



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंजिल 4th Floor, हड्डो मन्दिर **HUDCO Bhawan**, ईश्वर भुवन रोड **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad - 380 009**
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20251171MN000000DBE2

क	फ़ाइल संख्या FILE NO.	(i) S/49-281/CUS/MUN/SEP/25-26 (ii) S/49-282/CUS/MUN/SEP/25-26 (iii) S/49-283/CUS/MUN/SEP/25-26 (iv) S/49-286/CUS/MUN/SEP/25-26 (v) S/49-287/CUS/MUN/SEP/25-26 (vi) S/49-288/CUS/MUN/SEP/25-26 (vii) S/49-289/CUS/MUN/SEP/25-26
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-402 to 408-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	18.11.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Bills of Entry as per Table-I
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	18.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s LG Electronics Limited, Plot No.51, Udyog Vihar Suraj Pur Kasna (अपील), Road, Greater Noida - 201306



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है। This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं। Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी।
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए : The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए।
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1, item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the



	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंजिल, 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 हजार 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; पाँच हजार रुपए	
(ब)	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 हजार 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

M/s LG Electronics Limited, Plot No.51, Udyog Vihar Suraj Pur Kasna Road, Greater Noida - 201306 (hereinafter referred to as the 'Appellant') has filed 7 appeals in terms of Section 128 of the Customs Act, 1962, challenging the assessment of the Bills of Entries as per details in Table-I below :

Table-I

S. No	Appeal File No.	Bill of Entry (BOE) No.& date
1	S/49-281/CUS/MUN/SEP/25-26	BOE No. 2646784, dated 13.06.2025
2	S/49-282/CUS/MUN/SEP/25-26	BOE No. 2644875, dated 13.06.2025
3	S/49-283/CUS/MUN/SEP/25-26	BOE No. 2645319 dated 13.06.2025
4	S/49-286/CUS/MUN/SEP/25-26	BOE NO. 2671842, dated 16.06.2025
5	S/49-287/CUS/MUN/SEP/25-26	BOE NO.2652121, dated 14.06.2025
6	S/49-288/CUS/MUN/SEP/25-26	BOE NO. 2652119, dated 14.06.2025
7	S/49-289/CUS/MUN/SEP/25-26	BOE NO.2647657, dated 13.06.2025

2. As the issue involved in all the 7 appeals is same, they are taken up together for disposal. Facts of the case, in brief, are that vide Notification 17/2015-2020, dated 5th September 2019, the Directorate General of Foreign Trade ("DGFT") amended the import policy in respect of the items falling under Chapter 72, 73 and 86 of ITC (HS), 2017 from 'free' to 'free subject to compulsory registration under Steel Import Monitoring System' ("SIMS"). The effective date of SIMS was introduced i.e. 01.11.2019. As per the above Notification, the importer/s are required to mandatorily obtain registration and submit the information of the imports in an online system, prior to importing the subject goods falling under Chapter 72,73 and 86. Further, the importer cannot apply for the registration before the 60th day of the expected day of arrival of the subject goods and not later than the 15th day before the expected day of the arrival of the consignment. The registration number obtained is valid for the period of 75 days from the date of granting of the registration. Further the

importer shall mention the SIMS number obtained post registration of the consignment on every Bill of Entry filed.

