सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.
दूरभाष क्रमांक Tel. No. 079-26589281
DIN-20251271MN000000C75F

क	फ़ाइल संख्या FILE NO.	S/49-260/CUS/AHD/2024-25
ख	अपीलआदेश संख्या **ORDER-IN-APPEAL No.** (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-486-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	23.12.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	O.I.O. No. 91/AC/OIO/PMPL/2024-25 dated 21.11.2024 passed by the Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	23.12.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Prasad Machinery Pvt. Ltd. Plot No. 4/A-2A, GIDC Estate, Phase-I, Vatva, Ahmedabad – 382445.

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 imported on baggage.
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule I 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 (यथासंशोधित) में निर्धारित फीस जोअन्य रसीद,फीस,दण्ड,जब्तीऔर विविध मदों के शीर्षके अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र),जैसा भी मामला हो,से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां. यदि शुल्क,मांगा गया ब्याज,लगाया गया दंड की राशिऔर 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 अपीलियअधिकरण, 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-

आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

	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 के10 % 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

1. M/s. Prasad Machinery Pvt. Ltd., Plot No. 4/A-2A, GIDC Estate, Phase-I, Vatva, Ahmedabad – 382445 (hereinafter referred as 'the appellant' or 'the importer') has filed the present appeal under Section 128 of the Customs Act, 1962, against an Order-In-Original No. 91/AC/OIO/PMPL/2024-25 dated 21.11.2024 (hereinafter referred to as 'the impugned order'), passed by the Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that during the period of July-2012 to March-2018 the appellant was importing goods from a foreign supplier viz. M/s. Rapid Granulator AB, Sweden. Value of such imports was subject to scrutiny by Special Valuation Branch ('SVB') of Customs, Mumbai. Therefore, the appellant had deposited 'Extra Duty Deposit' and got cleared the Bills of Entry, as per the procedure prescribed by various Circulars. Later, it was concluded by the SVB that the foreign suppliers and the importer are unrelated entities and therefore, the Bills of Entry were required to be assessed finally as per the Transaction Value. Thereafter, on 07.08.2024, the appellant importer filed a claim for refund of Extra Duty Deposit of Rs. 84,586/- paid for 36 Bills of Entry.

3. During the personal hearing before the adjudicating authority held on 08.10.2024, the representative of the appellant agreed with withdraw partial refund claim for eight Bills of Entry due to the reason that the final assessment in respect of those Bills of Entry was still pending. Therefore, the refund claim was stood restricted Extra Duty Deposit of Rs. 74,690/- for 24 Bills of Entry, for which there is no dispute.

4. Assessment of the said 24 Bills of Entry was finalized in March-2023, whereas, the appellant has filed refund claim on 07.08.2024, i.e. beyond the period of one year from the date of finalization of provisional assessment. The adjudicating authority observed that the refund claim filed by the appellant hit by the bar of time limit, as prescribed under Section 27(1B)(c) of the Customs Act, 1962. So, the refund claim has been rejected vide impugned order.

5. Being aggrieved, the appellant has filed the present appeal, mainly on the following grounds of appeal.

5.1 In terms of Section 18 of the Customs Act, 1962, once the provisional assessments were finalized, suo moto refund of Extra Duty Deposit ought to have been granted by

Department.

5.2 The appellant further submitted that the provisions of Section 27(1B)(c) would come into play only in cases where an importer claims refund of an amount higher than the Extra Duty Deposit. That in the instant case the appellant's claim is limited to refund of EDD paid at the time of provisional assessment. Further, the issue involved in the instant case is fully settled in favour of them in following judgments:

(1) Sayonara Exports Pvt. Ltd. - 2015 (321) ELT 583 (Mad.)

(2) China Steel Corporation India Pvt. Ltd. - 2022 (7) TMI 1128 CESTAT AHMEDABAD

(3) Tenneco Automotive India Pvt. Ltd. - 2021 (8) TMI 771 - CESTAT CHENNAI

(4) Order-in-Appeal No. 913 & 914(CRC-1)/2023(JNCH)/Appeals dated 23.08.2023 in the case of Seal for Life India Pvt. Ltd.

