



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 - 20260371MN0000313013

क	फ़ाइल संख्या FILE NO.	S/49-329/CUS/MUN/OCT/2025-26
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-917-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/173/2025-26 dated 11.08.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Anand Industries, Plot No. 181, Sector 25, Part-2, HUDA, Panipat, Haryana 132103



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
	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 penalty and penalty are in dispute, or penalty, where penalty alone is in dispute.
	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 Anand Industries, Plot No. 181, Sector 25, Part-2, HUDA, Panipat, Haryana 132103 (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AKM/173/2025-26 dated 11.08.2025 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Custom House, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant filed Shipping Bill No. 3951273 dated 28.07.2025 and 3951359 dated 28.07.2025 through their CHA M/s Jai Ambe Logistics for export of "100% polyester throws textiles made up of manmade fiber" classified under CTH 63049999 with FOB value of Rs. 13,78,620/- and Rs. 13,57,941/- respectively. The cargo was stuffed and sealed into containers at the exporter's factory premises under self-sealing permission No. 88/EPC-PKL/2022-23 dated 14.06.2022. Upon scrutiny of the self-sealing permission, it was observed that the appellant was granted permission to stuff and seal goods specifically for various textile products including "Blankets (Other Than Electric Blankets) And Travelling Rugs, of Synthetic Fibres" under CTH 63014000, among other specified items. However, in the instant export shipments, the appellant attempted to export "100% polyester throws textiles made up of manmade fiber (CTH: 63049999)", which is not specifically listed in the particulars of the cargo authorized under the self-sealing permission.

2.1 The examination of the cargo was carried out on 05.08.2025 by the Docks Officer. The Officer remarked in the examination report that "Goods appeared to be as declared." 100% polyester throws textiles made up of manmade fiber classified under CTH 63049999 is distinctly different from the products specifically listed in the self-sealing permission. The existing self-sealing permission does not explicitly extend to CTH 63049999. By stuffing and sealing 100% polyester throws textiles under the self-sealing permission granted for other specified products, the appellant violated the conditions of self-sealing permission and Section 34 of the Customs Act, 1962.

2.2 The appellant violated the self-sealing procedure by stuffing and sealing containers for "100% polyester throws textiles made up of manmade fiber" whereas they were authorized to perform self-sealing for specific textile products under the granted permission, but not explicitly for CTH 63049999. The exporter failed to comply with the specific conditions of self-sealing permission No. 88/EPC-PKL/2022-23 dated 14.06.2022 granted by the Delhi



Customs (Preventive), which restricts self-sealing to the specifically mentioned products only. The appellant vide their letter dated 31.07.2025 submitted that they do not want any PH or SCN in the matter.

- 2.3 Consequently, the adjudicating authority passed following order:
- i. He ordered that the goods attempted to be exported under Shipping Bill No. 3951273 dated 28.07.2025 having FOB value of Rs. 13,78,620/- (Rupees Thirteen Lakh Seventy Eight Thousand Six Hundred Twenty only) and Shipping Bill No. 3951359 dated 28.07.2025 having FOB value of Rs. 13,57,941/- (Rupees Thirteen Lakh Fifty Seven Thousand Nine Hundred Forty One only), with total FOB value of Rs. 27,36,561/- (Rupees Twenty Seven Lakh Thirty Six Thousand Five Hundred Sixty One only) were liable for confiscation under Section 113(f) of the Customs Act, 1962. However, he gave the option to the appellant to redeem the same for Back to Town on payment of Redemption Fine of Rs.1,00,000/- (Rupees One Lakh Only) under Section 125 of the Customs Act, 1962;
 - ii. He imposed a penalty of Rs. 50,000/- (Rupees Fifty Thousand Only) on M/s Anand Industries under Section 114(iii) of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Deputy 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 erred in applying Section 34 of the Customs Act, 1962. They argue that under CBIC Circular No. 26/2017-Customs, the requirement for export goods to be loaded only under the supervision of a proper officer has been relaxed for self-sealed containers. Since the Board has specifically done away with the physical sealing of containers by officials in these instances, the appellant submits that the legal basis for the impugned order is not tenable.