2.1 The Appellant had imported goods from the Republic of Korea. To comply with the requirement of SIMS, the Appellant attempted to log in to the <https://dgft.gov.in> to file an application for SIMS registration for the imported goods. However, the Appellant was unable to login as the login id of the Appellant was blocked/ debarred from registration on SIMS portal. In order to understand the reason for blocking the login ID, the Appellant undertook scrutiny of past filings. While going through their own registration history, the Appellant came to know that in one of the previous applications filed for BOE No. 7896249 dated 20.01.2025, has filed SIMS registration twice. While obtaining SIMS registration for the goods imported vide BOE No. 7896249, the Appellant had generated an application (application no. MOSSIMS200125014928) on 17.01.2025 and paid the applicable fee. However, due to technical glitch on the portal the fee paid was not reflecting, and therefore, the application was showing as pending for payment in "pending payment" tab. The status of this application did not change till 20.01.2025. To avoid delay in clearance of consignment, on 20.01.2025, the Appellant again generated a new application (application no. MOSSIMS200125016642) for the same consignment and paid the applicable fee again. On the same day (i.e. 20.01.2025), the earlier SIMS application (application no. MOSSIMS200125014928) started reflecting in application "complete" tab from "pending payment tab" (i.e., the system recognised the payment that was made on 17.01.2025).

2.2 In the Bill of Entry No. 7896249 dated 20.01.2025, the Appellant mentioned SIMS Registration No. MOSSIMS200125016642 (i.e., the second licence generated on 20.01.2025). Resultantly, the SIMS Registration No. MOSSIMS200125014928 remained unutilized. The NOC obtained by the Appellant was debited twice against the same of Bill of Entry. In view of the double utilization of NOC for the same BOE (due to abovementioned system issue), the login ID of the Appellant was blocked/debarred.

2.3 It is pertinent to note that NOC is issued for the intended import of steel with a total quantum to be imported within the next 6 months time frame. On obtaining NOC, importer is required to enter details of individual consignments




within the total quantum for which NOC was given. Ledger for consignment imported and balance against the NOC is maintained by the system.

2.4 In pursuance to the above, the Appellant wrote multiple emails to simshelpdesk@msteindia.in communicating the difficulties faced by the Appellant to obtain the SIMS Registration. Vide the said emails, the Appellant requested to release their blocked login id as the same was causing delay in the clearance of shipment, thereby impacting the production. Further, the Appellant also wrote a letter dated 12.06.2025 the Additional Secretary & Financial advisor, Ministry of Steel intimating them that the login id of the Appellant has been blocked and they are unable to obtain SIMS registration for the imported goods.

2.5 Due to their inability to login to the SIMS portal, the Appellant was not able to file the bill of entry in respect of the imported goods. On 26.06.2025, the Appellant received an email from SIMS Helpdesk informing that debarment has been lifted for 24 hours and that the Appellant is allowed to generate all pending SIMS applications. On account of delay in filing of the impugned Bill of Entry, the Appellant was made liable to pay late fee/fine under Section 46(3) of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the imposition of fine on delay in filing of the impugned Bills of Entry, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

3.1 It is submitted that a bill of entry, even if self-assessed, is an appealable order. The said principle has been upheld in a plethora of cases. Reliance in this regard is placed on following case laws:-

- (i) ITC Ltd. v. Commissioner of Central Excise, Kolkata, 2019 (368) ELT 216 (SC)
- (ii) M/s. Ruchi Soya Industries Limited v. Commissioner of Customs, Jamnagar, 2013 (296) ELT 114 (Tribunal-Ahmedabad)



- (iii) Commissioner of Customs, ICD, TKD, New Delhi v. M/s. Digital Computers, 2012 (284) ELT 123 (Tribunal- Delhi)
- (iv) M/s. J.M. Industries v. Commissioner of Customs, Jamnagar, 2003 (156) E.L.T. 977 (Tri. - Del.)
- (v) Jantan Enterprises v. Commissioner of Customs, New Delhi, 2006 (198) E.L.T. 215 (Tri. - Del.)

Therefore, by virtue of the afore-mentioned judicial decisions, it is clear that the impugned BOE basis which the Appellant cleared the impugned goods are appealable orders and therefore, an appeal against the same is maintainable.

