export, relinquishment of title, or destruction/rendering of the goods as commercially valueless, thereby reflecting the legislative intent to ensure their disposal within a specified and time-bound period.

i i . If the claimant's interpretation is accepted, the statutory time limit prescribed under Section 26A(1) would become applicable only to goods destroyed under clause (iii), while no time limit whatsoever would govern goods re-exported under clause (i) or relinquished under clause (ii). Such an interpretation would lead to an anomalous situation whereby an importer could retain possession of the imported goods for an indefinite period and, at any subsequent point of time, opt for re-export and claim refund of the customs duty originally paid. This would defeat the very object and purpose of Section 26A and render the statutory scheme and limitation prescribed therein redundant.

iii. Likewise, in cases falling under clause (ii) of Section 26A(1), acceptance of the interpretation advanced by the claimant would imply that an importer could relinquish title to the imported goods after any length of time and yet remain eligible to claim refund of the customs duty originally paid. Such an interpretation would result in uncertainty in customs administration, permit indefinite retention of imported goods by importers, and defeat the legislative intent underlying Section 26A, which envisages the expeditious disposal of defective or non-conforming imported goods within the prescribed statutory period. Therefore, it appeared that the time limit prescribed under Section 26A(1) is required to be construed as applicable to all permissible modes of disposal contemplated therein, namely re-export, relinquishment of title, or destruction/rendering of goods as commercially valueless.

i v . Further, Section 26A(1) specifically empowers the Principal Commissioner or Commissioner of Customs to extend the prescribed on sufficient cause being shown, if the claimant's interpretation were accepted, the said proviso would become redundant in cases of re-export and relinquishment, since no extension would ever be required where no limitation exists. It is a well-settled principle of statutory interpretation that a provision must be construed as

a whole and in a manner that gives effect to every part of the statute.

v. In the present case, the imported goods were cleared for home consumption on 19.10.2022, whereas the goods were export to the supplier only on 09.11.2023(LEO Date), i.e. after more than one year from the date of the Out of Charge order. The claimant neither sought nor obtained any extension from the competent authority under the Section 26A(1). Even otherwise, the Commissioner of Customs could have extended the prescribed period only up to a maximum of three months. Therefore, the export undertaken by the claimant was far beyond the maximum period permissible under the statute, rendering the refund claim inadmissible.

v i . The claimant has also relied upon Section 26A(2) and contend that the refund application was filed within six months from the date of export. This contention is misplaced since Section 26A(2) merely prescribes the limitation for filing the refund application after fulfilment of the substantive conditions stipulated under Section 26A(1). Compliance with the time limit prescribed for disposal of the defective goods under Section 26A(1) is a mandatory pre-condition for eligibility to claim refund. The procedural limitation under Section 26A(2) cannot override or cure non-compliance with the substantive statutory requirement contained in Section 26A(1). Since the claimant failed to satisfy the mandatory condition relating to the permissible period for re-export, the subsequent filing of the refund application within six months from the date of export does not confer any entitlement to refund.

9. In the view of Pre-Notice Consultation Regulations, 2018 as notified vide customs notification No. 29/2018 (NT), dated 02.04.2018, a Pre-notice Consultation letter bearing F.No. ACC/IGST/OTH/48/2026-ACC-AHMD-CUS-COMMRTE-AHMEDABAD dated 12.06.2026(RUD 4 of SCN) was issued to the claimant, wherein, a personal hearing was fixed on 23.06.2026.

9.1 The personal hearing was held on 23.06.2026 wherein Shri Mudaliar Jagdishan Manilal, Purchase & Stores Officer and Shri Prajapati Bhavesh Narsinhbhai, Purchase & Stores Officer of M/s space Applications Centre, attended the personal hearing on behalf of the claimant and he re-iterated their submissions made vide their reply dated 10.11.2025 and 16.01.2026(RUD 5 of SCN).

9.2 The replies dated 10.11.2025 and 16.01.2026 submitted by the claimant are not acceptable in view of the reasons detailed in Paragraph 8 above.

10 On the basis of the facts available on record, it appeared that the claimant was not legally entitled to the refund of Rs.36,40,226/-sanctioned vide Order-in-Original No. 34/AC/ACC/OIO/SAC/2024-25 dated 14.08.2024, since the mandatory conditions stipulated under Section 26A(1) of the Customs Act, 1962 were not complied with. The imported goods, alleged to be non-functional, were exported from India on 09.11.2023, beyond the period prescribed under the said section, and no extension of such period had been obtained from the competent authority. Accordingly, the refund sanctioned to the claimant appeared to be erroneous and contrary to the provisions of law.

