सत्यमेव जयते

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 - 20260171MN0000717016

क	फ़ाइल संख्या FILE NO.	S/49-256/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-635-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	01.01.2026
ङ	उदभुत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	MCH/ADC/AKM/151/2024-25 dated 07.10.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Morvel Poly Films Pvt. Ltd., Plot No. 2662/1, Near Siddheshwari Temple, Visnagar - Mehsana Road, Mehsana, Gujarat

आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

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 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/-**(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

Appeal has been filed by M/s. Morvel Poly Films Pvt. Ltd., Plot No. 2662/1, Near Siddheshwari Temple, Visnagar - Mehsana Road, Mehsana, Gujarat, (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/151/2024-25 dated 07.10.2024 (hereinafter referred to as 'the impugned order') by the Additional Commissioner, Customs, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that an analysis of data (DAC No. 09 dated 27.12.2022) in respect of Import of miscellaneous articles of wood such as "Ice Cream Sticks", "Ice Cream Spoon", "Disposable Wooden Ear Buds and Toothpicks", "Bamboo Skewers", "Bamboo Sticks" etc. for the period 01-01-2021 to 15-12-2022, with regard to wrong claims of lower IGST rate @ 12% Adv under CTI 4421 instead of correct IGST @ 18% Adv on miscellaneous articles of wood by classification of goods in wrong IGST Schedules was carried out by the Data Analytics Cell of the Office of Chief Commissioner of Customs, Ahmedabad. The appellant had filed the Bills of Entry as detailed in Annexure-A to the notice, for home clearance of the goods viz. "Wooden Ice Cream Spoon", "Wooden Ice Cream Sticks" and "Wooden 114mm Round Smooth Edge Ice Cream Sticks" classifying under CTH 44219990 of the first schedule of the Customs Tariff Act, 1975. The appellant discharged the tax of IGST in terms of Serial No. 92A of Schedule-II or Serial No. 101 of Schedule-II of IGST Notification 01/2017-IGST(Rate).

2.1 It was observed the appellant is classifying their imported miscellaneous goods as above under Serial No. 92A of Schedule-II or Serial No. 101 of Schedule-II of IGST Notification 01/2017-IGST(Rate). Whereas, Serial No. 92A of Schedule-II of IGST Notification 01- 2017-IGST(Rate) prescribes 12% Adv IGST for goods viz. "Idols of wood, stone including marble and metals [other than those made of precious metals" for CTH 44, 68 or 63. Further, Serial No. 101 of Schedule-II also prescribes 12% IGST on "Other articles of wood; such as clothes hangers, Spools, cops, bobbins, sewing thread reels and the like of turned wood for various textile machinery, Match splints, Pencil slats, Parts of wood, namely oars, paddles and rudders for ships, boats and other similar floating structures, Parts of domestic decorative articles used as tableware and kitchenware [other than Wood paving blocks, articles of densified wood not elsewhere included or specified, Parts of domestic decorative articles used as tableware and kitchenware" under CTH 4421.

2.2 Whereas, other than Serial No. 92A and 101 Schedule-II of IGST Notification 01/2017-IGST(Rate), there is no other entry for CTH 4421 in Schedule II. The Serial No. 92A and 101 of Schedule-II have well defined list of articles of wood covered in entries. The miscellaneous items "Ice Cream Sticks" "Ice Cream Spoon" and "Disposable Wooden Ear Buds and Toothpicks", "Bamboo Skewers", "Bamboo Sticks" does not merit to be included in Entry No. 92A or 101 of Schedule-II. Further, all the entries of wood in Schedule-I to VI of IGST Notification 01-2017-IGST(Rate) have been mentioned in Table-I above. The subject miscellaneous goods do not merit to be included in any of the above entries of Table-I. Therefore, the imported goods which are not specified in any of Schedules I to VI need to be classified under residuary entry viz. Serial No. 453 of Schedule-III and leviable to IGST rate of 18% Adv. The description at Serial No. 453 of Schedule-III is "Goods which are not specified in Schedule I, II, IV, V or VI". Analysis of the said Imports in CTI 4421 revealed that said Importer paid IGST @12% Adv on imported goods, by wrongly claiming them under Schedule-II (Serial No. 92A and 101) instead of Serial No. 453 of Schedule-III to Notification-01/2017-IGST(Rate) as amended. This leads to short payment of IGST. Accordingly, the IGST payable during the period from 01-01-2022 to 15-12-2022 works out to Rs.26,30,689/-.