3.2 Vide the impugned Bills of Entry, fine has been imposed for delay in filing of appeal in each case. The said fine is imposed in terms of Section 46(3) of the Customs Act read with Regulation 4 of Bill of Entry (Forms) Regulations, 1976. It can be observed from the provisions of Section 46(3), that a BOE should be filed preceding the day on which the aircraft or vessel or vehicle carrying the goods arrives at the customs station. As per Regulation 4, if the BOE is not filed within the stipulated time, then charges for delay in filing would be imposed for each day of default. Further, as per second proviso to Section 46(3), in case of delay in filing of BOE, the proper officer should consider the reasons for such delay and thereafter require the importer to pay the charges. In other words, the imposition of fine/ charges for delay in filing of BOE is not automatic but has to be considered on a case-to-case basis. Further, after considering the facts of each case the proper officer should decide whether the fine/charges are imposable. As per Regulation 4 as well, the imposition of fine/charges for delay in filing of BOE is not automatic and should be considered on case-to-case basis and if the proper officer is satisfied with the genuineness of delay in filing the BOEs, then no fine/charges are payable. Reliance in this regard is placed on the decision of Kirtilal Kalidas Jewellers Pvt. Ltd. [2019 (370) E.L.T. 396 (Tri. - Chennai)]

3.3 For import of goods covered in the impugned BOEs, the Appellant was required to obtain SIMS registration on the portal. The Appellant was required to mention the SIMS registration number in the BOEs. As mentioned above, the compliance with the SIMS registration could not be done due to glitch on the portal. In view of the above, it is clear that there existed a situation which prevented the Appellant from filing the impugned BOE within the stipulated time. Given this, imposition of fine on the Appellant is unjustified and the same



should be set aside. Reliance is placed on the judgement of T.G. Silks Versus Commissioner of Customs, Chennai-II Commissionerate - 2021 (378) E.L.T. 624 (Tri. - Chennai), wherein the Hon'ble Chennai Tribunal held that late fee charges levied on the Appellant on account of technical glitch is untenable. In view of the above, the imposition late fine in the instant case is unjustified and the same shall be liable to be set aside.

3.4 As stated above, Section 46(3) and Regulation 4 requires the proper officer to consider the circumstances for delay in filing of BOE. Resultantly, the proper officer was required to consider the difficulties faced in obtaining the SIMS registration which prevented the Appellant from filing the BOE within the stipulated time. The proper officer ought have passed a speaking order categorically mentioning what was the basis for imposing late filing charges. The proper officer has failed to pass an speaking order and hence collection of late filing charges is without the authority of law.

3.5 It is humbly submitted that the penalty imposed on the Appellant is without any fault of the Appellant and the delay in filing the impugned BOE is on account of a technical glitch. Consequently, it is submitted that the amount paid by the Appellant as fine is not payable in the present case. Therefore, the same is liable to be refunded along with interest as per the applicable law. In light of the facts stated, arguments advanced, and judicial precedents cited, it is humbly submitted that the impugned BOEs be modified and the fine paid at the time of import be refunded to the Appellant.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 07.10.2025, following the principles of natural justice, wherein Shri Shankar Rochlani, Chartered Accountant, appeared for the hearing, and he reiterated the submission made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned Bills of Entries, the defense put forth by the Appellant in their appeal, arguments advanced during the course of the personal hearing. Before going into the merits of the



case, I find that none of the 7 appeals have been filed within the time limit, i.e., within 60 days from the assessment of Bills of Entries. It is further observed that 4 out of 7 appeals have not been filed within condonable period of 30 days beyond the stipulated 60 days. As per Section 128(1) of the Customs Act, 1962, appeals before Commissioner (Appeals) can be filed within sixty days from the date of communication of decision or order. In the present cases, no speaking order has been passed. However, the appellant has filed appeals against the assessment of Bills of Entry wherein late fee / fine has been imposed for late filing of the impugned Bills of Entry. Assessment of Bill of Entry can be treated as decision or order; and appeal against assessment (including self-assessment and re-assessment) can be filed by importers with appellate authority as held by Hon'ble Supreme Court in the case of *ITC Ltd. Vs. Commissioner of Central Excise, Kolkata-IV [2019 (368) E.L.T. 216 (S.C.)]*. So, the appeal against assessment is required to be filed within 60 days or within condonable period of further 30 days, from the date of communication of assessment as per Section 128(1).