10.1 Accordingly, it appeared that the refund amount of Rs.36,40,226/-(Rupees Thirty-six Lakh Forty Thousand Two Hundred Twenty-six only) was erroneously

sanctioned and disbursed to the claimant and is liable to be recovered under the applicable provisions of the Customs Act, 1962, along with applicable interest from the date of erroneous refund till the date of actual recovery, in accordance with the provisions of the Act.

10.2 Therefore, the claimant appeared to have rendered themselves liable for recovery of the erroneously refunded amount of Rs.36,40,226/-, together with applicable interest, as the refund was sanctioned despite non-fulfilment of the mandatory statutory conditions prescribed under Section 26A of the Customs Act, 1962.

## 11 Legal Provisions:

***Section 46. Entry of goods on importation. -***

1. *The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:*

   *Provided that the 5 Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on the customs automated system , allow an entry to be presented in any other manner:*

   *Provided further that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.*

2. *Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.*

3. *The importer shall present the bill of entry under sub-section*

   *(1) before the end of the day (including holidays) preceding the day on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:*

   *Provided that the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival:*

   *Provided further that] a bill of entry may be presented at any time not exceeding thirty days prior to the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:*

   *Provided also that] where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for*

*such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.*

4. *The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.*

*(4A) The importer who presents a bill of entry shall ensure the following, namely:-*

a. *the accuracy and completeness of the information given therein;*

b. *the authenticity and validity of any document supporting it; and*

c. *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

4. *If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.*

***Section 26A. Refund of import duty in certain cases. -***

1. *Where on the importation of any goods capable of being easily identified as such imported goods, any duty has been paid on clearance of such goods for home consumption, such duty shall be refunded to the person by whom or on whose behalf it was paid, if*

-

a. *the goods are found to be defective or otherwise not in conformity with the specifications agreed upon between the importer and the supplier of goods:*

*Provided that the goods have not been worked, repaired or used after importation except where such use was indispensable to discover the defects or non-conformity with the specifications;*

b. *the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported;*

c. *the importer does not claim drawback under any other provisions of this Act; and*

d. *(i) the goods are exported; or*

ii. *the importer relinquishes his title to the goods and abandons them to customs; or*

iii. *such goods are destroyed or rendered commercially valueless in the presence of the proper officer,*

*in such manner as may be prescribed and within a period not exceeding thirty days from the date on which the proper officer makes an order for the clearance of imported goods for home consumption under section 47:*

*Provided that the period of thirty days may, on sufficient cause being shown, be extended by the 2[Principal Commissioner of Customs or Commissioner of Customs] for a period not exceeding three months:*

*Provided further that nothing contained in this section shall apply to the goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.*

2. *An application for refund of duty shall be made before the expiry of six months from the relevant date in such form and in such manner as may be prescribed.*

*Explanation .- For the purposes of this sub-section, "relevant date" means,-*

a. *in cases where the goods are exported out of India, the date on which the proper officer makes an order permitting clearance and loading of goods for exportation under section 51;*

b. *in cases where the title to the goods is relinquished, the date of such relinquishment;*

c. *in cases where the goods are destroyed or rendered commercially valueless, the date of such destruction or rendering of goods commercially valueless.*

2. *No refund under sub-section (1) shall be allowed in respect of perishable goods and goods which have exceeded their shelf life or their recommended storage-before-use period.*

3. *The Board may, by notification in the Official Gazette, specify any other condition subject to which the refund under sub-section*

4. *may be allowed.*

***Section 28. Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. -***

1. *Where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any willful mis-statement or suppression of facts,-*

    a. *the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;*

*Provided that before issuing notice, the proper officer shall hold pre-notice*

*consultation with the person chargeable with duty or interest in such manner as may be prescribed;*

b. *the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of,-*

i. *his own ascertainment of such duty; or*

ii. *the duty ascertained by the proper officer,*

*the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.*

*Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.*

***Explanation 1 . -*** *For the purposes of this section,* ***"relevant date" means****,-*

a. *in a case where duty is* [21]*[not levied or not paid or short-levied or short-paid], or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;*

b. *in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;*

*(ba) in a case where duty is paid under clause (a) of sub-section (3) of section 18A, the date of payment of duty or interest;*

c. *in a case where duty or interest has been erroneously refunded, the date of refund;*

d. *in any other case, the date of payment of duty or interest.*

***Section 28AA. Interest on delayed payment of duty. -***

1. *Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.*

2. *Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or* ***from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.***

