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-20260871MN00000B5D46

क	फ़ाइल संख्या FILE NO.	S/49-128/CUS/JMN/JUN/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) :	JMN-CUSTM-000-APP-48-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	07.08.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	FAO/07/DC/CH-PIPAVAV/22-23 dated 22.11.2022
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	07.08.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s Fakirosns Papchem Private Limited, A Block, 10th Floor, Swati Trinity, Nr. Applewoods Township, S.P. Ring Road, Shela, Ahmedabad -380058

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
(ख(	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग(	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.

(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-	
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.	

(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	**उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.**
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

ORDER-IN-APPEAL

1. Brief facts of the case

1. M/s Fakirosns Papchem Private Limited, A Block, 10th Floor, Swati Trinity, Nr. Applewoods Township, S.P. Ring Road, Shela, Ahmedabad -380058 (herein after referred to as the "Appellant for the sake of brevity) has filed the present appeals against Orders-In-Original/ FAO No. FAO/07/DC/CH-Pipava/22-23 dated 22.11.2022. (herein after referred to as the "impugned orders") issued by the Deputy Commissioner, Customs House, Pipavav (herein after referred to as the "Adjudicating Authority).

1.2 The Appellant imported filed 17 Bills of Entry between 08.01.2022 and 10.05.2022 through CHA M/s Tarnsmarine Corporation for the import of product uncoated base paper size (1250mm X 60gsm)/falling under CTH No. 48059100 of the CTA, 1975 from the Exporter Supplier M/s. Hangzhou Huawang New Material Technology Co., Ltd. No.18 Binhe North Rd, Qingshan Develop, Linan, Hangzhou, Hangzhou, China (PRC).

1.3 It appeared that the imported product during the material time was attracting the duties of Customs including Anti-Dumping Duty (hereinafter referred to as ADD) imposed under the Notification No.77/2021-Cus (ADD) Dated 27.12.2021.

1.4 The foreign based exporter M/s. Hangzhou Huawang New Material Technology Co., Ltd., Chiria was not mentioned separately in the CUS ADD Notification No.77/2021 dated 27,12.2021 and accordingly, the imports made in India from M/s. Hangzhou Huawang New Material Technology Co., Ltd., China supposed to attract higher CUS ADD @ 542 USD per MT as residual entry No.4/5 of the Notification dated 27.12.2021.

1.5 M/s. Hangzhou Huawang New Material Technology Co., Ltd., China and importer filed a Special Civil Application No. 16555 of 2021 with the Hon'ble Gujarat High Court challenging the Notification No.77/2021-Cus (ADD) dated 27.12.2021. The Hon'ble High Court passed its Order dated 11.01.2022 saying:

"respondent-authorities shall take a decision in relation to the Anti-Dumping Duty to be imposed in respect of the applicant's products and place the same for consideration of this Court"

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Further, the Hon'ble High Court ordered that Importer to pay ADD @110 USD per MT and furnish Bank Guarantee of differential amount of 432 USD per MT i.e. 542 USD- 110 USD) till finalization of the case.

1.6 Subsequently, vide order dated 21.04.2023, the above SCA was disposed in the following manner.

"In view of filing of Special Civil Application No. 7141 of 2023 and in light of issuance of Notice therein by order of even date, the present Misc. Civil Application, as stated by learned advocate Mr. Abhishek Mehta for the applicants, does not survive for any prosecution.

Accordingly, in light of the above, the present Misc. Civil Application stands disposed of."

1.7 Accordingly, Bills of Entry were assessed provisionally under Section 18 of the Customs Act, 1962 read with Rule 4 (Transaction Value) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 with the remarks of identical nature of each Bills of Entry as under

"AS PER HON BLE GUJRAT HIGH COURT ORDER IN CIVIL APPLICATON (FOR STAY) NO. 01 OF 2022 RELATED TO ABOVE SCA, THE SUPPLIER IN THE PRESENT BILL OF ENTRY IS WRIT APPLICANT IN SCA NO.16555 OF 2021. THEREFORE, THE IMPORTER SHALL BE PERMITTED TO CLEAR THE SUBJECT PRODUCTS EXPORTED TO INDIA ON PAYMENT OF ADD USD 110 PER METRIC TONNE AND UPON FURNISHING A BANK GUARANTEE FOR THE DIFFERENTIAL AMOUNT OF USD 432 PER METRIC TONNE, ADDED NOTFN.NO, 77/2021-CUS (ADD) DT:27.12.2021 WITH SR. NO. 2 BECAUSE AT SR. NO. 2 LEVIABLE AMOUNT OF ADD IS 110 PER MTS, HOWEVER IRT NOTEN.NO. 77/2021-CUS (ADD) APPLICABLE SR. NO IS 5."