5.1. Now it is to be ascertained on which dates the Assessment of the impugned Bills of Entry have been communicated to the appellant. Section 153 of the Customs Act, 1962, prescribes modes for services of notice, order etc. As per clause (ca) of Sub-Section (1) of Section 153, an order, decision, etc. may be served by making it available on the common portal. As per Section 2(7B) of the Customs Act, 1962, the term 'common portal' has been defined as Common Customs Electronic Portal referred to in Section 154C. Notification No. 33/2021-Cus (NT) dated 29.03.2021 has been issued under the provisions of Section 154C, through which the URL <https://icegate.gov.in> has been notified as 'common portal'. So, I am of the view that the Assessments of Bills of Entry done through Customs EDI System and made available in the common portal ICEGATE are to be treated as served to the appellant as per the provisions of Section 153(1)(ca) of the Customs Act, 1962, as amended by the Finance Act, 2021. So, the appellant was required to file appeals within the normal period of 60 days or within further condonable period of 30 days from the date the assessment.

5.2 In the Form C.A.-1, at Sr. No. 4, the appellant has mentioned the Date of Out of charge date as 'Date of communication of decision or order' and accordingly calculated the limitation period for filing appeal. However, I find no provision of law under which the date of out of charge can be taken as date of communication of order. Therefore, I am of the considered view that time-limit



for filing appeal starts from the date of assessment of Bill of Entry, which has been served and communicated to the appellant through ICEGATE portal, as per the provisions of Section 153(1)(ca) of the Customs Act, 1962.

5.3 In view of the above discussion, the 7 appeals covered in the present order have been divided in two parts for the purpose of considering limitation period as under as per Table-II and Table-III respectively as under:-

[A] Appeals filed within condonable period of 60 + 30 days from the date of assessment

Table-II

Sr. No.	Appeal File No.	Bill of Entry (BOE) No.& date	Date of assessment	Date of Communication as per CA-1	Date of filling appeal	delay beyond 60 days from date of assessment
1	S/49-286/CUS/MUN/SEP/25-26	BOE No. 2671842, dated 16.06.2025	03/07/2025	04/07/2025	22/09/2025	21
2	S/49-287/CUS/MUN/SEP/25-26	BOE No.2652121, dated 14.06.2025	03/07/2025	04/07/2025	22/09/2025	21
3	S/49-288/CUS/MUN/SEP/25-26	BOE No. 2652119, dated 14.06.2025	03/07/2025	04/07/2025	22/09/2025	21

Appeals mentioned at Sr. Nos. 1,2 , & 3 of Table-II have been filed beyond normal period of 60 days, but within condonable period of further 30 days, i.e. total 90 days from the date of assessment, as stipulated under Proviso to Section 128(1) of the Customs Act, 1962.

In respect of all the 7 appeals , the Appellant has filed application for condonation of delay wherein it is submitted as under :-

- they had imported goods to be utilized in course of their business vide the impugned BOEs. As per Notification No. 17/2015-2020 (hereinafter referred to as "Notification"), the Appellant was supposed to file for SIMS application in respect of the imported goods within the time limit as prescribed in the Notification. However, due to the technical glitch on the SIMS Portal, the SIMS registration in respect of the imported goods could not be obtained on time which was found to be in violation of the Notification. The technical glitch on the SIMS Portal was beyond the control of the Appellant. It is further submitted that Since blocking of SIMS portal was exceptional situation, the Management of the Company




took time to decide the right course of action and whether or not to file the appeal in consultation with their legal counsel. Coordination and discussion with legal counsel and internal departments of the Applicant, took time to decide on filing of the present appeal.