2.3 Therefore, the appellant was called upon to show cause as to why:

i. The goods having assessable value of 3,99,18,922/- covered under Bills of Entry as detailed in Annexure-A to the notice, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

ii. the Serial No. 92A or Serial No. 101 of Schedule-II of IGST Notification 01/2017-IGST(Rate) on the goods should not be denied and the same should not be re-assessed at correct rate of IGST @18% under Sr. No. 453 of Schedule III of IGST Notification No. 01/2017;

iii. The differential duty worked out to 26,30,689/- (Rupees Twenty Six Lakhs Thirty Thousand Six Hundred Eighty Nine Only) for Bills of Entry as detailed in Annexure-A to the notice, should not be recovered under

Section 28 (4) of the Customs Act, 1962 along with applicable interest thereon as per Section 28AA of the Customs Act, 1962, as applicable.

iv. Penalty should not be imposed upon them under Section 114A of the Customs Act, 1962.

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

i. He ordered for confiscation of goods covered under 21 past Bills of Entry as mentioned in Annexure-A to the SCN, assessable value of Rs 3,99,18,922/- (Three Crore Ninety-Nine Lakh Eighteen Thousand Nine Hundred and Twenty-Two only) under Section 111(m) of the Customs Act, 1962. However, he offered the same for redemption under Section 125 (1) of the Customs Act, 1962 upon payment of a fine of Rs. 40,00,000./- (Rs Forty Lakhs only). Further, as per the provisions of Section 125(3) of the Customs Act, 1962 if option of payment of fine is not exercised within 120 days from the date of the order, the same shall become void.

ii. He ordered for reassessment of the goods imported vide the said 21 Bills of entries mentioned in the Annexure -A of this SCN to the schedule III 453 of the schedule III of the IGST notification No. 01/2017 instead of the Schedule 92A and 101 Schedule-II of IGST Notification 01/2017-IGST.

iii. He confirmed and ordered for recovery of differential duty worked out to Rs. 26,30,689/- (Twenty-Six Lakhs Thirty Thousand Six Hundred and Eighty-Nine only) for the 21 Bills of entry detailed in the Annexure -A to the SCN under section 28(4) of the Customs Act, 1962 alongwith applicable interest thereon as per section 28AA of the Customs Act, 1962.

iv. He imposed a penalty of Rs. 26,30,689/- (Twenty-Six Lakhs Thirty Thousand Six Hundred and Eighty-Nine only) under section 114A of the Customs Act, 1962 on M/s Morvel Poly Films Pvt. Ltd for the goods imported vide 21 Bills of Entry as mentioned in Annexure-A to the SCN.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional 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 Order-in-Original (OIO) confirming a demand of Rs. 26,30,689/- is unsustainable because the adjudicating authority failed to appreciate the specific facts of the case. A primary argument is that the goods in question had already been cleared from the port by Customs authorities after proper assessment and endorsement. Relying on various judicial precedents, the Appellant asserts that confiscation and redemption fines cannot be imposed on goods that are no longer available or were not seized and provisionally released.

3.2 Furthermore, the Appellant argues that there was no mis-declaration or intent to evade duty, as the Bill of Entry (B/E) clearly described the goods and the notification being claimed. It is noted that the Appellant had successfully cleared identical goods under the same notification and entry number in the past from the same port. The appeal also challenges the validity of the Show Cause Notice (SCN) for relying on data from an analytical cell that was never disclosed to the Appellant, rendering the notice and subsequent order vague and legally unsubstantiated.

3.3 Regarding the classification of the product (wooden ice cream sticks), the Appellant maintains that they should be classified as "tableware and kitchenware" under CTH 4419 or 4421, both of which attract a 12% IGST. They argue against the Revenue's use of a "residuary" classification (Schedule-III, Entry No. 453) when a specific heading is available. The Appellant further claims the adjudicating authority misinterpreted Section 28J(a) of the Customs Act by ignoring a relevant Advance Ruling under the GST Act that supports this classification.

