



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD

चौथी मंजिल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road, नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20250671MN0000555BEG

क	फाइल संख्या FILE NO.	S/49-114/CUS/AHD/2024-25
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-72-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	11.06.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Order – In – Original No. 28/AC/DAHEJ/ REFUND/ 2024-25 dated 12.06.2024 passed by the Assistant Commissioner of Customs, Custom House, Dahej.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	11.06.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Throns Infrastructure Pvt. Ltd. 204, Iscon Elegance, S. G. Highway Service Road, Prahladnagar, Satellite, Ahmedabad – 380015.

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 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 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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए टो सौ मात्र) या रु.1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां। 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 :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-				



	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक 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: पांच हजार 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 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. Throns Infrastructure Pvt. Ltd., 204, Iscon Elegance, S. G. Highway Service Road, Prahladnagar, Satellite, Ahmedabad – 380015 (hereinafter referred to as 'the appellant') has filed the present appeal against an Order-In-Original No. 28/AC/DAHEJ/ REFUND/2024-25 dated 12.06.2024 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner of Customs, Custom House, Dahej (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant has filed a Bill of Entry No. 5328445 dated 01.04.2023 (hereinafter referred to 'the impugned Bill of Entry') for import of Indonesian Steam Coal. Due to technical glitches with ICEGATE portal, Challan towards payment of Customs duty could not be generated and so, the appellant importer was unable to pay duty. After resolution of the technical glitch, the appellant has paid Customs duty, with interest, on 24.04.2023 and then, 'Out of Charge' for the goods was given on 24.04.2023. Interest in such cases was levied automatically in the ICEGATE portal.

3. Thereafter, the appellant has filed a claim for refund of Interest of Rs.2,80,276/- before the adjudicating authority on 21.03.2024. The said refund claim has been decided by the impugned order. Gist of findings of the adjudicating authority is as under (underline supplied):

"10. I find that the claimant had filed Bill of Entry no. 5328445 dated 01.04.2023 and paid Customs duty along with Interest of Rs. 6,22,80,776/- (Duty Rs 6,20,00,500/- + Interest Rs. 2,80,276/-) on 24.04.2023. Since, the bill of entry was not cleared from ICEGATE portal due to technical issues, interest was accrued. The claimant has filed the instant refund claim application of Interest of Rs. 2,80,276/- under section 27 (1) (a) of the Customs Act, 1962.

11. I find that due to technical glitches in the implementation of ECL from 01.04.2023, CBIC Issued Customs (Waiver of Interest) Order No. 1/2023 Customs (N.T.) dated 06.04.2023 vide F.No. 450/129/2023-Cus.IV, waiving the whole of interest payable under sub-section (2) of section 47 of the Customs Act, 1962 for the period from 1st April, 2023 upto and including the 10th April, 2023, in respect of such goods, where the payment of import duty is to be made from the amount available in electronic cash ledger. Further due to non-resolution of technical glitches till 10.04.2023, CBIC issued another Customs (Waiver of Interest) Order No. 2/2023-Customs



(N.T.) dated 11.04.2023, waiving the whole of interest, payable for the period from 11th April, 2023 upto and including the 13th April, 2023. Further, CBIC issued another Customs (Waiver of Interest) Order No. 3/2023-Customs (N.T.) dated 17.04.2023 which provides the waiver of interest payable for the period from 14th April, 2023 till the date of removal of such system inability and thereafter upto three days (including holidays), in respect of such goods relating to those Bills of Entry on which the duty payment for the specific Bill of Entry was initiated on or before 13.04.2023.

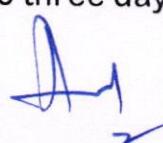
12. I find that in the instant case, the duty payment by the claimant for the subject bill of entry is on 24.04.2023 and as per Customs (Waiver of Interest) Order No. 3/2023-Customs (N.T.) dated 17.04.2023, duty payment for the specific Bill of Entry should be initiated on or before 13.04.2023. Therefore, the refund claim application filed by the claimant is barred by the limitation of date of payment as prescribed under Customs (Waiver of Interest) Order No. 3/2023-Customs (N.T.) dated 17.04.2023 and thus, the refund claim filed by the claimant is improper and liable to be rejected."