3. *Notwithstanding anything contained in sub-section (1), no interest shall be payable where,-*

   a. *the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and*

   b. *such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]*

12. In view of the above, a Show Cause Notice F. No. ACC/IGST/OTH/48/2026-ACC-AHMD-CUS-COMMRTE-AHMEDABAD dated 10.08.2026 was issued to **M/s. Space Applications Centre,** Department of space, Government of India, Ambawadi Vistar P.O. Ahmedabad-380015. Vide this SCN they were called upon to Show Cause to the Additional Commissioner of Customs, Customs House, Ahmedabad, within 30 days of receipt of this notice as to why:-

   i. The amount of Rs. 36,40,226/- (Rupees Thirty-Six Lakh Forty Thousand Two Hundred Twenty-Six only), being refund erroneously sanctioned and paid to the claimant despite the claim being barred by limitation under the provisions of the Customs Act, 1962, should not be demanded and recovered from them under Section 28(1) of the Customs Act, 1962;

   ii. Interest should not be charged from them under the provisions of Section 28AA of the Customs Act, 1962;

**WRITTEN SUBMISSIONS AND PERSONAL HEARING**

**13.** In response to the Show Cause Notice dated 10.08.2026, the noticee submitted a written reply bearing Ref. SAC/Customs/2011_725 dated 09.09.2026. The principal submissions made therein are summarised below:

13.1. The noticee contended that clause (d) of Section 26A(1) provides three distinct alternatives separated by the word “or”, namely

(i). the goods are exported; or

(ii) the importer relinquishes his tital to the goods and abandons them to customs; or

   iii. Such goods are destroyed or rendered commercially valueless in the presence of the proper office.

The noticee contends that the qualifying expression "within a period not exceeding thirty days" occurs immediately after and forms part of the language governing the third alternative where Customs supervision is contemplated, and should not be read as a common limitation applicable to the first two independent alternatives.

**13.2** The noticee has submitted that the equipment was imported pursuant to a legally binding contract with the overseas supplier, which specifically provided a

warranty period of one year during which the supplier was contractually obligated to replace the equipment in the event of a defect or failure. The noticee states that the defect arose and was discovered during the said contractual warranty period, whereupon the importer invoked the warranty and the supplier replaced the defective equipment in discharge of its pre-existing contractual obligations rather than as a fresh commercial purchase. The noticee argues that applying the thirty-day period mechanically leads to an anomalous consequence because a defect covered by a valid one-year warranty may manifest itself after several months of normal operations, and an importer cannot reasonably be expected to export or dispose of the equipment within thirty days of original importation when: (i) the equipment was not defective or known to be defective at the time of importation; (ii) the defect arose subsequently during the warranty period; (iii) the supplier had expressly undertaken a one-year warranty obligation; and (iv) the contractual remedy required the importer to approach the supplier and obtain replacement in accordance with the warranty terms.

**13.3** The noticee has submitted that Section 26A(1)(a) deals with goods which are "found to be defective" after importation, and the proviso thereto recognizes the possibility of use of the goods after importation where such use is indispensable to discover the defect or non-conformity. According to the noticee, this indicates that the statutory scheme contemplates situations where the defect becomes apparent only after the goods have entered into use, and the provision ought not to be interpreted in a manner that renders a commercially and legally valid one-year warranty period ineffective merely because the defect manifested itself after thirty days.

**13.4** Without prejudice to their principal submission that the thirty-day period is restricted to Section 26A(1)(d)(iii), the noticee has submitted that even if the Department takes the view that the thirty-day period applies to export under Section 26A(1)(d)(i), the peculiar facts of the present case constitute sufficient cause for extending the prescribed period. They submit that the defect could not reasonably have been anticipated within thirty days of importation and that the time taken in identifying the defect, notifying the supplier, obtaining the supplier's confirmation, and arranging the replacement was a consequence of the contractual warranty mechanism and not attributable to any deliberate delay or intention to evade or avoid Customs duty.

