सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20260171MN00008185E9

क	फ़ाइल संख्या FILE NO.	S/49- 76/CUS/KDL/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	KDL-CUS-000-APP – 73 - 25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	21.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF Order – In - Original.	KDL/ADC/RSS/17/24-25, dated 02.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Sea Marine Logistics Pvt. Ltd., Office No. 112, 1st Floor, Rishab Arcade, Plot No. 83, Sector – 8, Near GST Bhavan, Gandhidham, Gujarat - 370201

1	**यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.**
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	**सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.**
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.

	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :

	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016

5.	**सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-**
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.**
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए**
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.**
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	**उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.**
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

ORDER – IN – APPEAL

The present appeal has been filed by M/s. Sea Marine Logistics Pvt. Ltd. (hereinafter referred to as "the appellant") under Section 128 of the Customs Act, 1962 against Order-in-Original No. KDL/ADC/RSS/17/24-25 dated 02.08.2024 (hereinafter referred to as the "impugned Order") passed by the Additional Commissioner of Customs, Kandla (hereinafter referred to as the "Adjudicating Authority").

2. Facts of the case, in brief, are that the appellant is a Non-Vessel Operating Common Carrier (NVOCC) and functions as an agent of foreign shipping lines at the port of discharge for the purpose of filing Import General Manifest (IGM) and facilitating clearance of containers.

2.1 In the present case, M/s Master Logistic Pvt. Ltd., acting as the vessel agent, filed IGM No. 2303229 dated 04.02.2022 in respect of vessel M.V. Kabul – Voyage No. 072, declaring the port of loading as Jebel Ali, UAE.

2.2 During investigation conducted by the SIIB, Custom House, Kandla, it was observed that the vessel M.V. Kabul had not called at any port in the United Arab Emirates during the said voyage and that the cargo was actually loaded from Bandar Abbas, Iran. It was further observed that the port of loading was allegedly mis-declared as Jebel Ali, UAE in respect of 23 Bills of Lading covered under the said IGM.

2.3 Out of the said 23 Bills of Lading, only one Bill of Lading bearing No. MNJ/JEA/NSA/21000727, covering one 40' container bearing No. CGMU4924047, pertained to the appellant, wherein the appellant acted as the port of discharge agent.

2.4 During the course of investigation, statements of Shri V. Vijaykumaran, Regional Manager of the appellant, were recorded on 28.04.2022. In the statement, it was stated that the IGM was filed on the basis of the switched Bills of Lading received from the overseas principal and that the appellant had relied upon the documents provided by the foreign shipping line.

2.5 Based on the investigation, a Show Cause Notice dated 08.02.2023 was issued to the appellant proposing confiscation of the container under Sections 111(d), 111(f) and 111(m) of the Customs Act, 1962 and imposition of penalties under Sections 114AA and 117 of the said Act, alleging mis-declaration of port of loading.

2.6 The appellant submitted a detailed written reply to the Show Cause Notice vide letter dated 07.06.2023, contesting the allegations and denying any role in the alleged mis-declaration.

2.7 The Show Cause Notice was adjudicated by the Adjudicating Authority vide impugned Order, ordering confiscation of the container under Section 111(m), imposing redemption fine of ₹50,000/- under Section 125, and penalties of ₹5,00,000/- under Section 114AA and ₹2,00,000/- under Section 117 of the Customs Act, 1962.

3. Aggrieved by the said Order-in-Original, the appellant filed the present appeal before the Commissioner (Appeals) along with an application seeking condonation of delay. The appellant has mainly contended as under:

- The impugned order is erroneous on facts and law inasmuch as the appellant, being merely a port of discharge agent, had no role in mis-declaration of port of loading and merely filed the IGM based on switched Bills of Lading received from its foreign principal.
- The finding that the appellant orchestrated or connived in issuance of forged or false Bills of Lading is wholly unsupported by evidence and based on presumptions and conjectures.
- Confiscation of the container under Section 111(m) is unsustainable as containers are not "goods" liable to confiscation and CBIC Circular No. 31/2005-Cus dated 25.07.2005 prohibits detention/confiscation of containers beyond the prescribed period.
- The appellant had no knowledge or intent to mis-declare the port of loading and therefore the essential ingredients of Section 114AA, namely "knowingly or intentionally", are not satisfied.
- Penalty under Section 114AA is not applicable to the appellant, being a legal entity and a facilitative agent, and the provision is intended to curb fraudulent paper exports, as evident from the 27th Report of the Standing Committee on Finance.
- The penalty imposed under Section 117 is unsustainable as there is no independent finding of contravention attributable to the appellant.
- Switch Bills of Lading are a recognised and legitimate maritime practice and alteration of port of loading in switched Bills does not ipso facto establish culpability of the port of discharge agent.
- The appellant neither dealt with the importer nor exporter and did not derive any monetary benefit from the alleged mis-declaration.
- The adjudicating authority failed to consider binding judicial precedents holding that shipping lines/agents filing IGM based on Bills of Lading cannot be held liable in absence of mens rea or evidence of abetment.
- The redemption fine and penalties are grossly disproportionate, imposed without application of mind and in violation of principles of natural justice.

