



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  
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दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20260371MN000042424A

क	फ़ाइल संख्या FILE NO.	S/49-230/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-892-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	16.03.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/130/KRP/AC/REF/24-25 dated 27.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	16.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Progressive Trade Solution, 304, 3rd Floor, Block-E, TPS-14, Sumel Business Park 6, Nr. Dudheshwar Circle, Ahmedabad-380004



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)	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/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए 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
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> 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
	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, 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.

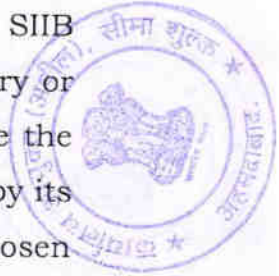


**ORDER-IN-APPEAL**

Appeal has been filed by M/s Progressive Trade Solution, 304, 3rd Floor, Block-E, TPS-14, Sumel Business Park 6, Nr. Dudheshwar Circle, Ahmedabad-380004, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/130/KRP/AC/REF/24-25 dated 27.08.2024 (hereinafter referred to as 'the impugned order') issued by the Assistant Commissioner (Refund), Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant filed refund claim of Rs.67,67,093/- against Bills of Entry No. 5747931, 5748146, 5747990, 5747991 all dated 19.11.2019 and Bills of entry no. 6040444 and 6040978 both dated 11.12.2019 under Section 27 of Customs Act, 1962, vide their refund application dated 08.02.2021. The appellant, vide their letters dated 09.02.2021 and 29.06.2021, stated that they have imported "Dry Dates" originated from Iran and filed a total of six Bills of Entry (as mentioned above) for clearance. The said cargo was seized by SIIB on suspicion that the goods are originated from Pakistan and not from Iran. The authority allowed the provisional release of goods on the condition to furnish the bank guarantee twice the amount of the differential duty amounting to Rs.3,37,11,879/- and furnish a bond of the full value of seized goods.

2.1 Further, appellant filed a Special Civil Application No. 12175 of 2020 before the Hon'ble Gujarat High Court challenging the seizure memo dtd. 27.02.2020, 18.03.2020 and 09.06.2020. During the hearing, the Learned Advocate on behalf of the revenue informed the Hon'ble High Court that SIIB of the Customs House, Mundra does not contemplate any further inquiry or investigation in the subject matter and thus has no objection to release the seized goods. Therefore, the Hon'ble High Court disposed of the petition by its order dated 13.01.2021 observing that "it is clarified that this court has chosen not to enter into the merits of the matter". The SIIB section had issued NOC to release the subject goods vide their letter issued under F.No.S/15-36/Enq. Dry Dates/SIIB-B/19-20 dated 04.01.2021. Accordingly, subject Bills of Entry were assessed on dated 07.01.2021 and total duty amounting to Rs.67,67,093/- has been paid on dated 07.01.2021.



2.2 Upon completion of assessment and payment of duty, the samples of Dry Dates withdrawn and have been sent to FSSAI. The FSSAI Test Result bearing Nos.15595 to 15599 all dated 27.01.2021 & No.14999 dated 28.01.2021 confirmed that the sample was found to be Unsafe Food as defined under Section 3(1)(zz) of FSSAI-2006 as the samples were found rotten, decomposed, giving highly disagreeable odour and also infested with living and dead insects and does not conform to the standards and provisions laid down under regulation of Food Safety and Standard (Food Product and Additive) Regulation 2011 and provision of the Food Safety and Standard Act,2006 and Rules made there under.

2.3 The appellant vide their letter dated 09.02.2021 addressed to the Deputy Commissioner of Customs (Gr.1), Mundra and to the Deputy Commissioner of Customs (Refund), Mundra wherein the appellant requested the Deputy Commissioner (Gr.1), Mundra to cancel the Bills of Entry under dispute so that they can process the matter of refund of the said amount paid on assessment of the such Bills of Entry as the goods have been abandoned by them. Meanwhile the appellant also filed refund application on 08.02.2021. Letter dated 06.07.2021 addressed to the Deputy Commissioner (Gr.1) to confirm whether the subject Bills of Entry have been cancelled or otherwise. Copy of the same letter was also endorsed to Shri Dhaval K Shah, Advocate of Importer, with a request to approach the concerned Assessment Group for cancellation of Bills of Entry along with necessary fees as applicable vide Notification No. 36/2017-Customs (N.T) dated 11.04.2017.