3.4 Finally, the Appellant argues that the demand is barred by limitation, as the goods were subjected to open examination and assessment by proper officers before release, meaning the department cannot later allege suppression or mis-declaration. Citing the case of Dr. Rai Memorial Cancer Institute, the Appellant emphasizes that merely claiming an exemption notification does not equate to an intent to evade duty. Consequently, the Appellant requests that the OIO be set aside, including the demand for differential duty, interest, penalties, and the confiscation of goods.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 09.09.2025, following the principles of natural justice wherein Shri Naimesh Oza, Advocate, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal. The advocate for the Appellant, vide letter dated 10.09.2025, further contends that the demand and Order-in-Original (OIO) are unsustainable because there was no mis-declaration of the imported goods, which included ice cream sticks, spoons, and toothpicks, and therefore the invocation of a longer limitation period is unjustified. The submission emphasizes that since the goods were already cleared from the port and the Bills of Entry (B/Es) were finally assessed, confiscation and redemption fines cannot be legally imposed. The Appellant further argues that the classification of wooden ice cream sticks should fall under specific headings like 4419 or 4421 as tableware or kitchenware (attracting 12% IGST) rather than a residuary entry, supported by an Advance Ruling from the Karnataka AAR. Additionally, the advocate asserts that because the goods were subjected to open examination by Customs officers before release, the department cannot claim suppression or mis-declaration, rendering the Show Cause Notice legally invalid.

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 A central and non-negotiable pillar of the Appellant's case is the "Principle of Consistency." The Appellant has substantiated, with documentary evidence, that the Customs authorities at Mundra Port had previously accepted the 12% IGST rate for identical goods (Wooden Ice Cream Sticks/Spoons) in the years 2020 and 2021. This principle was decided in **Birla Corporation Ltd. vs. Commissioner of Central Excise [2005 (186) E.L.T. 266 (S.C.)],** where the Apex Court held that once a particular classification or view is taken by the Revenue in an assessee's own case, the same cannot be arbitrarily departed from in subsequent years unless there is a material change in facts or a new statutory provision comes into force.

5.2 In the present case, the Adjudicating Authority has completely ignored this vital aspect. The impugned order fails to record any finding on whether the product characteristics have changed or if the legal provisions (Notification 01/2017) have been amended to exclude these items. Mere reliance on a "Data Analytics Report" does not constitute a change in law. By departing from the established practice without assigning specific reasons for such deviation, the Adjudicating Authority has acted arbitrarily. Administrative authorities are bound to follow their own precedents to ensure predictability for the trade; a failure to do so renders the order "non-speaking" and violative of judicial discipline. The Adjudicating Authority in the impugned order completely failed to address why the Department was now departing from its established practice, rendering the order non-speaking and arbitrary.

5.3 The entire case against the Appellant originates from "Data Analytics Cell (DAC) Report No. 09 dated 27.12.2022." This report is the foundational document—the sine qua non—of the Department's allegation that the Appellant is misclassifying goods. The Appellant has consistently requested a copy of this report to understand the basis of the comparison and the logic used by the cell. The refusal or failure of the Adjudicating Authority to provide this "Relied Upon Document" (RUD) is a fatal procedural flaw. The reliance on DAC Report No. 09 without providing it to the Appellant is a fatal procedural flaw. Principles of Natural Justice require that any material used against an individual must be disclosed to them. By withholding the analytics data, the Department effectively denied the Appellant the chance to challenge the comparisons or data points used to allege the 18% rate. This has caused significant "prejudice" to the Appellant's defense, as they were forced to argue against a report they had never seen.

5.4 The Principles of Natural Justice, specifically audi alteram partem, mandate that no evidence can be used against a person without disclosing it to them. In Swadeshi Polytex Ltd vs. Collector of Central Excise [2000 (122) E.L.T. 641 (S.C.)], the Supreme Court held that the use of undisclosed documents causes grave prejudice to the defense. By withholding the analytics data, the Department effectively engaged in a "trial by ambush," denying the Appellant the chance to challenge the relevance, accuracy, or applicability of the data points used to allege the 18% rate. The Adjudicating Authority cannot simply state that the report is "internal" or "confidential" if it is being used as the primary basis to demand duty. This violation of natural justice vitiates the proceedings.