1.7 In the meantime, the Importer, by filing IA No.MCA/2/2022 dated 10.10.2022 for directions to Revenue Department in R/SCA/16555/2021 has agitated the matter of finalization of impugned Bs/E in terms as narrated above in, para 687 and the Authority concerned in MCA 02/2022 in SCA/16555/2022 have submitted in the Hon'ble Court that:

"Request of M/s Fakirsons Papchem Private Limited for final assessment of provisionally assessed Bills of Entry is under active consideration. The process of finalization of requested bills of entry will be completed by this this office in a time bound manner within two weeks from today. Upon finalization of Bills of Entry, the Bank Guarantees submitted by the applicant will be released immediately and the

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Bonds will be closed in the EDI system of Customs. The above commitment is subject to the technical limitation in the EDISystem of Customs regarding effective date of notification as acknowledged in applicant's letter dated 04.10.2022, if the same is faced during finalization process in the EDI system. In case of such situation, this office will pursue the matter with DG Systems Office for speedy resolution."

1.8 Accordingly, the Adjudicating Authority vide impugned order finally assessed the duty to the tune of Rs. 2,21,81,927/- (BCD)+Rs. 25,48,453/-(SWS) +Rs. 5,65,93,437/-(CUS ADD)+Rs. 5,38,36,750/-(IGST) on Bills of Entry as mentioned in the table above. The Adjudicating Authority further held that as Rs. 5,65,93,437/-(CUS ADD)+Rs. 5,38,36,750/-(IGST) i.e. total of Rs. 4,06,48,510/- not paid the same is required to be paid under Section 18(2) of the Customs, Act, 1962 along with interest under Section 18(3) of the Customs Act, 1962.

1.9 Being aggrieved with the impugned order the Appellant preferred the present appeal.

Grounds of Appeal.

2.1 The Appellant submitted that the impugned order in original and the letter issued by the Respondent is illegal, erroneous, bad in law and suffers from the vice of non-application of mind, which therefore, deserves to be quashed.

2.2 The Appellant further submitted that the impugned order is violative of principles of natural justice as no opportunity of hearing has been granted by the Respondent before taking a decision on the aspect of the levy of interest on the so-called delay in finalization of the bill of entries. No show cause notice was issued and no personal hearing has been granted by the Respondent before issuing the impugned order in original and the letter providing the calculations, whereby the impugned order and the letter providing the detailed interest calculation deserves to be quashed.

2.3 The Appellant further submitted that the Respondent has failed to appreciate that the delay in finalizing the bill of entries has occurred solely due to the conduct of the Respondent and the Respondent has also not considered the fact that despite repeated requests on the part of the Appellant to finalize the bill of entries and to release the bank guarantees, the same has been inordinately delayed for which the Respondent is solely responsible. Such and other aspect have not been gone into by the Respondent who ought to have given opportunity of hearing and/or a notice calling upon the Appellant to show cause regarding the levy of interest wherein, such factual aspects would have been brought on

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record before the Respondent and in view of the order in original and the letter providing calculation of interest suffers from the vice of non-application of mind on the part of the Respondent and deserves to be quashed.

2.4 The Appellant further submitted that the respondent has itself, while passing the order in original, noted that effect of the anti-dumping duty decided by way of Notification dated 24.05.2022 is retrospective and relates back to the original Notification dated 27.12.2021 meaning thereby the effect of the final findings dated 10.4.2022 clearly relates that to the original Notification dated 27.12.2021 which is evident from para 51 under the heading "Recommendation" of the final findings dated 10.4.2022 which is reproduced herein below:

"Having regard to the lesser duty rule followed by the authority, the authority recommends the imposition of the anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury so as to remove the injury to the domestic industry, in respect the imports of the subject goods, originating in or exported from the subject country, made by Hangzhou Huawang New Material Technology Co Ltd., China PR. Since the authority has already issued the final findings in the above-mentioned investigation vide Notification No.6/38/2020-DGTR dated 28th September, 2021, the authority recommends to substitute the Duty Table in para 107 of the said Notification as under."

2.5 The Appellant further submitted that it is evident from the findings referred to hereinabove that the change of the anti-dumping duty was to relate back to the original Notification and the figure arrived at was to be "substituted" in the original Notification. In such circumstances, there was no question of levying any interest as is sought to be done by the Respondent herein.

