

सीमाशुल्क(अपील) आयुक्तकाकार्यालय,अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS(APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ IshwarBhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाषक्रमांक Tel. No. 079-26589281

DIN-20251271MN0000618136

क	फ़ाइलसंख्या FILE NO.	S/49-12/CA-2/CUS/KDL/2024-25
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	KDL-CUSTM-000-APP- 72 -25-26
ग	पारितकर्ता PASSED BY	Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.12.2025
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	KDL/ADC/DPB/14/24-25 Dated 26.07.2024
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	26.12.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	The Assistant Commissioner (Export), Office of the Commissioner of Customs, New Custom House, Near Balaji Temple, Kandla, Gujarat.

1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.

	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क(	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods imported on baggage
(ख(	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग (	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 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)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद,फीस,दण्ड,जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु.1000/-(रूपएएकहज़ारमात्र),जैसाभीमामलाहो,सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क,मांगागयाब्याज,लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :

	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलियअधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल,बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, BahumaliBhavan, 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)	इसआदेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके %10 अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके %10 अदाकरनेपर,जहांकेवलदंडविवादमेंहै,अपीलरखाजाएगा।	
(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.	**उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.**	
	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

The Assistant Commissioner (Export), New Custom House, Kandla (hereinafter referred to as 'the appellant department') has filed the present appeal in terms of Section 129D (4) of the Customs Act, 1962 on the basis of Review Order No. 09/OIO/2024-25, dated 26.09.2024 issued by the Commissioner, Customs, Kandla challenging Order – In – Original No. KDL/ADC/DPB/14/2024-25 dated 26.07.2024 (hereinafter referred to as "the impugned Order") passed by the Additional Commissioner, Custom House, Kandla (hereinafter referred to as "the Adjudicating Authority") in case of M/s G V (GOD VISHNU) Rice Export Pvt. Ltd., situated at G T Road, Taroi, District – Karnal, Haryana - 1321166 (hereinafter referred to as 'the Respondent').

2. Facts of the case, in brief, are that the respondent filed Shipping Bill No. 1592213 dated 11.06.2024 through their Customs Broker M/s Vishnu Logistics for export of 1121 Basmati Unprocessed Sella Rice falling under CTH 10063020. The respondent presented the cargo for stuffing at M/s A. V. Joshi CFS. During routine examination by the Dock Examination Officer, doubts arose regarding the correctness of the declared description of the goods. Accordingly, representative samples were drawn and forwarded to the Central Revenues Control Laboratory (CRCL), Kandla for testing.

2.1 The CRCL test report concluded that the sample comprised pale yellow, translucent rice grains, characteristic of parboiled basmati rice, and not unprocessed basmati rice as declared. Further, the percentage of broken grains was found to be 28.20%, far exceeding the maximum permissible limit of 5% stipulated for basmati rice under the Ministry of Consumer Affairs, Food & Public Distribution Specifications (File No. 8-4/2020-S&I dated 28.09.2020) and under the Food Safety and Standards (Food Products Standards and Food Additives) Regulations 2011 as amended by Notification dated 11.01.2023. As the product did not conform to mandatory statutory specifications required for export of basmati rice, it appeared that the Respondent had mis-declared the description of the goods in the shipping bill in violation of the provisions of Section 50 of the Customs Act, 1962. The declared FOB value of the export consignment was Rs. 3,14,87,841/-.

2.2 On the basis of the laboratory findings, the goods were considered to be prohibited for export, rendering the consignment liable to confiscation under Sections 113(d) and 113(i) of the Customs Act, 1962, and also exposing the exporter to penal action under Sections 114(i), 114AA and 117 of the Act for attempting export through mis-declaration. The Customs Broker was also

implicated for facilitating the filing of incorrect export documents. The Respondent thereafter submitted that the Show Cause Notice and personal hearing may be dispensed with and sought Back-to-Town (BTT) permission for the cargo, while expressing willingness to pay the applicable redemption fine and penalties as determined by the adjudicating authority.

2.3 After examining the records, the adjudicating authority observed that the goods presented for export had entered the Customs Area on the basis of incorrect and misleading declarations, which appeared to be submitted with the intention of suppressing the true nature and quality of the goods. The authority noted that the consignment failed to meet mandatory export specifications and that the act of mis-declaration could not be termed a bona fide mistake. Mens rea was inferred from the conduct of the exporter and the manner in which the Customs Broker facilitated the attempted export. The authority therefore held the consignment of 400 MT liable for confiscation under Sections 113(d) and 113(i) of the Act.