- Besides the above, the Applicant was of the view that the jurisdictional officer would pass a speaking order against which the appeal can be filed. The Applicant visited the Customs Department and was informed that no order/s would be issued in the given case. Co-ordination with the Department also delayed the filing of the present bills of entry.
- As per Section 128(1) of the Customs Act, 1962 (hereinafter referred to as "Customs Act") an appeal under the said section is to be filed within a period of sixty days from the date of communication of the order appealed against. The Applicant most humbly submits that in terms of the proviso to the said Section, the Appellate Authority has the power to condone the delay of up to thirty days on sufficient cause being shown by the Applicant.
- It is submitted that in the present case, the appeals have been filed within the condonable period of 30 days. Therefore, the present appeal has been filed within the period of limitation. Further, the delay is not on account of any intentional omission on the part of the Applicant but due to unforeseen circumstances which were beyond the control of the Applicant.
- The Applicant humbly submits that in allowing this application, no prejudice would be caused to the respondent department, whereas in the event of rejection of this application, the Applicant would be saddled with a liability not legally due, otherwise.
- It is submitted that the Applicant has a strong case and therefore, it is submitted that the delay, being unintentional, be condoned and the appeals should be admitted. Reliance in this regard is placed on the decision of Hon'ble Supreme Court in Land Acquisition Officer, Anantnag and Anr. v. MST Katiji and Others, 1987 (28) ELT 185 (Supreme Court)

In this regard, I refer the Judgment of Hon'ble Supreme Court in the case of Collector, Land Acquisition Anantnag and Another vs. Mst. Katiji and Others reported in 1987 (28) ELT 185 (SC) wherein it has been held that a justifiable liberal approach should be adopted in cases of condonation of delay. In view of



the above position, I condone the delay up to 30 days in filing Appeals as per the first proviso to Section 128(1) of the Customs Act, 1962, and admit the 3 appeals, as mentioned at Sr. Nos. 1,2 & 3 of Table-II above.

[B] Appeals filed beyond the condonable period of 60 + 30 days from date of assessment

Table-III

Sr. No.	Appeal File No.	Bill of Entry (BOE) No.& date	Date of assessment	Date of Communication as per CA-1	Date of filling appeal	delay beyond 60 days from date of assessment
1	S/49-281/CUS/MUN/SEP/25-26	BOE No. 2646784, dated 13.06.2025	13/06/2025	17/06/2025	16/09/2025	35
2	S/49-282/CUS/MUN/SEP/25-26	BOE No. 2644875, dated 13.06.2025	13/06/2025	16/06/2025	16/09/2025	35
3	S/49-283/CUS/MUN/SEP/25-26	BOE No. 2645319 dated 13.06.2025	13/06/2025	18/06/2025	16/09/2025	35
4	S/49-289/CUS/MUN/SEP/25-26	BOE No.2647657, dated 13.06.2025	13/06/2025	24/06/2025	22/09/2025	41

(i) As per the proviso to Section 128(1) of Customs Act, 1962, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. Thus, the Commissioner (Appeal) has no statutory power to condone the delay beyond the period of 30 days.

(ii) In this regard, I rely upon the Judgment of the Hon'ble Supreme Court in case of ***Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur*** [2008 (221) E.L.T. 163 (S.C.)], wherein the Hon'ble Apex Court while interpreting the Section 35 of the Central Excise Act, 1944, which is *pari materia* to Section 128 of the Customs Act, 1962, held that the appeal has to be filed within 60 days, but in terms of the proviso, further time of 30 days can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The relevant para of the said Judgment is reproduced below (underline supplied):



“8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of Statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the Statute. The period upto which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Indian Limitation Act, 1963 (in short, the ‘Limitation Act’) can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only upto 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days period.”