2.4 In response to this letter the Deputy Commissioner vide letter dated 30.07.2021 informed that the FSSAI report did not conform to the specification of the declared item. Further as per the system, out of charge has not been granted, hence clearance for home consumption was not done.

Further SIIB report in the matter has been concluded and no offence was found. Further the appellant informed vide their letter dated 09.09.2021, that they have paid the Fees amounting to Rs.6000/- vide Challan No.834 dtd.19.07.2021 as applicable vide Notification No. 36/2017-Customs (N.T) dated 11.04.2017 to cancel the subject Bills of Entry. The Assistant Commissioner, vide letter dated 08.01.2020, granted permission to warehouse the subject goods under Section 60 of Customs Act, 1962, hence the appellant was not entitled to remission of duty on abandoned as per proviso to Section 23(2) of Customs Act, 1962. Besides, the subject goods i.e. "Dry Dates" are perishable in nature. Hence the refund of the import duty paid on Dry Dates is not applicable to the appellant as per Section 26(A)(3) of the Customs Act, 1962.

2.5 The refund can only be processed after receiving the complete refund application with relevant documents as per Section 27 of Customs Act, 1962 read with Customs Refund Application (Form) Regulations, 1995. Therefore, the Assistant Commissioner (IGST/Refund), Customs House Mundra, issued two letters dated 30.09.2021 and 20.10.2021 to the claimant, 304, 3rd Floor, Block-E, TPS-14, Sumel Business Park 6, Nr. Dudheshwar Circle, Ahmedabad-380004, requesting to submit NOC received from FSSAI at the time of filing of the subject Bills of Entry. As title relinquishment and remission of duty has not been granted by the competent authority and the appellant had not provided the complete refund application with relevant documents as per Section 27 of Customs Act read with Customs Refund Application (Form) Regulations, 1995, therefore, the Show Cause Notice issued to the appellant, as to why the refund claim amounting to Rs. 67,67,093/- should not be rejected under the provisions of Section 27 the Customs Act, 1962 read with Section 23 and 46 of Customs Act, 1962. The appellant was directed to submit their written reply within 05 days of receipt of the notice or to appear before the Assistant Commissioner (Refund), Custom House, Mundra for personal hearing along with all the supporting documents/evidences in support of their claim so that the Hon'ble Gujarat High Court Oral Order dated 14.08.2024 in respect of SCA No.16514 of 2021 may be complied and the case may be adjudicated within time frame given by the Hon'ble High Court.

2.5 Consequently, the Adjudicating Authority passed the order as under:

i. He rejected refund claim of Rs. 67,67,093/- (Rupees Sixty Seven Lakh Sixty Seven Thousand and Ninety Three Only) under provisions of Section 27 the Customs Act, 1962 read with Section 23 and 46 of Customs Act, 1962 filed by M/s Progressive Trade Solution, 304, 3rd Floor, Block-E, TPS-14, Sumel Business Park 6, Nr. Dudheshwar Circle, Ahmedabad-386004.

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Assistant 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 Adjudicating Authority's rejection of their refund claim for Rs.67,67,093/- plus interest is perverse, illegal, and lacks justification. They argue that the Respondent raised arbitrary technicalities and demands for documents in a "piecemeal" manner to prevent the Appellant from exercising their substantial right to a refund. Furthermore, the Appellant asserts that the Respondent never challenged their previous legal filings on the grounds of non-compliance with Section 27 of the Customs Act, 1962, making the current denial an afterthought.

3.2 A central argument of the appeal is that the Customs Authority is responsible for the loss of the goods' value. The Appellant states that due to delays in investigation and the failure of the Respondent to facilitate proper storage in a bonded or government facility, the goods eventually became rotten and unusable. Consequently, the Appellant was compelled to abandon the cargo and relinquish the title. They argue that since the title was relinquished before an order for home consumption or warehousing was made, they are not liable for the duty under the Customs Act.