5.3 Without prejudice to the above, the appellant submitted that as per the said Section 27(1)(B)(C), the limitation of 1 year shall be computed from the date of adjustment of duty after the final assessment. That in the entire order, the date of adjustment of duty has not been disclosed. That it is also not shown when the fact of final assessment of Bills of Entry was communicated to the Appellant. That the Appellant had never received any communication from the department about the finalization of the said Bills of Entry. Therefore, the appellant contended that the claim is not hit by the limitation under Section 27.

6. In the additional written submissions dated 02.12.2025, it has been, inter alia, mentioned by the Advocate of the appellant, as follows:

(a) In para 7.7 of the Order there is an indirect admission that the order dated 26.07.2022 of the CESTAT (in the case of China Steel Corporation India Pvt. Ltd.) relied upon by the Appellant has not been stayed by the Gujarat High Court. The ratio of the CESTAT Judgment is squarely applicable to the instant case.

(b) The Hon'ble Gujarat High Court, has dismissed the Department's Appeal against the above CESTAT Order, vide its order dated 23.04.2025 [as reported in 2025 (6) TMI 1195 - GUJARAT HIGH COURT].

(c) In view of the above judgement and as per the CBEC Circulars No. 11/2001-Cus dated 23.02.2001 and 05/2016-Cus. dated 9.2.2016, Sections 18 and 27 of the Customs Act do not apply to such cases and the EDD must be refunded suo moto by the department with interest. The appellant relies upon various orders of higher forums in this regard.

ADMISSION OF APPEAL

7. As the present appeal is against rejection of refund claim, pre-deposit under the provisions of Section 129E of the Customs Act, 1962, does not require.

8. In the Form No. C.A.-1, the appellant has shown the date of communication of the impugned order dated 21.11.2024, as "Issued on 21.11.2024". Whereas the appeal has been received in this office on 08.01.2025. Thus, this appeal has been filed within the normal period of 60 days, as prescribed for filing appeal under Section 128 of the Customs Act, 1962.

9. In view of the above position, the appeal has been admitted and being taken up for disposal.

10. One set of the appeal memorandum has forwarded to the Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad, for comments vide this office letter dated 25.03.2025, but no reply thereof has been received. So, I proceed to decide the appeal on the basis of documents submitted by the appellant.

PERSONAL HEARING

11. Personal Hearing in respect of the appeal was held through video conference on 02.12.2025, which has been attended by Mr. Anil Balani, Advocate, on behalf of the appellant. He reiterated the submissions made at the time of filing of appeal and also reiterated written submission mailed by him on the date of hearing.

DISCUSSION AND FINDINGS

12. I have carefully gone through the written as well as oral submissions made by or on behalf of the appellant viz. M/s. Prasad Machinery Pvt. Ltd. The issue to be decided in this appeal is whether time-limit of filing refund claim in one year is applicable for refund of Extra Duty Deposit or not.

13. The adjudicating authority has applied the provisions of Section 27(1B)(c) of the Customs Act, 1962, for refund of Extra Duty Deposit. The said provision prescribes that

आयुक्त (अपील), सीमा शुल्क * अहमदाबाद *

where any duty is paid provisionally under section 18, the limitation of one year shall be computed from the date of adjustment of duty after the final assessment thereof. I am of the view that this provision is applicable for refund of 'duty', which was deposited on account of provisional assessment, and became refundable on account of finalization of provisional assessment. Whereas, the present case is regarding refund of 'Extra Duty Deposit', which has been deposited over and above the duty deposited on account of provisional assessment.

