



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 - 20260171MN000000C46B

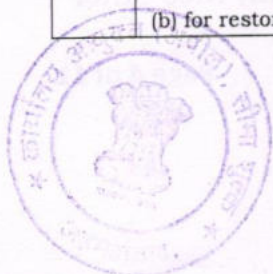
क	फ़ाइल संख्या FILE NO.	S/49-157/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-641-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	19.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	MCH/ADC/MK/73/2024-25 dated 14.06.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	19.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s RK Ind Export Pro Ltd, G-1-197-198, Agro Food Park, Boranada, Jodhpur- 342012



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 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 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 :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रूपए.
(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 रूपए
(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 रूपए.
(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

Appeal has been filed by M/s RK Ind Export Pro Ltd, G-1-197-198, Agro Food Park, Boranada, Jodhpur- 342012, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/MK/73/2024-25 dated 14.06.2024 (hereinafter referred to as 'the impugned order') by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant filed Shipping Bills through their CHA M/s Pentagon Shipping Service for export of goods declared as "Parboiled IR 64 Unsortex Rice" classified under CTH 10063010. As per Board Instruction No. 29/2022-Customs dated 28.10.2022, representative sample was drawn and sent to CRCL Kandla vide Test Memo and the cargo was allowed for export on provisional basis on submission of Test Bond submitted by the Exporter which was accepted by the Deputy Commissioner (Export), Customs House, Mundra. Respective Test Report was received against the Test Memo wherein it was mentioned that "Based on the physical appearance, forms and analytical findings, it appears to be "Rice waste Other than Parboiled Rice", against the declared export cargo in the Shipping Bill as "Parboiled IR 64 Unsortex Rice". The details of Shipping Bills and their corresponding Test Report are as under:

Sr.No.	Shipping Bill No. & Date	Net Wt.	Test Report No. & Date	FOB Declared in SB (in Rs.)	Summary of Test Result
1.	9365321 dated 18.04.2023	60 MTs	1003 dated 25.04.2023	18,07,313.5	Rice waste Other than Parboiled Rice

2.1 A copy of the said Test Report was provided to the Appellant, viz., M/s RK Ind Export Pro Ltd for their information with a specific request to submit their submission within 10 days of the communication as to why the proceedings should not be initiated under Customs Act, 1962 as the instant case was seen falling under the purview of Mis-declaration of the Export cargo. With reference to above mentioned Shipping Bill, the Appellant has classified the same goods as "Parboiled IR 64 Unsortex Rice" classified under CTH 10063010 but pursuant to the outcome of the Test Result, the consignment of the exported goods is found to be "Rice waste Other than Parboiled Rice". As per Customs Tariff, Rice other



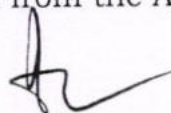
than Semi-milled or wholly milled Parboiled Rice and Basmati Rice is classifiable under CTH 10063090 and therefore the goods already exported were required to be classified under CTH, 10063090 and attracted 20% Customs duty/Cess as per Notification No. 49/2022- Customs dated 08.09.2022 issued by the Board.

2.2 Whereas, the appellant under the Customs Bond had bind themselves to the effect that in the event of failure of cargo in the Test Report, the appellant will pay the duty alongwith interest, fine and/or penalty, if any imposed for contravention of the Customs Act, 1962 and other allied Acts. And on the basis of Customs Bond submitted by the appellant, the goods were allowed for ultimate export provisionally. Subsequently the Test Reports confirmed the export goods 20PAGE 3were "Rice waste Other than Parboiled Rice". Accordingly, Shipping Bill mentioned in the Table above at Para 3 needed to be assessed finally on the basis of Test Report. On the basis of Test Report, the classification of the goods declared in the Shipping Bills needed to be re-classified under CTH 10063090. Consequently, the appellant was required to pay duty on the goods exported @ 20% ad valorem.

2.3 Whereas, the Appellant appeared to have failed to declare the correct classification of the export cargo in the Shipping Bill. It appeared that the appellant had resorted to mis-classification and mis-declaration of the export cargo in order to evade payment of export duty/cess leviable on the export cargo. Thus, the appellant has contravened the provisions of the Customs Act, 1962.