3.3 The Appellant also challenges the Respondent's demands regarding FSSAI certifications. They maintain that Customs officials are authorized to perform FSSAI duties and should already possess the necessary records. The appeal highlights that copies of the December 2019 FSSAI certificates have now been produced on record, rendering any further objections on this matter frivolous. They argue that penalizing an importer for the loss of documents that should be in the possession of the Customs Authority is malafide and contrary to law.

3.4 Finally, the Appellant alleges a significant violation of the principles of natural justice. They claim that neither the show-cause notice nor the notice for a personal hearing was ever served upon them as required by the Customs Act. On these grounds, the Appellant requests that the Order-In-Original dated August 27, 2024, be set aside and that the refund of their deposit be granted forthwith with interest to avoid a violation of Article 265 of the Constitution of India.



↓

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 09.09.2025, following the principles of natural justice wherein Shri Dhaval K Shah, Advocate, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

**DISCUSSION AND FINDINGS:**

5. I have carefully gone through the case records, impugned order passed by the Assistant Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal.

5.1 The primary contention in this appeal revolves around the admissibility of No Objection Certificates (NOCs) which were not available during the initial adjudication. This brings us to a detailed examination of Rule 5 of the Customs (Appeals) Rules, 1982, which governs the production of additional evidence before the Commissioner (Appeals). Rule 5 stipulates that an appellant shall not be entitled to produce any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the adjudicating authority, except in the following circumstances:

*(a) Where the adjudicating authority has refused to admit evidence which ought to have been admitted; or*

*(b) Where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by that authority; or*

*(c) Where the appellant was prevented by sufficient cause from producing before the adjudicating authority any evidence which is relevant to any ground of appeal; or*

*(d) Where the adjudicating authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.*

5.2 In the present case, the Appellant has invoked Clause (b) and (c), asserting "sufficient cause" for the non-production of NOCs. The term "sufficient cause" is not defined in the Customs Act or Rules but has been interpreted

liberally by the judiciary to advance the cause of justice. In **N. Balakrishnan vs. M. Krishnamurthy [AIR 1998 SC 3222]**, the Hon'ble Supreme Court observed:

*"The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause... Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly."*

5.3 A refund under Section 27 of the Customs Act is a substantive statutory right. The requirement of an NOC is a procedural/evidentiary requirement to verify the claim's validity. If the NOCs now produced confirm that the goods met the regulatory requirements, denying the refund solely because the papers arrived late would amount to unjust enrichment by the State. Article 265 of the Constitution of India mandates that "No tax shall be levied or collected except by authority of law." If a refund is due by law, the Department has no authority to retain it once the evidentiary gap (NOC) is bridged.

5.4 While Rule 5 allows this forum to admit additional evidence, the proviso to Rule 5(3) mandates that the Commissioner (Appeals) shall not take any such evidence into account unless the adjudicating authority or an officer authorized by him has been allowed a reasonable opportunity to examine the evidence or to cross-examine any witness produced by the appellant. Since the NOCs require factual verification—matching them with the specific Bills of Entry, checking for authenticity, and ensuring they cover the specific parameters of the refund claim—this forum is not the appropriate body to conduct such a primary factual audit.

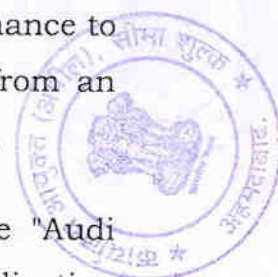
5.5 The crux of the matter is that the adjudicating authority's rejection was based on a "documentary deficit"—the absence of NOCs. The Appellant has now produced these NOCs. However, the mere production of a document does not automatically translate into the sanctioning of a refund. The process of verification is multi-layered and requires administrative scrutiny that is best conducted by the field formations of the Customs department.