**13.5** The noticee also submitted that it had paid Rs. 41,19,930/- in connection with the replacement equipment imported under Bill of Entry No. 2757134 dated 27.03.2024. It enclosed a copy of the Bill of Entry and an ICEGATE e-payment receipt showing payment vide Challan No. 2048457747 dated 10.04.2024. The replacement goods were described as “IR DETECTORS 320x256 MARS VLW RMLS LS9199 (REPLACEMENT)” and were supplied by M/s. Lynred, France under Invoice No. CD202400505 dated 19.03.2024.

## 14. Personal Hearing

**14.1** In accordance with the principles of natural justice and Section 122A of the Customs Act, 1962, a personal hearing notice dated 27.10.2026 was issued fixing the hearing on 03.11.2026 through virtual mode. Shri Upendra S. Gondhalekar, Head, Purchase & Stores; Shri Mudaliar Jagdishan Manilal, Senior Purchase &

Stores Officer; and Shri Prajapati Bhavesh Narsinhbhai, Purchase & Stores Officer, appeared on behalf of the noticee.

**1 4 . 2** During the personal hearing held on 03.11.2026, the authorised representatives reiterated the submissions made in the written reply dated 09.09.2026 and requested that the matter be decided on the basis of the records and written submissions already placed on record. The signed record of personal hearing dated 03.11.2026 has been taken on record.

## 15. DISCUSSION AND FINDINGS

**15.1** I have carefully examined the Show Cause Notice dated 10.08.2026, the documents relied upon therein, the written reply dated 09.09.2026 submitted by the, the record of personal hearing dated 03.11.2026, and the relevant provisions of the Customs Act, 1962. The issues for consideration before me in these proceedings are as under:-

i. Whether the amount of Rs. 36,40,226/- (Rupees Thirty-Six Lakh Forty Thousand Two Hundred Twenty-Six only), being refund erroneously sanctioned and paid to the claimant despite the claim being barred by limitation under the provisions of the Customs Act, 1962, liable to be demanded and recovered from them under Section 28(1) of the Customs Act, 1962 or not;

ii. Whether Interest liable to be charged from them under the provisions of Section 28AA of the Customs Act, 1962 or not;

***Whether the amount of Rs. 36,40,226/- (Rupees Thirty-Six Lakh Forty Thousand Two Hundred Twenty-Six only), being refund erroneously sanctioned and paid to the claimant despite the claim being barred by limitation under the provisions of the Customs Act, 1962, liable to be demanded and recovered from them under Section 28(1) of the Customs Act, 1962 or not;***

15.2 I observe that the impugned goods were cleared for home consumption on 19.10.2022 after payment of applicable customs duties. One of the imported items was subsequently found non-functional and was exported back to the overseas supplier under Shipping Bill No. 5133841 dated 04.11.2023, for which Let Export Order was granted on 09.11.2023. Based on such export, the noticee claimed and obtained refund of duty under Section 26A. Subsequently, it was noticed that the refund had been sanctioned contrary to the conditions prescribed under Section 26A of the Customs Act, 1962. Accordingly, proceedings were initiated under Section 28(1) of the Act for recovery of the amount erroneously refunded.

15.3 The principal defence of the noticee is that the phrase **"within a period not exceeding thirty days"** appearing in clause (d) of Section 26A(1) governs only sub-clause (iii) relating to destruction or rendering the goods commercially valueless and does not apply to sub-clause (i) relating to export of goods. According to the noticee, the use of the disjunctive word "or" creates three independent alternatives and therefore export under Section 26A(1)(d)(i) is not subject to any limitation period.

15.4 I have carefully considered the above contention. Section 26A grants a beneficial but conditional refund of customs duty paid on imported goods subsequently found to be defective or otherwise not conforming to the agreed specifications. Being an exception to the general principle that duty validly levied and collected is not refundable except in accordance with law, the conditions prescribed under the section are required to be strictly fulfilled.

15.5 Clause (d) of Section 26A(1) provides three alternative modes for disposal of defective goods, namely:

(i) export of the goods;

(ii) relinquishment of title and abandonment to Customs; or

(iii) destruction or rendering the goods commercially valueless in the presence of the proper officer.