With above findings, the adjudicating authority has rejected the claim of refund of interest of Rs.2,80,276/- under the provisions of Section 27 of the Customs Act, 1962 read with Customs (Waiver of Interest) Order No. 3/2023-Customs (N.T.) dated 17.04.2023.

4. Being aggrieved, the appellant has filed the present appeal on 15.07.2024. As the appeal has been filed against rejection of claim for refund of interest, pre-deposit under the provisions of Section 129E of the Customs Act, 1962, does not require. In the Form C.A.-1, the date of communication of the Order-In-Original dated 12.06.2024 has been shown as 18.06.2024. Thus, the appeal has been filed within normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962 and so, it has been taken up for disposal on merits.

5. The appellant has, inter-alia, raised various contentions in the Grounds of Appeal, which are as under:

- Conclusion of Customs Order 03/2023: The Central Board of Indirect Taxes and Customs, had by Order No. 1/2023 dated 06/04/2023 followed by the Order No. 2/2023 dated 11.04.2023 and subsequently by the Order No. 3/2023 dated 17/04/2023, waived, for technical issues in the common portal, the whole of interest payable under subsection (2) of section 47 of the Customs Act, 1962 for the period from 1st April, 2023 till the date of removal of such issues and thereafter upto three days (including holidays),



in respect of such goods relating to those Bills of Entry on which the duty payment for the specific Bill of Entry was initiated in terms of para 8.2 of Circular No. 09/2023-Customs dated 30/03/2023 on or before 13/04/2023, but this process was not successful due to technical issues in the common portal leading to rejection coupled with an inability to re-initiate that payment from the electronic cash ledger.

- b) **Condition Precedent and Eligibility for Interest Refund as per Customs Order 03/2023:** The importer qualifies for interest refund under Customs (Waiver of Interest) Order No. 3/2023, which stipulates that duty payment for the specific Bill of Entry should have been initiated on or before 13/04/2023. The importer had initiated duty payment on 01/04/2023, satisfying this condition precedent.
- c) **Continuous Efforts:** The importer faced challenges with duty payment due to persistent technical issues in the ICEGATE Portal from 01/04/2023 to 23/04/2023, which were beyond the importer's control. Throughout this period, the importer diligently made continuous efforts and regularly communicated the problems to the ICEGATE Helpdesk, aiming to resolve the issues promptly and for making the duty payment for the subsequent release of the cargo Out of Charge.
- d) **Immediate Compliance:** The importer paid the customs duty immediately upon the generation of the challan on 24/04/2023, showing no intentional delay from the importer.
- e) **Clean Compliance Record:** Throns Infrastructure Pvt. Ltd. has a history of timely payments and compliance with statutory obligations, demonstrating its commitment to statutory requirements.
- f) **Fault of ICEGATE:** The delay and subsequent interest were solely due to technical issues with the ICEGATE portal, beyond control of Throns Infrastructure Pvt. Ltd.

In view of the above grounds, the appellant has prayed to grant refund of interest of Rs.2,80,276/- paid by them Bill of Entry No. 5328445 dated 01/04/2023.



6. Vide letter dated 03.06.2025, the appellant has submitted copies of various documents in support of their appeal. They have submitted a copy of the Order-In-Original No. MCH/98/AC/KRP/REF/2024-25 dated 23.07.2024 passed by the Assistant Commissioner of Customs, Mundra, in their own case, in which refund of interest of Rs.8,74,152/- paid on 03.05.2023 for the BoE No. 5396230 dated 06.04.2023 has been sanctioned.

Personal Hearing

7. Personal Hearing in this matter was held in virtual mode, i.e. through video conference, on 04.06.2025, which was attended by Shri Divyang Acharya, Deputy Manager of M/s. Throns Infrastructure Pvt. Ltd. He reiterated the written submissions made at the time of filing of appeal.