2.4 However, since the goods were physically available in the customs area, the adjudicating authority permitted redemption of the confiscated goods under Section 125 of the Customs Act, subject to payment of a redemption fine of Rs. 3,15,000/-. The request for Back-to-Town movement was allowed after such payment. Further, penalties of Rs. 3,15,000/- under Section 114(i) and Rs. 1,00,000/- under Section 117 were imposed on the exporter for attempting to export mis-declared goods in violation of the provisions of the Customs Act.

3. Being aggrieved with the impugned Order, the Appellant department has filed the present appeal and mainly contended that:

- The adjudicating authority has passed the impugned Order without going into merits of the case and did not impose redemption fine and penalty upon the exporter commensurate to offense. He failed to appreciate the fact that the exporter has deliberately mis-declared the description of the goods.
- The adjudicating authority has taken too lenient a view and imposed abysmally low on goods having declared value of Rs. 3,14,87,841/- a redemption fine of Rs. 3,15,000/- under Section 125 of the Customs Act, 1962, abysmally low penalties of Rs. 3,15,000/- under Section 114(i) and Rs. 1,00,000/- under Section 117 which are equal to miniscule of the value involved on the goods to be exported.
- The adjudicating authority has erred by taking too lenient view and did not impose redemption fine reasonably as prescribed under Section 125 of Customs Act, 1962 as the same has been imposed only 1% percent of

declared value. Moreover, as per settled law the quantum of redemption fine should be such so as to discourage the exporter from violating the provisions of the Act. Thus, the imposition of such low redemption fine by adjudicating authority is not justifiable.

- The Adjudicating Authority has erred in not imposing penalty under Section 112 (b) of the Customs Act, 1962 on the Custom Broker despite discussing the involvement of the Custom Broker in mis -declaration of the goods meant for export

4. A communication dated 23.04.2025, enclosing a copy of the appeal memorandum, was issued to the respondent seeking their comments on the matter. In adherence to the principles of audi alteram partem, personal hearings were scheduled on 27.10.2025, 11.11.2025, 19.11.2025 and 26.11.2025. However, the respondent neither filed any cross-objections nor appeared for the personal hearings. Accordingly, the matter is being adjudicated ex parte on the basis of the available records and documents on file.

5. I have carefully gone through the impugned Order, appeal filed by the appellant department and the relevant documents in the present case. The issue to be decided in the present appeal is whether:

I. Redemption fine imposed by the adjudicating authority under Section 125 of the Customs Act, 1962 in lieu of confiscation of goods is correct or otherwise.

II. Penalty imposed by the adjudicating authority on the respondent under Section 114 (i) and Section 117 of the Customs Act, 1962 is correct or otherwise.

III. Non imposition of penalty under Section 112(b) of the Customs Act, 1962 on the Custom Broker is correct or otherwise

5.1. It is observed that the respondent filed Shipping Bill No. 1592213 dated 11.06.2024 for export of 1121 Basmati Unprocessed Sella Rice. On examination of the cargo, Customs officers entertained doubts about the accuracy of the declared description. The CRCL, Kandla test report confirmed that the goods were actually parboiled basmati rice with 28.20% broken grains, which exceeds the statutory maximum limit of 5% prescribed under both the Food Safety and Standards Regulations and the specifications issued by the Ministry of Consumer Affairs. Thus, the goods did not conform to mandatory export standards and were mis-declared in violation of Section 50 of the Customs Act. Based on the test results, the consignment was treated as prohibited goods and rendered liable for confiscation under Sections 113(d) and 113(i) of the Customs Act, 1962. The respondent and Customs Broker were found responsible for filing incorrect export documents, attracting penal provisions under Sections 114(i),

114AA and 117 ibid. The respondent waived issuance of a Show Cause Notice and personal hearing and sought Back-to-Town permission while agreeing to pay the prescribed fines and penalties. The adjudicating authority noted that the mis-declaration was deliberate and not a bona fide error, with clear suppression of material facts to facilitate export of non-conforming goods. Accordingly, the consignment of 400 MT was ordered to be confiscated, with an option for redemption on payment of a fine of Rs. 3,15,000/- under Section 125 of the Customs Act, 1962. Penalties of Rs. 3,15,000/- under Section 114(i) and Rs. 1,00,000/- under Section 117 ibid were also imposed, and Back-to-Town movement was allowed upon payment.