The clause thereafter prescribes that such action shall be carried out **"in such manner as may be prescribed and within a period not exceeding thirty days from the date on which the proper officer makes an order for clearance of imported goods for home consumption under Section 47."**

15.6 I find that the said concluding requirement cannot be read in isolation from the rest of clause (d). The three options merely prescribe alternative methods of disposal; however, the statutory condition as to manner and timeliness governs the operation of clause (d) as a whole. The word "or" merely separates the permissible modes of disposal and does not have the effect of severing the concluding statutory condition from the preceding alternatives. The interpretation advanced by the noticee cannot be accepted. If the thirty-day period prescribed in Section 26A(1)(d) is construed as applying only to sub-clause (iii), no statutory time limit would govern export under sub-clause (i) or abandonment under sub-clause (ii). Such a construction would render both the prescribed period and the proviso providing for extension thereof largely redundant. Since Parliament has expressly prescribed a time limit and a limited power of extension, the provision must be construed in a manner that gives effect to both. Accordingly, the period prescribed under Section 26A(1)(d) applies to all three modes of disposal contemplated therein, namely export, abandonment and destruction of the goods.

15.7 I further find that support for this interpretation flows from the first proviso to Section 26A(1), which empowers the Principal Commissioner or Commissioner of Customs, on sufficient cause being shown, to extend the prescribed period by a further period not exceeding three months. The proviso is clearly linked to the period prescribed under clause (d) itself and does not distinguish between export, abandonment or destruction. If the thirty-day requirement were confined only to sub-clause (iii), the proviso would become meaningless for cases falling under sub-clauses (i) and (ii). It is a settled principle of statutory interpretation that every part of a statute must be given meaning and none should be rendered redundant.

15.8 I therefore hold that the requirement of completing the disposal of the defective goods within thirty days, extendable by a maximum period of three

months by the competent authority, applies equally to all the three modes specified under Section 26A(1)(d).

15.9 The noticee has further argued that the imported equipment was covered by a contractual warranty of one year and that the defect manifested itself during the warranty period, necessitating replacement by the overseas supplier. It has been contended that a strict application of the thirty-day requirement would render commercially valid warranty arrangements ineffective.

15.10 I observe that the existence of a contractual warranty may explain the circumstances that led to re-export of the goods; however, rights and obligations arising out of a commercial contract operate independently of the statutory conditions governing grant of refund under the Customs Act, 1962. A contractual arrangement between an importer and a supplier cannot enlarge, modify or override conditions expressly prescribed by Parliament for grant of a statutory refund. Consequently, while the warranty arrangement may justify the commercial necessity of re-export, it cannot dispense with compliance with Section 26A(1)(d).

15.11 I also find the reliance placed by the noticee on the proviso to Section 26A(1)(a) to be misplaced. The said proviso merely recognizes that limited use of the imported goods may be necessary for discovering defects or non-conformity and ensures that such use does not, by itself, render the goods ineligible for the benefit of Section 26A. However, the proviso neither creates an exception to nor relaxes the independent requirement prescribed under Section 26A(1)(d), which mandates that the goods be exported, abandoned, or destroyed within thirty days from the date of Out-of-Charge, subject to extension by the competent authority for a period not exceeding three months. Even where the conditions of clause (a) stand satisfied, the goods are nevertheless required to be dealt with in accordance with the time limit prescribed under clause (d). Accordingly, compliance with clause (a) cannot cure or compensate for non-compliance with clause (d), both being mandatory and cumulative conditions governing eligibility for refund under Section 26A of the Customs Act, 1962.

15.12 Without prejudice to its principal submissions, the noticee has sought to justify the delay on the ground that time was consumed in detection of the defect, communication with the supplier, warranty evaluation and logistical arrangements for replacement. It has urged that these facts constitute sufficient cause for extension. I find that the first proviso to Section 26A(1)(d) specifically vests the power of granting extension in the Principal Commissioner or Commissioner of Customs and further restricts such extension to a period not exceeding three months. The records do not disclose any application seeking such extension nor any order granting the same. More importantly, even if the maximum permissible extension under the statute were hypothetically assumed, the outer permissible period would expire much before the actual export effected in November 2023.

15.13 I observe that the chronology of events clearly establishes that Out-of-Charge was granted on 19.10.2022 and, consequently, the statutory period of thirty days prescribed under Section 26A(1)(d) expired on 18.11.2022. However, the Shipping Bill for re-export of the defective goods was filed only on 04.11.2023 and the Let Export Order under Section 51 of the Customs Act, 1962 was granted on 09.11.2023. The export was thus effected substantially beyond even the maximum

period that could legally have been extended under the statute. The export was thus effected nearly nine months after expiry of even the maximum period that could legally have been extended under the statute. Therefore, irrespective of the reasons advanced by the noticee for such delay, the fact remains that the mandatory condition prescribed under Section 26A(1)(d) stood admittedly and undisputedly unfulfilled.