5.6 In the architecture of the Customs Act, the adjudicating authority is the "officer of first instance" tasked with the primary factual audit. This involves checking the NOCs against the actual Bill of Entry (BoE), ensuring that the goods described in the NOC precisely match the imported consignments, and verifying the digital or physical signatures of the issuing authorities. If this appellate forum were to undertake this verification directly, it would effectively be substituting its judgment for the administrative functions of the Assistant/Deputy Commissioner. This would deprive the Department of its right to scrutinize the evidence and, more importantly, it would deprive both parties of a level of appeal. If I were to accept the documents and grant the refund, the Department would lose its chance to contest the validity of those specific documents at the first stage. Conversely, if I were to reject them after a cursory look, the Appellant would lose a stage of factual adjudication.

5.7 A remand ensures that the "due process" is followed. The adjudicating authority must have the "first brush" with any evidence that was not previously part of the record. This is not merely a procedural formality but a safeguard against errors. Factual verification is a specialized task involving the checking of ledger entries, correlating permissions with actual physical quantities, and ensuring compliance with specific circulars or notifications relevant to that particular NOC (e.g., FSSAI, AQ, PQ, or Drug Controller clearances).

5.8 I find that in the present case, the eligibility is tied to the authenticity of a third-party certificate (NOC) and the facts are not yet fully established until that certificate is verified. Therefore, setting aside the impugned order and remanding the case is warranted under the principle of jurisdictional discipline. It ensures that the order ultimately passed is based on a verified factual matrix. I find that the adjudicating authority did not have the chance to apply its mind to these NOCs, and thus, the original order suffers from an "informational vacuum" which can only be filled by a fresh adjudication.

5.9 The concept of "Remand" is essential to ensure that the "Audi Alteram Partem" principle is not just a formality but a reality. If the adjudicating authority never had the chance to see the evidence, the "hearing" was incomplete. The findings of this forum are that the Appellant has now produced the crucial documents (NOCs). The merits of whether these NOCs are sufficient to grant the refund cannot be decided by me without a verification report from



the field officers. Therefore, to ensure that the adjudicating authority has the "first brush" with the evidence, a remand is the only "just and proper" course of action under Section 128A(3).

5.10 In light of the comprehensive discussions above, it is evident that the impugned order was passed in the absence of vital documents (NOCs) which were essential for the adjudication of the refund claim on merits. Furthermore, the core principle of tax jurisprudence dictates that the State should not retain funds to which it is not entitled, and procedural delays in document procurement should not be a permanent bar to a substantive right of refund. However, the integrity of the adjudication process requires that the primary authority, equipped with the necessary field machinery, must verify the authenticity and relevance of such new evidence.

5.11 By remanding the case, this forum is upholding the dual objectives of providing the Appellant with a fair opportunity to prove their case and ensuring that the Department's right to factual verification is preserved. This approach aligns with the jurisdictional precedents set by various Judicial forums, emphasizing that a remand is the most appropriate remedy when the record is supplemented at the appellate stage with documents that go to the very heart of the dispute. Consequently, the impugned order is set aside to facilitate a de novo adjudication that is both procedurally sound and substantively just.

6. In view of the above discussions, the findings of the Adjudicating Authority, and the judicial precedents cited, I pass the following order:

i. The impugned Order-in-Original No. MCH/130/KRP/AC/REF/24-25 dated 27.08.2024 is set aside. The matter is remanded to the adjudicating authority for fresh adjudication. The adjudicating authority shall:

- a. Verify the authenticity and validity of the NOCs submitted by the Appellant and consider the refund application accordingly.
- b. Provide the Appellant with a reasonable opportunity for a personal hearing.



*AL*

c. Pass a speaking order on the merits of the refund claim.

7. The appeal is allowed by way of remand as above.

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

A. Gupta

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

F. No. S/49-230/CUS/MUN/2024-25

Date: 16.03.2026

By Speed post / E-Mail  
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M/s Progressive Trade Solution,  
304, 3rd Floor, Block-E, TPS-14,  
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Ahmedabad-380004



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House Mundra.
3. The Assistant Commissioner of Customs (Refund), Custom House, Mundra.
4. Guard File.