A central pillar of the appeal is that the appellant acted under a bona fide belief based on prior permissions from Delhi Customs. The appellant points out that the Adjudicating Authority acknowledged they had already applied for and obtained an amended self-sealing permission to include the relevant CTH (Customs Tariff Heading) for the goods in question. Because this discrepancy was cured prior to adjudication and the Authority itself found the issue to be purely procedural rather than fraudulent, the appellant argues that the confiscation of goods and the subsequent fines and penalties are unjustified.



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3.3 The appellant further submits that in cases involving technical or "venial" breaches of the law, penalties should not be imposed. Citing the Supreme Court decision in Hindustan Steel Ltd. vs. State of Orissa, the appellant argues that an authority is justified in refusing to impose a penalty when the breach flows from a bona fide belief or a mere technicality. Given that the Adjudicating Authority recognized the issue as procedural, the appellant maintains that the imposition of a Rs. 50,000/- penalty under Section 114 (iii) and the Rs. 1,00,000/- redemption fine should be set aside.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 09.03.2026, following the principles of natural justice wherein Shri Vikas Mehta, Consultant, 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 Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal.

5.1 The self-sealing procedure represents a fundamental shift in the Customs department's approach to export facilitation, transitioning from a regime of "intrusive physical supervision" to one of "trust-based electronic oversight." Circular No. 26/2017-Cus was promulgated specifically to implement the "Ease of Doing Business" initiative by doing away with the requirement for a Central Excise/Customs officer to physically supervise the stuffing of containers at a factory.

5.2 In this new regime, the responsibility for ensuring that the goods loaded match the description in the Shipping Bill rests squarely with the exporter. The "permission" referred to in Para 9(iii) of the Circular is intended to be a broad authorization for the exporter's premises and general class of goods, rather than a rigid, line-by-line list that overrides the actual contents verified at the port.

5.3 In the instant case, the Adjudicating Authority relied on a hyper-technical interpretation of Para 9(iii) to allege a violation. However, it is essential to consider the "Spirit of the Law" over the "Letter of the Law." The primary



objective of Section 34 of the Customs Act is to prevent the loading of undeclared or illicit cargo. When the Adjudicating Authority itself admits in Para 13.3 of the OIO that "The physical examination confirmed that the cargo was correctly declared... there was no attempt to mis-declare the nature of goods," the substantive requirement of the law has been met.

5.4 Furthermore, the Appellant possessed a valid self-sealing permission for Chapter 63. A minor variation in the specific CTH within the same textile chapter (6304 vs 6301) does not constitute a "loading without permission" in the eyes of Section 34. It is merely a procedural mismatch in the scope of an existing authorization. To treat this as a ground for confiscation under Section 113(f) is to ignore the Board's own instructions in the "Customs Manual of Instructions," which states that procedural errors that do not affect the revenue or the prohibition status of the goods should be dealt with leniently, especially for recognized exporters like "One Star Export Houses."

5.5 The Circular 26/2017-Cus was meant to be a shield for genuine exporters to expedite their logistics, not a sword for the department to strike down shipments over a clerical omission of a CTH that was already under the process of being added to the permission.

5.6 Section 113(f) provides for the confiscation of export goods loaded or attempted to be loaded in contravention of the provisions of Section 34. However, a rigorous legal analysis of Section 34 is required to determine if a "contravention" actually occurred. Section 34 mandates that export goods shall not be loaded except under the "supervision of the proper officer," but the proviso to this section explicitly empowers the Board to give "general permission" to load without such supervision. The self-sealing procedure under Circular No. 26/2017-Cus is a statutory extension of this "general permission." It replaces physical, ocular supervision with a system of "constructive supervision" via electronic seals and verified premises. Therefore, for Section 113(f) to be triggered, there must be a complete absence of such permission or a fundamental breach that renders the loading entirely unauthorized. In this case, the Appellant was not loading goods without permission; they were loading under an existing, valid factory-sealing authorization. The omission of a specific CTH code which is part of the same broad category of textiles already permitted is an "infirmity in the exercise of permission" rather than an "absence of permission."