15.14 The noticee has also relied upon Section 26A(2) and argued that the refund application was filed within six months from the date of the Let Export Order and was therefore within limitation. This argument overlooks the distinction between the substantive conditions governing eligibility for refund under Section 26A(1) and the limitation period for filing the refund application under Section 26A(2). While the noticee may have filed the application within six months from the relevant date contemplated under Section 26A(2), such compliance does not cure the failure to satisfy the mandatory condition contained in Section 26A(1)(d). Eligibility for refund must first exist before the limitation provision for filing the claim becomes relevant.

15.15 The noticee has further produced Bill of Entry No. 2757134 dated 27.03.2024 and evidence of payment of customs duty amounting to Rs.41,19,930/- on the replacement equipment supplied by the overseas vendor. While these documents establish payment of duty on the replacement import, such payment pertains to a separate and independent import transaction. The same has no bearing upon the statutory conditions governing eligibility of refund claimed in respect of the original import and, therefore, does not validate the refund already sanctioned.

15.16 In view of the foregoing discussion, I find that the imported goods were not exported within the period prescribed under Section 26A(1)(d) of the Customs Act, 1962, nor within the maximum period that could legally have been extended under the first proviso thereto. Consequently, the noticee did not satisfy the mandatory statutory conditions required for grant of refund under Section 26A.

15.17 I therefore hold that the refund of Rs.36,40,226/- sanctioned vide Order-in-Original No. 34/AC/ACC/OIO/SAC/2024-25 dated 14.08.2024 was not admissible in law and was erroneously refunded to the noticee. Accordingly, the said amount is liable to be recovered under Section 28(1) of the Customs Act, 1962.

***Whether Interest liable to be charged from them under the provisions of Section 28AA of the Customs Act, 1962 or not;***

15.18 I further find that the refund was sanctioned on 14.08.2024 and the present Show Cause Notice was issued on 10.08.2026. Since Explanation 1(c) to Section 28 treats the date of refund as the relevant date in cases of erroneous refund, the notice has been issued within the statutory period of two years prescribed under Section 28(1). Further, records show that pre-notice consultation was duly undertaken before issuance of the notice. Accordingly, the proceedings have been validly initiated within the limitation prescribed by law.

15.19 Once recovery of erroneous refund is found sustainable under Section 28(1), liability to interest under Section 28AA follows as a statutory consequence. In terms of Section 28AA(2), interest is payable from the date of erroneous refund till

the date of actual repayment. Accordingly, I hold that the noticee is also liable to pay applicable interest under Section 28AA of the Customs Act, 1962 on the amount recoverable under Section 28(1).

16. In view of the above discussion and findings, I pass the following order:

**ORDER**

(i) I confirm the demand and order recovery of Rs.36,40,226/- (Rupees Thirty-Six Lakh Forty Thousand Two Hundred Twenty-Six only) from M/s. Space Applications Centre, Department of Space, Government of India, under Section 28(1) of the Customs Act, 1962, being the amount erroneously refunded under Section 26A of the Act;

(ii) I order recovery of applicable interest from M/s. Space Applications Centre, Department of Space, Government of India, under Section 28AA of the Customs Act, 1962, on the amount confirmed at para (i) above, from the date of erroneous refund till the date of actual payment;

17. This Order is issued without prejudice to any other action that may be taken against the importer or persons or imported goods under the provisions of the Customs Act, 1962 or any other law for the time being in force in India.

Digitally signed by Shravan Ram
Date: 23-11-2026 17:55:52

(Shravan Ram)
Additional Commissioner
Ahmedabad Customs

DIN :20261171MN0000F4ECB1

F.No.ACC/IGST/OTH/48/2026-ACC-AHMD-CUS-COMMRTE-AHMEDABAD

To

M/s. Space Applications Centre,
Department of Space, Government of India,
Ambawadi Vistar P.O. Ahmedabad-380015 (IEC: AMDCG0111E)

Copy to:-

(i) The Commissioner, Customs Ahmedabad (K/A: RRA Section).
(ii) The Deputy/Assistant Commissioner of Customs, ACC-Ahmedabad.
(iii) The Superintendent, Customs, H.Q. (Systems), Ahmedabad
(iv) The Superintendent (Task Force), Customs-Ahmedabad
(v) Guard File