2.6 The Appellant further submitted that the entire procedure was undertaken by the designated authority, DGTR in view of the directions of the Hon'ble Gujarat High Court as contained in the order dated 11.1.2022 read with other orders passed from time to time and while the procedure was being undertaken in due compliance of the directions of the Hon'ble Gujarat High Court, the petition being SCA No.16555 of 2021 was pending consideration and it is after the final finding order dated 10.4.2022 came to be issued by the Designated Authority, DGTR and followed by the acceptance of the same by the Union of India by way of Notification dated 24.5.2022 that the said SCA No.16555 of 2021 came to be disposed of by the Hon'ble Gujarat High Court. In such circumstances, there was no question of levying of interest while passing the

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impugned order in original and seeking to recover the same by way of subsequent letters which are also impugned in the present appeal.

2.7 The Appellant further submitted that the without prejudice to the aforesaid submission that there is no question of levy of interest while passing the impugned order in original and the same being unsustainable and illegal, it is respectfully submitted that after the acceptance of the final finding order dated 10.4.2022 by the Union of India by way of issuance of Notification dated 24.5.2022, the Appellant immediately on 14.6.2022 addressed the first letter requesting for completing the formality regarding the pending bill of entries (which were in fact kept pending while, clearing the consignments as per the arrangement directed by the Hon'ble Gujarat High Court in the order dated 11.1.2022) and for acceptance of the balance amount towards anti-dumping duty etc. However, there was no response from the Respondent who did not move an inch to undertake the said formality. Obviously, the Appellant was financially suffering since the Appellant had given bank guarantees for the differential amount while clearing the consignments, subject to the outcome of the anti-dumping proceedings. Nevertheless, the Appellant kept on addressing letters after letters which is evident from the letters dated 14.6.2022, 23.8.2022, 8.9.2022, MCA No.2 of 2022 seeking directions for completing the formality regarding the pending bill of entries and for release of bank guarantees and it is only when the Appellant approached the Hon'ble Gujarat High Court by way of the aforesaid MCA No.2 of 2022 that the Respondent passed impugned order in original completing the formality regarding the pending bill of entries. It is evident that the delay, if any, has occurred due to the conduct of the Respondent who passed the impugned order in original after inordinate delay when the Appellant have been repeatedly requesting the Respondent right from 14.6.2022 i.e. immediately after the acceptance of the final findings order dated 10.4.2022 by the Union of India by way of Notification dated 25.4.2022. Clearly, the entire delay on the part of the Respondent for which the Appellant is sought to be penalized by forcing the Appellant to deposit interest amount due to the delay of the completion of the formality of the bill of entries. In such circumstances, the impugned order in original is required to be quashed and set aside.

2.8 The Appellant further submitted that if the facts of the subject matter are taken into consideration, it would be evident that the present is not a case of provisional assessment of duty as provided under Section 18 of the Customs Act but an arrangement chalked out in view of the directions of the Hon'ble Gujarat High Court in the order dated 11.1.2022 in SCA No.16555 of 2021. Therefore, the fact of any provisional assessment or finalization of the assessment is an incorrect notion and there is no question of levying any interest as is sought to

be done by the Respondent by stating that the Appellant are required to make good the said interest due to the pendency of the bills of entries which have been finalized by way of the impugned order in original. There is no question of any interest which the Appellant is required to pay which is consequent to the final assessment order at the rate fixed by the Central Government under Section 28AA of the Customs Act from the first day of the month in which that duty is provisionally assessed till the date of payment.

2.9 The Appellant further submitted that the requirements of Section 18 of the Customs Act are even otherwise not applicable to the fact of the present case. The requirements of Section 18 (1) (a) to (d) of the Customs Act are not applicable to the fact of the present case. In such circumstances, there is no question of directing the Appellant to pay interest as per Section 28AA of the Customs Act.

2.10 The Appellant further submitted that This is apart from the fact that all this while, the Appellant has been incurring the enormous financial cost of keeping the bank guarantees alive right from May 2020 to till December 2022 due to the refusal of the customs authorities at Mundra to release the bank guarantees by forcing the Appellant to deposit amount towards interest, which, in the humble submissions of the Appellant, is not required to be levied or recovered from the Appellant, in the facts of the present case. The Appellant has suffered immensely in view of the conduct of the Respondent in delaying the release of the bank guarantees for more than 5 months from the date of the final Notification of the Union of India and the Respondent cannot be permitted to take benefit of its own wrong by penalizing the Appellant by levying interest.