5.5 The core dispute lies in the interpretation of the Customs Tariff and the IGST Notifications. The Appellant claims classification under Schedule II, Serial No. 101 ("Other articles of wood"), while the Department insists on Schedule III, Serial No. 453 ("Goods which are not specified in Schedule I, II, IV, V or VI"). The General Rules for the Interpretation (GRI) of the Customs Tariff provide the legal framework for classification. Rule 3(a) specifically states that "The heading which provides the most specific description shall be preferred to headings providing a more general description." Serial No. 101 constitutes a specific entry for "Articles of Wood." Since the goods in question (Ice Cream Sticks/Spoons) are indisputably made of wood, they prima facie fall within the ambit of this specific entry. The Department's attempt to relegate the goods to a residuary "basket" entry (Sr. 453) is a measure of last resort, permissible only if the goods cannot be classified under any specific heading of Schedules I, II, IV, V, or VI.

5.6 The Adjudicating Authority failed to conduct this hierarchical analysis. It did not explain why the specific description "Other articles of wood" excludes ice cream sticks. Furthermore, the Authority failed to address the Advance Ruling (AAR) Karnataka decision in Ragu Packaging, which specifically analyzed this issue and upheld the 12% rate. While an AAR ruling is binding only on the applicant, its legal reasoning holds persuasive value. Ignoring such reasoned legal precedents in favor of a mere statistical report from an analytics cell is legally unsustainable.

5.7 The impugned order invokes Section 111(m) (Confiscation for misdeclaration) and Section 114A (Mandatory Penalty). These provisions require a degree of mens rea or intent to evade payment of duty. The Hon'ble Tribunal in **Dr. Rai Memorial Cancer Institute vs. Commissioner of Customs [2022 (381) ELT 540]** and **Lewek Altair Shipping [2019 (366) ELT 318]** has consistently held that a bona fide dispute regarding classification or notification eligibility does not amount to "misdeclaration" or "suppression of facts." In this case, the Appellant accurately described the goods as "Wooden Ice Cream Sticks." They did not hide the nature of the product, its value, or its quantity. The dispute is purely interpretive: does this product fall under Entry A or Entry B? When an importer claims a benefit based on their understanding of the law—an understanding supported by AAR rulings and past Departmental assessments—it cannot be labeled as fraud. The invocation of the extended period of limitation and the imposition of heavy penalties under Section 114A are therefore disproportionate and lack the necessary legal footing of "collusion" or "willful misstatement."

5.8 In light of the significant gaps in factual verification and legal reasoning, I am of the firm view that this matter cannot be conclusively decided at the appellate stage without further fact-finding. The matter must be remanded for de novo adjudication for the following specific reasons:

a. Verification of Continuity: The Adjudicating Authority failed to examine the critical evidence of past Bills of Entry (2020/2021) submitted by the Appellant. On remand, the Authority must verify these documents. If the goods are found to be identical to those currently imported, the Authority must either follow the past practice to maintain consistency or record legally robust reasons for the deviation (e.g., citing a specific amendment in the Notification).

b. Curing the Breach of Natural Justice: The proceedings were fundamentally flawed due to the non-disclosure of the DAC Report. To cure this defect, the Department must provide the relevant extracts of the report to the Appellant and allow them an opportunity to rebut the data. A tax demand cannot rest on secret evidence.

c. Technical Evaluation of Entries: The OIO lacked a "speaking order" quality regarding the classification. The Authority must perform a detailed legal analysis of the scope of Serial No. 101 versus Serial No. 453, applying the GRI Rules, rather than dismissing the Appellant's claim summarily.

6. In view of the substantial procedural and legal gaps identified, the impugned Order-in-Original No. MCH/ADC/AKM/151/2024-25 dated 07.10.2024 is hereby set aside. The matter is remanded to the adjudicating authority for fresh (de novo) adjudication.

7. The appeal stands disposed of by way of remand.

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

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

F. No. S/49-256/CUS/MUN/2024-25/5194 Date: 01.01.2026

By Speed post/E-Mail

To,
M/s. Morvel Poly Films Pvt. Ltd.,
Plot No. 2662/1, Near Siddheshwari Temple,
Visnagar - Mehsana Road,
Mehsana, Gujarat

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