2.4 In view of the above, a Show Cause Notice was issued to the appellant was called upon to show cause as to why:-

- (i) the classification of the goods declared by the Appellant under Shipping Bill tabulated above should not be rejected and re-classified under CTH 10063090;
- (ii) the Customs duty/Cess as leviable i.e., Rs. 3,61,463/- (Rupees Three Lakhs Sixty One Thousand Four Hundred Sixty Three only) on the goods classified under CTH 10063090 having FOB Value as Rs. 18,07,314/- (Rupees Eighteen Lakhs Seven Thousand Three Hundred Fourteen only) should not be recovered alongwith applicable interest at the appropriate rate under Section 28AA ibid from the Appellant;




- (iii) the goods covered under Shipping Bills tabulated above should not be confiscated under Section 113 (i) of the Customs Act, 1962;
- (iv) the penalty under Section 114 (ii) of the Customs Act, 1962 should not be imposed upon the Appellant;
- (v) the penalty under Section 117 of the Customs Act, 1962 should not be imposed upon the Appellant;

2.5 Consequently, the Adjudicating Authority passed the following order:

(i) She ordered to reject the classification of the exported goods under CTH 10063010 as declared by the appellant and ordered to re-classify the same under CTH- 10063090 for Shipping Bill No. 9365321 dated 18.04.2023;

(ii) She ordered to recover the Customs duty/Cess amounting to Rs. 3,61,463/- (Rupees Three Lakhs Sixty One Thousand Four Hundred Sixty Three only) on the goods classified under CTH 10063090 having FOB Value as Rs. 18,07,314/- (Rupees Eighteen Lakhs Seven Thousand Three Hundred Fourteen only) for Shipping Bill No. 9365321 dated 18.04.2023 under Section 28(4) alongwith applicable interest at the appropriate rate under Section 28AA from the appellant;

(iii) She ordered for confiscation of the goods having FOB value of Rs. 18,07,314/- covered under Shipping Bill No. 9365321 dated 18.04.2023 under Section 113(i) of the Customs Act, 1962. However, as the goods had already been exported under Bond, he imposed Redemption Fine of Rs. 1,85,000/- (Rupees One Lakh Eighty Five Thousand Only).

(iv) She imposed Penalty of Rs. 35,000/- (Rupees Thirty Five Thousand only) covered under Shipping Bill No. 9365321 dated 18.04.2023 under Section 114 (ii) of the Customs Act, 1962;

(v) She refrained from imposing penalty under Section 117 of the Customs Act, 1962 for the reasons as discussed above.



SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the impugned order dated June 14, 2024, was issued ex-parte without considering their detailed replies or providing a fair opportunity for a personal hearing. While the Adjudicating Authority claimed that three hearings were scheduled, the appellant asserts they never received any intimation regarding these dates. This lack of communication was likely exacerbated by a significant clerical error in the order, which listed an incorrect address in Maharashtra instead of the appellant's actual address in Rajasthan. The appellant argues that this procedural failure violates Section 122A of the Customs Act, 1962, and reflects a "predetermined mindset" by the authority.

3.2 A primary grievance is the Respondent Department's refusal to provide a copy of the CRCL Kandla test report, despite multiple requests from the appellant. The entire demand for duty and penalties is based on this report, which allegedly re-classified the goods as "rice waste". By withholding this document, the department denied the appellant the ability to review, contest, or rebut the findings. The appellant argues that this omission constitutes a breach of procedural fairness, rendering the subsequent duty demand and penalties legally unsustainable.

3.3 The appellant maintains that the exported goods were correctly classified as "Parboiled IR 64 Unsortex Rice" under CTH 10063010, which attracts no duty. They challenge the authority's re-classification to CTH 10063090, asserting that the goods were identified as parboiled based on their distinct color and quality certificates from both the supplier and the foreign buyer. Since the rice was exported under bond on a provisional basis, the appellant argues there was no final determination of classification at the time of export and, therefore, no intent to mislead or evade duty.



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3.4 The appeal challenges the order of confiscation and the imposition of a redemption fine and penalty under Sections 113 and 114 of the Customs Act. The appellant argues that because the goods were accurately declared and all laws were followed, the essential elements required to trigger these penalties are absent. They emphasize that they acted in good faith at all times, supported by genuine documentation, and that the penalty of ₹35,000 is unwarranted given the lack of any intentional mistake or act of omission.

PERSONAL HEARING:

4. A personal hearing was granted to the Appellant on 09.09.2025 following the principles of natural justice wherein Shri Harshit Gupta, Advocate, appeared on behalf of the Appellant. He reiterated the submissions made in the appeal. He also emphasized that the Order-in-Original is fundamentally flawed because it relies exclusively on a laboratory test report that has never been provided to the appellant despite repeated requests. This omission has severely prejudiced the appellant's defense, as they have been unable to scrutinize the testing methodology, the handling of samples, or the specific analytical findings used to justify the re-classification of their goods. Consequently, the appellant has been denied the opportunity to present counter-evidence or engage their own experts to contradict the Department's conclusions, which they argue constitutes a serious violation of the principles of natural justice and due process. In light of these gaps, the representative formally requested that the oral direction given during the hearing—mandating that the Department supply the test report and memo before any further adverse orders are passed—be officially recorded, and that all proceedings remain in abeyance until the appellant has had a fair chance to respond to this evidence.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal. The core issue to be decided is whether the re-classification and subsequent demand of duty/penalty are sustainable when the primary evidence (the Test Report) relied upon by the Adjudicating Authority was not supplied to the noticee.