5.2. Now, as regards to redemption fine imposed by the adjudicating authority under Section 125 of the Customs Act, 1962 in lieu of confiscation of goods, it is the contention of the appellant department that the redemption fine imposed by the adjudicating authority is very low and not justifiable. The appellant department asserted that the value of mis- declared goods was Rs. 3,14,87,841/- , however the adjudicating authority imposed redemption fine of Rs. 3,15,000/- which is very low as compared to the value of goods and is not justifiable. It is further contended that the adjudicating authority has erred by taking too lenient view and did not impose redemption fine reasonably as prescribed under Section 125 of Customs Act, 1962 as the same has been imposed only 1% percent of declared value. Moreover, as per settled law the quantum of redemption fine should be such so as to discourage the exporter from violating the provisions of the Act. Thus, the imposition of such low redemption fine by adjudicating authority is not justifiable.

5.3. I have carefully perused Section 125(1) of the Customs Act, 1962 and the same is reproduced as under:

Section 125. Option to pay fine in lieu of confiscation. –

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1 [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation ***such fine as the said officer thinks fit****:*

I find that Section 125(1) of the Customs Act, 1962 clearly stipulates that the adjudicating authority is fully empowered to exercise its discretion while deciding the quantum of redemption fine imposable. The wordings "***such fine as the said officer thinks fit***" gives full liberty to the adjudicating authority while deciding

the quantum of the redemption fine under Section 125(1) of the Customs Act, 1962 and there is no binding upon the adjudicating authority. It is crucial to understand the intent behind the discretion provided in such provisions, as it allows for flexibility in addressing cases where technical or procedural violations occur, such as mis-declarations or documentation errors. The discretion ensures that the authorities can apply a fair and balanced approach, considering the circumstances of each case. Since the redemption fine imposed by the adjudicating authority in this case is in full compliance with the provisions of Section 125(1) of the Customs Act, 1962, I find no grounds to interfere with the adjudicating authority's discretion. The authority has exercised its discretion within the framework of the law, ensuring that the redemption fine is appropriate to the circumstances of the case. Therefore, the decision rendered appears to be in accordance with legal provisions, and there is no reason to question or alter it.

5.4. Further, as regards to Penalty imposed by the adjudicating authority on the respondent under Section 114 (i) and Section 117 of the Customs Act, 1962, it is the contention of the appellant department that penalty of Rs.3,15,000/- imposed under Section 114 (i) and penalty of Rs.1,00,000/- under Section 117 of the Customs Act, 1962, by the adjudicating authority, is very low and does not appear to be justifiable.

5.5. I have carefully perused Section 114 (i) and Section 117 of the Customs Act, 1962 and the same are reproduced as under:

SECTION 114 (i). Penalty for improper exportation of goods, etc.-

Any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable

(i) in the case of goods in respect of which any prohibition ids in force under this Act or any other law for the time being in force, to a penalty [not exceeding three times the value of goods as declared by the exporter or the value as determined under this Act], whichever is greater;

[Section 117. Penalty for contravention, etc., not expressly mentioned.

Any person who contravens any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty

is elsewhere provided for such contravention or failure, shall be liable to penalty not exceeding [four lakh rupees].

A plain reading of Section 114(i) and Section 117 of the Customs Act, 1962 makes it evident that both provisions prescribe only the maximum permissible penalty, without stipulating any statutory minimum. The legislative scheme therefore confers wide discretion upon the adjudicating authority to determine the quantum of penalty, provided it remains within the upper limit prescribed under the Act. This discretion is to be exercised judiciously, having regard to the facts and circumstances of the case. In the present matter, I find that the penalties imposed by the Adjudicating Authority under Sections 114(i) and 117 are well within the statutory framework and have been levied after due consideration of the material on record. Accordingly, there is no justification to interfere with, question, or modify the penalty imposed under these provisions.

5.6 Furthermore, with respect to the Department's contention regarding the imposition of penalty on the Customs Broker under Section 112(b) of the Customs Act, 1962, it is observed that the said provision is applicable only in cases involving improper importation of goods. Since the present proceedings relate exclusively to improper exportation, invocation of Section 112(b) is legally untenable. The proposed penalty therefore falls outside the scope and ambit of Section 112(b) of the Customs Act, 1962, and cannot be sustained.

6. In view of the aforementioned findings, the appeal filed by the appellant department is hereby rejected.

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद.

(Amit Gupta)
Commissioner of Customs(Appeals)
Ahmedabad

Date: 26.12.2025
F.No. S/49-12/CA-2/CUS/KDL/2024-25 5106
By Registered Post A.D.

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

To,

1. The Assistant Commissioner (Export),
   Office of the Commissioner of Customs, New Custom House, Near Balaji Temple, Kandla, Gujarat.
2. M/s G V (GOD VISHNU) Rice Export Pvt. Ltd., G T Road, Taroi, District – Karnal, Haryana - 1321166.

Copy to: -

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