2.11 The Appellant further submitted that even otherwise the entire process of calculations by the Respondent is illegitimate and no interest can be levied in the peculiar facts of the case. That the Respondent authority grossly erred in directing recovery of interest on the appellant whereby impugned order deserves to be quashed. Even otherwise also, the impugned order is not sustainable and deserves to be quashed. That the appeal has been preferred as per the directions of the Hon'ble Gujarat High Court in the order dated 23.04.2025 in SCA No.7141 of 2023.

2.12 The appellant most respectfully prayed that:

(A) Your Honour may be pleased to quash the impugned Order in Original FAO/ 07/ DC-CH-PIPAVAV/ 2022-2023 dated 22.11.2022 as well as the letter No.VIII/ 48-01/ FAO/ Fakirsons/ 2022-23 dated 06/09.03.2023 of

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the Deputy Commissioner of Customs, Gujarat Pipavav Port Ltd., Custom House, Pipavav, Tal: Rajula, Dist: Amreli.

(B) Any other and further relief/s as may be deemed fit in the facts of the case be granted.

3. Issue of limitation

3.1 The date of the impugned order is 22.11.2022 and the date of filing appeal by the Appellant is 06.06.2025 thus, based on the above dates, I find that the Appellant has not filed appeal well within the time period of 60 days prescribed under the provisions of Section 128 of the Customs Act, 1962. There is a substantial delay of 755 days. However, the Hon'ble High Court of Gujarat vide order dated 23.04.2025 in the SCA No. 7141/2023 has directed to condone the delay in the appeal and ordered as under:

"Learned Senior Advocate Mr. Mihir Joshi appearing with learned advocate Mr. Abhishek M. Mehta for the petitioners, under instructions, seeks permission to withdraw the petition so as to enable the petitioners to avail the alternative efficacious remedy by preferring appeals challenging the impugned order-in-original as per the provisions of the Customs Act, 1962.

Learned Senior Advocate Mr. Mihir Joshi submitted that this petition is filed by the petitioners on 19/04/2023 after the receipt of the computation of interest though the order was passed on 22/25-11-2022 and second order on 06-03-2023. It was therefore pointed out that the appeals filed would be barred by limitation if the date of order is taken into consideration, however, if the order of receipt of the computation is taken into consideration, the appeals would be within the period of limitation considering the same in substitute of appeals.

Permission, as sought for, to withdraw the petition, is granted.

Considering the above submissions, the appellate authority to condone the delay in preferring the appeals and decide the appeals on merits.

It is clarified that this Court has not gone into the merits of the matter and the appellate authority shall pass the order on merits in accordance with law.

The petition is accordingly disposed of as not pressed at this stage. Notice is discharged."

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3.2 Thus, on the basis of the above order, I proceed to listen the appeal on merit.

5. PERSONAL HEARING:

Opportunity of personal hearing was granted to the Appellant. Shri Abhishek Mehta, Advocate and Authorized person of the Appellant appeared for personal hearing in virtual mode on 15.07.2026 wherein he re-iterated written submission filed during the appeal.

4. DISCUSSION AND FINDINGS:

4.1. I find that the matter pertains to the issue of Anti-Dumping Duty and IGST involving amount of Rs. 4,06,48,510/- along with interest and the Appellant has already deposited he full amount vide Challan dated 29.11.2022 therefore, the conditions as prescribed under Section 129E of the Customs Act, 1962 stands fulfilled.

4.2 The Customs Office, Pipavav was requested for submission of comments of the appeal filed by the Appellant vide letter dated 08.07.2025 but no comments have been received by this office till date therefore, I am taking up the issue for decision based on the facts of the case and documentary evidence available on record.

4.3 I have carefully gone through the case records, show cause notice and corresponding order passed by the adjudicating authority and the defense put forth by the Appellants in their appeal. The following issues arise for determination:

(i) Whether the FAO lacks opportunity of personal hearing and the same is liable to be set aside.

4.4 The Appellant in its submission has contested that they have not been given opportunity of personal hearing following the principal of natural justice. On perusal of the impugned order I find that the impugned order does not contain any details of personal hearing granted in the matter. I am of the considered view that the Adjudicating Authority is law bound to follow the principal of natural justice and give opportunity of personal hearing to the Appellant as they same have not been granted to the Appellant.

4.5 Accordingly, in the interest of justice and in order to ensure compliance with the principles of natural justice, I deem it appropriate to remand the matters to the adjudicating authority under Section 128A (3) of the Customs Act, 1962.

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the Deputy Commissioner of Customs, Gujarat Pipavav Port Ltd., Custom House, Pipavav, Tal: Rajula, Dist: Amreli.

(B) Any other and further relief/s as may be deemed fit in the facts of the case be granted.