5.1 It is an undisputed fact on record that the SCN and the Impugned Order rely exclusively on the findings of CRCL Test Report No. 1003 dated 25.04.2023 to allege that the goods are "Rice Waste" rather than "Parboiled Rice". The Appellant has consistently requested a copy of this Test Report since the receipt of the initial letter dated 01.06.2023 and the subsequent SCN. However, there is no evidence on record to show that this vital document was ever supplied to them. I find that the Adjudicating Authority has passed the Impugned Order solely on the strength of CRCL Test Report No. 1003 dated 25.04.2023, which alleged that the goods were "Rice waste." However, the records clearly indicate a systemic failure to adhere to the mandate of Section 122A of the Customs Act, 1962. The Appellant, in their replies dated 30.06.2023 and 14.09.2023, explicitly sought a copy of the Test Report to verify the chemical findings and moisture content which are critical for distinguishing "Parboiled Rice" from "Rice Waste." The non-supply of this report is not merely a procedural lapse but a fatal blow to the adjudicatory process.

5.2 Section 122A of the Customs Act, 1962, mandates that the adjudicating authority shall give an opportunity of being heard. This "opportunity" is not a mere formality but must be "effective." An effective hearing is impossible if the party is kept in the dark about the evidence being used against them. It is a settled principle of law that any document relied upon by the Department to substantiate a charge must be made available to the noticee. Failure to do so amounts to a denial of a reasonable opportunity to defend, thereby violating the maxim Audi Alteram Partem.

5.3 The Adjudicating Authority's failure to provide the report caused specific prejudice to the Appellant. Under the Customs manual and relevant Public Notices, a request for re-testing or testing by an appellate lab must usually be made within a specific timeframe from the receipt of the first report. By not providing the report, the Department prevented the Appellant from exercising this "Ease of Doing Business" facilitation measure. The Appellant could not counter the Department's allegation that the rice was "waste" without knowing the specific moisture levels, length-breadth ratio, or percentage of damaged grains cited in the report. The records show that the Personal Hearing notices were allegedly not received by the Appellant. Combined with the non-supply of the Test Report, this confirms that the Appellant was never heard on the merits of the scientific findings. The Impugned Order is, therefore, vitiated by a serious procedural irregularity. An adjudication order passed in violation of natural



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justice cannot be sustained on merits without curing the defect. The proper course of action is to restore the matter to the Adjudicating Authority to correct this deficiency.

5.3 In view of the above, I find that the Impugned Order is legally unsustainable as it violates the core tenets of natural justice. A remand is necessary to restore the case to the stage where the procedural defect occurred. The matter requires a de novo adjudication to ensure that the classification is based on verified scientific data after the Appellant has had a chance to contest the CRCL findings. A remand is also necessary because the classification of rice (whether it meets the definition of "waste" or "parboiled") is a factual and technical determination. It is not the role of the Appellate Authority to adjudicate technical classification for the first time if the lower authority failed to provide the underlying evidence to the assessee.

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

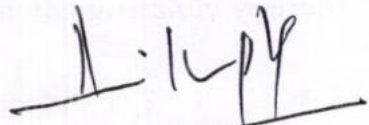
(i) The Order-in-Original No. MCH/ADC/MK/73/2024-25 dated 14.06.2024 is set aside.

(ii) The matter is remanded back to the Adjudicating Authority, who shall pass a fresh, speaking order after following the principles of natural justice.

7. The Appeal is allowed by way of remand.



सत्यापित/ATTESTED
 अधीक्षक/SUPERINTENDENT
 सीमा शुल्क (अपील), अहमदाबाद.
 CUSTOMS (APPEALS), AHMEDABAD.


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

F. No. S/49-157/CUS/MUN/2024-25
 5260

Date: 19.01.2026

By Speed post /E-Mail

To,
 M/s RK Ind Export Pro Ltd.,
 G-1-197-198 Agrofood Park, Boranada,
 Jodhpur, Rajasthan-342012

Copy to:

1. ✓ The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House ,Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.