(iii) The above view was reiterated by the Hon'ble Supreme Court in the case of *Amchong Tea Estate* [2010 (257) E.L.T. 3 (S.C.)]. Further, the Hon'ble High Court of Gujarat in case of *Ramesh Vasantbhai Bhojani* [2017 (357) E.L.T. 63 (Guj.)] and the Hon'ble Tribunal, Bangalore in the case of *Shri Abdul Gafoor Vs Commissioner of Customs (Appeals)* [2024-TIOL-565-CESTAT-BANG] took a similar view while dealing with Section 128 of the Customs Act, 1962.

(iv) In terms of legal provisions under Section 128 of the Customs Act, 1962 and in light of the judicial pronouncements by Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Tribunal, it is settled proposition of law that the appeals before first appellate authority under the provisions of Customs Act, 1962, are required to be filed within 90 days, including the condonable period of 30 days, as provided in the statute; and the Commissioner of Customs (Appeals) is not empowered to condone any delay beyond 30 days.



(v) In light of the above observation, I am of the view that the appeals, which have been filed after **delay of more than 30** days, beyond the statutory time-limit of 60 days, are time-barred in terms of Section 128(1) of the Customs Act, 1962. Thus, 4 appeals mentioned at Sr. Nos. 1,2,3 and 4 of **Table-III** above are liable to be rejected on the grounds of limitation without going into merits.

5.4 Now coming to the merits of the case involved in 3 appeals i.e Sr. No. 1, 2 and 3 in Table-II above, I find that the issues involved is whether the late fee/fine imposed on the Appellant for late filing of Bills of Entry is legal and proper or otherwise.

5.5 It is observed that on account of delay in filing of the impugned Bills of Entry, the Appellant was made liable to pay late fee/fine under Section 46(3) of the Customs Act, 1962. However, no speaking order by the proper officer in the matter is available. Hence, I find that entire facts are not available on records to verify the claims made by the appellant. Copies of appeal memorandum were also sent to the jurisdictional officer for comments. However, no response have been received from the jurisdictional office. Therefore, I find that remitting the case to the proper officer for passing speaking orders in each case becomes *sine qua non* to meet the ends of justice. Accordingly, the case is required to be remanded back, in terms of sub-section (3) of Section 128A of the Customs Act, 1962, for passing speaking order by the proper officer under Section 17(5) of the Customs Act, 1962 by following the principles of natural justice. While passing the speaking order, the proper officer shall also consider the submissions made in present appeals on merits. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs – 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. – Del)] wherein it was held that Commissioner (Appeals) has power to remand the case under Section-35A(3) of the Central Excise Act, 1944 and Section-128A(3) of the Customs Act, 1962.



6. In view of the above discussion and findings, I order as under :-

(i) I reject the 4 appeals, as mentioned at Sr. Nos. 1, 2, 3 and 4 in Table-III above, being time-barred as per the provisions of Section 128 of the Customs Act, 1962.

(ii) I allow the 3 appeals at Sr. No. 1, 2 and 3 as per Table-II by way of remand as per para 5.5 above.



सत्यापित/ATTESTED
[Signature]
अधीक्षक/SUPERINTENDENT
सीमा शुल्क अधिकारी/CUSTOMS (APPEALS), AHMEDABAD

A. Gupta
(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F.No. S/49-281/CUS/MUN/SEP/25-26
F.No. S/49-282/CUS/MUN/SEP/25-26
F.No. S/49-283/CUS/MUN/SEP/25-26
F.No. S/49-286/CUS/MUN/SEP/25-26
F.No. S/49-287/CUS/MUN/SEP/25-26
F.No. S/49-288/CUS/MUN/SEP/25-26
F.No. S/49-289/CUS/MUN/SEP/25-26
4486

Date: 18.11.2025

By Speed post A.D/E-Mail

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Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House Mundra.
3. The Additional/Joint Commissioner of Customs, Custom House, Mundra.
4. The Deputy /Assistant Commissioner of Customs, Custom House, Mundra.
5. Guard File.