5.7 The distinction between a "substantive contravention" and a "procedural irregularity" has been repeatedly upheld by various High Courts.



Here, the Appellant had already applied for the amendment before the goods reached the port, and the department subsequently granted it. This post-facto regularization effectively cures the procedural defect.

5.8 Furthermore, Section 113(f) is intended to penalize "clandestine" or "unauthorized" loading. Since the containers were sealed under a valid authorization, brought to the port via proper channels, and declared correctly in the Shipping Bills, there was no element of clandestinity. To equate a minor administrative mismatch with a "contravention of Section 34" is a legal overreach that contradicts the very purpose of Section 125 (Redemption in lieu of confiscation) and Section 113. If every minor clerical error in a self-sealing list were to lead to confiscation, the "Ease of Doing Business" framework intended by Circular No. 26/2017-Cus would be rendered nugatory.

5.9 A crucial pillar of Indian Customs jurisprudence is the distinction between a "willful contravention" and a "bona fide procedural error." In the present case, the Appellant's conduct is demonstrably bona fide. The record shows that they did not merely "claim" to have permission; they had actively applied for the inclusion of CTH 6304 9999 in their self-sealing authorization as early as 07.07.2025 well before the goods under the current Shipping Bills were even stuffed. This proactive step proves that the Appellant intended to comply with every facet of the law. The fact that the export occurred while the department was still processing this amendment is a matter of administrative timing, not a criminal or fraudulent intent.

5.10 The doctrine of "Post-Facto Rectification" or "Curing of Procedural Defects" is highly relevant here. The Adjudicating Authority admitted that the amended permission was granted on 04.08.2025. In the eyes of the law, when an authorization is granted for an act that has already been initiated or performed in a transparent manner, and where no substantive policy is violated, the subsequent grant should "relate back" to the date of the application to cure any technical irregularity.

5.11 When the goods match the declaration, the exporter is a recognized "One Star Export House," and the department itself has regularized the "missing" CTH code by granting an amendment, the very basis for confiscation under Section 113(f) evaporates. To demand a redemption fine for a "violation" that the department has already regularized through its own administrative action is legally inconsistent. The rectification of the permission prior to the final



adjudication order effectively wiped out the "contravention," leaving only a "technical delay" which does not warrant confiscation or penalty.

5.12 The Adjudicating Authority observed the "mitigating factors" but still imposed a fine and penalty. This is a contradictory approach. If the breach is purely procedural and rectified, and the exporter's conduct is non-fraudulent, the law provides for a "waiver" of penalty rather than a "moderate" penalty. In the context of "One Star Export Houses," the government intends to facilitate trade, not stall it with penalties for minor administrative lapses.

5.13 The violation in this case is a textbook example of a "venial breach" of law. The Appellant held a valid permission, applied for its expansion in good faith, and correctly declared all particulars of the goods. There was no intent to evade any regulation or revenue. Confiscation under Section 113(f) is a harsh measure reserved for cases where the fundamental identity of the goods or the legality of the export is in question. Here, the identity is verified, and the export is legal.


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

- (i) The order for confiscation of goods under Section 113(f) is set aside.
- (ii) The Redemption Fine of ₹ 1,00,000/- is set aside.
- (iii) The Penalty of ₹ 50,000/- under Section 114(iii) is set aside.

The appeal filed by M/s. Anand Industries is hereby ALLOWED with consequential relief.

सत्यापित/ATTESTED

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


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

F. No. S/49-329/CUS/MUN/OCT/2025-26

Date:30.03.2026

By Registered post A.D/E-Mail

To,
M/s Anand Industries,
Plot No. 181, Sector 25, Part-2,
HUDA, Panipat, Haryana 132103



Copy to:

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