3. Issue of limitation

3.1 The date of the impugned order is 22.11.2022 and the date of filing appeal by the Appellant is 06.06.2025 thus, based on the above dates, I find that the Appellant has not filed appeal well within the time period of 60 days prescribed under the provisions of Section 128 of the Customs Act, 1962. There is a substantial delay of 755 days. However, the Hon'ble High Court of Gujarat vide order dated 23.04.2025 in the SCA No. 7141/2023 has directed to condone the delay in the appeal and ordered as under:

"Learned Senior Advocate Mr. Mihir Joshi appearing with learned advocate Mr. Abhishek M. Mehta for the petitioners, under instructions, seeks permission to withdraw the petition so as to enable the petitioners to avail the alternative efficacious remedy by preferring appeals challenging the impugned order-in-original as per the provisions of the Customs Act, 1962.

Learned Senior Advocate Mr. Mihir Joshi submitted that this petition is filed by the petitioners on 19/04/2023 after the receipt of the computation of interest though the order was passed on 22/25-11-2022 and second order on 06-03-2023. It was therefore pointed out that the appeals filed would be barred by limitation if the date of order is taken into consideration, however, if the order of receipt of the computation is taken into consideration, the appeals would be within the period of limitation considering the same in substitute of appeals.

Permission, as sought for, to withdraw the petition, is granted.

Considering the above submissions, the appellate authority to condone the delay in preferring the appeals and decide the appeals on merits.

It is clarified that this Court has not gone into the merits of the matter and the appellate authority shall pass the order on merits in accordance with law.

The petition is accordingly disposed of as not pressed at this stage. Notice is discharged."

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3.2 Thus, on the basis of the above order, I proceed to listen the appeal on merit.

4. PERSONAL HEARING:

Opportunity of personal hearing was granted to the Appellant. Shri Abhishek Mehta, Advocate and Authorized person of the Appellant appeared for personal hearing in virtual mode on 15.07.2026 wherein he re-iterated written submission filed during the appeal.

5. DISCUSSION AND FINDINGS:

5.1. I find that the matter pertains to the issue of Anti-Dumping Duty and IGST involving amount of Rs. 4,06,48,510/- along with interest and the Appellant has already deposited he full amount vide Challan dated 29.11.2022 therefore, the conditions as prescribed under Section 129E of the Customs Act, 1962 stands fulfilled.

5.2 The Customs Office, Pipavav was requested for submission of comments of the appeal filed by the Appellant vide letter dated 08.07.2025 but no comments have been received by this office till date therefore, I am taking up the issue for decision based on the facts of the case and documentary evidence available on record.

5.3 I have carefully gone through the case records, show cause notice and corresponding order passed by the adjudicating authority and the defense put forth by the Appellants in their appeal. The following issues arise for determination:

(i) Whether the FAO lacks opportunity of personal hearing and the same is liable to be set aside.

5.4 The Appellant in its submission has contested that they have not been given opportunity of personal hearing following the principal of natural justice. On perusal of the impugned order I find that the impugned order does not contain any details of personal hearing granted in the matter. I am of the considered view that the Adjudicating Authority is law bound to follow the principal of natural justice and give opportunity of personal hearing to the Appellant as they same have not been granted to the Appellant.

5.5 Accordingly, in the interest of justice and in order to ensure compliance with the principles of natural justice, I deem it appropriate to remand the matters to the adjudicating authority under Section 128A (3) of the Customs Act, 1962.

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In this regard, reliance is placed upon the judgment of the Hon'ble Gujarat High Court in Medico Labs [2004 (173) E.L.T. 117 (Guj.)], the judgment of the Hon'ble Bombay High Court in Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)], and the decisions of the Hon'ble Tribunal in Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del.)], wherein the appellate authority's power to remand under Section 128A(3) of the Customs Act, 1962 has been recognized.

6. In view of the foregoing discussion, the appeal is allowed by way of remand. The impugned order is set aside and the case is remanded to the Adjudicating Authority for de-novo adjudication in accordance with law after giving opportunity of personal hearing to the Appellant following the principle of natural justice. It is expressly clarified that no opinion or views have been expressed on the merits of the case.

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

Vishwajeet Singh
07.08.2026

(Vishwajeet Singh)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-128/CUS/JMN/JUN/2025-26

By Registered post A.D/Email

M/s Fakirosns Papchem Private Limited, A Block, 10th Floor, Swati Trinity, Nr. Applewoods Township, S.P. Ring Road, Shela, Ahmedabad -380058

Copy to,

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in).
2. The Commissioner, Customs (Prev), Jamnagar.
3. The Deputy/Assistant Commissioner, Custom House, Pipavav
4. Guard File