- In absence of contumacious conduct or deliberate defiance of law, no penalty is imposable, as held by the Hon'ble Supreme Court in Hindustan Steel Ltd.

4. Record of Personal Hearings:

In adherence to the principles of audi alteram partem, the appellant was duly afforded an opportunity of personal hearing. The personal hearing was attended by Shri Santosh Upadhyay and Smt. Deepti Upadhyay, Advocates, on 17.12.2024, during which they reiterated the submissions made in the appeal memorandum. They also filed additional written submissions on 22.12.2025, which have been taken on record and duly considered.

5. Discussion and Findings:

5.1 Before proceeding to examine the merits of the case, the preliminary issue that arises for determination is whether the present appeal is maintainable in law, inasmuch as it is observed that the appellant has filed the appeal after a delay of about 100 days beyond the statutory period of sixty days prescribed under Section 128(1) of the Customs Act, 1962.

5.2 In terms of Section 128(1) of the Customs Act, 1962, an appeal is required to be filed within sixty days from the date of communication of the decision or order. The proviso to Section 128(1) empowers the Commissioner (Appeals) to condone delay only for a further period not exceeding thirty days, subject to sufficient cause being shown. Beyond this period of thirty days, the Commissioner (Appeals) has no jurisdiction to condone the delay.

5.3 The appellant has sought condonation of delay on the ground that the copy of the impugned Order-in-Original dated 02.08.2024 was allegedly not received by the appellant and that the said order was obtained subsequently from a co-noticee.

5.4 On verification of departmental records, it is observed that the impugned Order-in-Original dated 02.08.2024 was duly served upon the authorised representative of the appellant, Shri Santosh Upadhyay, Advocate, at his official e-mail ID santosh@alfsd.com, on 02.08.2024 itself, through the e-Office system as well as through Gmail, in terms of Section 153 of the Customs Act, 1962.

5.5 Section 153 of the Customs Act, 1962 specifically provides that service of any decision or order may be effected by electronic means to the e-mail address of the party or its authorised representative, and such service shall be deemed to be valid service in law. Accordingly, service of the Order-in-Original upon the authorised representative through e-Office and e-mail constitutes proper and lawful service upon the appellant.

5.6 I further note that Shri Santosh Upadhyay represented the appellant during the adjudication proceedings and has also represented the appellant in the present appellate proceedings. Once the order has been validly served upon the authorised representative, the contention of the appellant that the order was not received by them lacks merit and is legally untenable.

5.7 The plea taken by the appellant that the impugned order was received only from a co-noticee is therefore found to be factually incorrect and contrary to the official records. The appellant has failed to rebut the fact of valid service effected under Section 153 of the Customs Act, 1962.

5.8 Even otherwise, I find that the present appeal has been filed far beyond the maximum condonable period of ninety days (i.e. sixty days plus thirty days) prescribed under Section 128(1) of the Customs Act, 1962. Since the delay exceeds the statutory limit within which condonation can be considered, this authority is statutorily barred from condoning such delay, irrespective of the reasons advanced by the appellant.

5.9 In view of the above statutory position and the fact of valid service of the impugned order on 02.08.2024, I hold that the delay in filing the appeal is not condonable in law. Accordingly, the application for condonation of delay is rejected.

5.10 As the appeal is barred by limitation and the delay is not condonable under the statute, I refrain from examining the case on merits.

6. The appeal filed by M/s Sea Marine Logistics Pvt. Ltd. is rejected as barred by limitation, having been filed beyond the period condonable under Section 128(1) of the Customs Act, 1962.

सत्यापित/ATTESTED

अधीक्षक/SUPRERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-76/CUS/KDL/2024-25/5506

Date: 21.01.2026

By Registered post A.D/E-Mail
To,

M/s. Sea Marine Logistics Pvt. Ltd.,

Office No. 112, 1st Floor, Rishab Arcade, Plot No. 83, Sector – 8, Near GST Bhavan, Gandhidham, Gujarat - 370201

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Commissioner of Customs, Kandla.
3. The Assistant Commissioner of Customs, Tuna Port, Kandla.
4. Guard File.