14. Further, I note that the Final Order No. A/10817/2022 dated 26.07.2022 passed by Hon'ble CESTAT, Ahmedabad, in the case of China Steel Corporation India Pvt. Ltd. Vs. Commissioner of Customs, Ahmedabad [(2025) 34 Centax 86 (Tri.-Ahmd)] covers similar issue. In the said final order, it has been held that the appellant was not even required to file refund claim and EDD should have been refunded without filing of refund claim; that if and when the refund claim was filed by the appellant, it cannot be treated as barred by limitation. The adjudicating authority has taken note of the said final order in case of China Steel Corporation India Pvt. Ltd., but noted that an appeal bearing No. 152 of 2023 has been filed by Department before Hon'ble High Court of Gujarat.

15. Now, I find that the said Tax Appeal No. 152 of 2023 filed by Customs Department has been rejected by Hon'ble High Court of Gujarat vide Order dated 23.04.2025, titled as C.C., Ahmedabad Vs. China steel Corporation India Pvt. Ltd. [2025 (6) TMI 1195 - GUJARAT HIGH COURT]. In the said Order dated 23.04.2025, Hon'ble High Court has held, inter alia, that the amount of 1% EDD deposited by the Respondent-Assessee was in a nature of security deposit and not the duty either provisional or final under the provisions of the Act. Thus, Hon'ble High Court has answered the questions of law in favour of the assessee and against the revenue.

16. Thus, I find that the issue is no longer *res integra* and decided in favour of the appellant on account of above-mentioned Orders passed by Hon'ble CESTAT, Ahmedabad, and Hon'ble High Court of Gujarat in the case of China Steel Corporation India Pvt. Ltd.

17. As regards claim of interest on refund of Extra Duty Deposit, I find that there is no statutory provision prescribing grant of interest on refund of EDD. In the case of China Steel Corporation India Pvt. Ltd. (supra), Hon'ble High Court of Gujarat, vide Order dated 04.03.2024 in Civil Application (For fixing date of hearing) No. 1 of 2024 directed

the opponent to deposit the entire amount of refund, which was already granted prior to passing of the order dated 26.04.2023 before the Department. In the earlier order dated 26.04.2023 of Hon'ble High Court, while admitting the appeal, it was mentioned as under:

"5. Learned advocate for the applicant - Appellant prays for grant of interim relief. In the facts and circumstances of the case, it is provided that the Appellant shall not be obliged to refund the amount pursuant to the impugned order of the Tribunal, with clarification however that in the event the Appellant does not succeed in the appeal, the refund amount shall be required to be paid with statutory interest."

18. In view of the above facts and circumstances in the case of M/s. China Steel Corporation India Pvt. Ltd., Hon'ble High Court has directed to grant statutory interest from the date of re-deposit by the applicant till the date of payment. Whereas, in the case on hand, there is no order towards re-deposit of Extra Duty Deposit and no order of any higher forum or no statutory provision, which states that interest on refund of EDD is to be granted in each and every case. Under this situation, I refrain to allow the appeal, to the extent it seeks interest on refund of Extra Duty Deposit. However, the appeal seeking refund of Extra Duty Deposit of Rs. 74,690/- is allowable on merit and the impugned order passed by the adjudicating authority is required to be set aside.

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

Order

19.1 I set aside the Order-In-Original No. 91/AC/OIO/PMPL/2024-25 dated 21.11.2024 passed by the Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad, and allow the appeal with direction to grant refund of Extra Duty Deposit of Rs. 74,690/- within 90 days from the date of receipt of this order.

19.2 The appeal is allowed to the above extent.

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

F.No. S/49-260/CUS/AHD/2024-25 Date: 23.12.2025

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To
M/s. Prasad Machinery Pvt. Ltd.
Plot No. 4/A-2A, GIDC Estate,
Phase-I, Vatva, Ahmedabad – 382445.
(email: mehul@prasadgroup.com plastics@prasadgroup.com)

कार्यालय आयुक्त (अपील), सीमा शुल्क अहमदाबाद

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)

2. The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)

3. The Deputy/Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad (email: aircargo-amd@gov.in)

4. Shri. Anil Balani, Advocate, Mumbai. (email: advocatebalani@hotmail.com)

5. Guard File.

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