Findings:

8. I have carefully gone through the impugned order, appeal memorandum and oral submissions made on behalf of the appellant during course of hearing. The issue to be decided in the case is whether the appellant is entitled for refund of interest of Rs.2,80,276/- under facts and circumstances of the case or not.

9. I find that there is no dispute regarding the fact that there was technical glitch on ICEGATE portal due to which third party integration was failed and the appellant was unable to generate Challan to pay duty.

10. I find that the CBIC has issued three Orders towards waiver of interest, as mentioned hereinabove. The Customs (Waiver of Interest) Order No. 3/2023-Customs (NT), dated 17.04.2023, was applicable for the Bill of Entry for which payment was initiated on or before 13.04.2023. In the present case the Bill of Entry was filed on 01.04.2023 and the appellant has initiated the payment on or before 13.04.2023. But, due to technical glitch in ICEGATE System, the Challan could not be generated and payment of duty could not be made till 23.04.2023.

11. I have seen the copies of correspondence made on behalf of the appellant with ICEGATE. The Customs Broker of the appellant viz. M/s. Kshitij Marine, vide email dated 07.04.2023 had informed to ICEGATE Helpdesk to the effect that the appellant had filed a Bill of Entry No. 5328445 dated 01.04.2023, Challan No. 2043513180. They have informed to ICEGATE Helpdesk that upon process of payment of custom duty thru E Payment Portal (ICEGATE Portal), the Challan is



not reflecting and so, they are unable to make payment in absence of challan. They have requested ICEGATE Helpdesk to resolve the issue. Vide another email dated 19.04.2023 they have sent a Reminder stating that the problem is still unresolved. In reply, the ICEGATE Service Desk has replied to wait for some time.

12. In view of the above-mentioned email communications submitted by the appellant, it is evident that the appellant had initiated the payment of the Bill of Entry No. 5328445 dated 01.04.2023 prior to 13.04.2023, and therefore, the present case squarely falls under the Customs (Waiver of Interest) Order No. 3/2023-Customs (NT), dated 17.04.2023 read with an Advisory dated 27.07.2023 issued by ICEGATE, Directorate General of Systems and Data Management.

13. In view of the above findings, I agree with the contentions of the appellant that interest is not payable for clearance of goods covered under the impugned Bill of Entry. As the appellant has already paid interest on 24.04.2023 and filed a claim for refund of the same on 21.04.2024, i.e. within one year, I hold that refund claim cannot be rejected on the ground of limitation, as wrongly held in Para 12 of the impugned order.

14. In Para 13 of the impugned order, it is mentioned that the adjudicating authority has not examined the aspect of Unjust Enrichment. So, I have examined the aspect of unjust enrichment. I find that in the bottom of the Application for Refund of Interest, the appellant has made a Declaration "(c)" to the effect that interest claimed as refund has not been passed on to another person by the importer/buyer. The appellant has also submitted an Undertaking to the effect that they have incurred interest of Rs.2,80,276/- while clearing the cargo under BE No. 5328445 dated 01.04.2023 at INDAH1 (i.e. Dahej Port); that they had not passed on incidence of such interest to anyone; and they had booked interest amount as cost in their books of accounts. The appellant has also submitted a Certificate dated 06.11.2023 issued by M/s. Vishva Vasani & Associates, Chartered Accountants, wherein it has been inter alia certified that the interest so paid has not been passed on to / collected from customers; the said amount shall reflect as "Balance with government Authorities" on Assets (Receivable) side, and hence there shall be no unjust enrichment once the interest amount is refunded to M/s. Throns Infrastructure Pvt. Ltd.

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15. The above-mentioned documents are sufficient to satisfy that the incidence of interest (which is claimed as refund) has been not been passed on by the appellant to any other person, as mentioned in the First Proviso to Section 27(2) of the Customs Act, 1962. So, there would be no 'unjust enrichment' if the amount of interest has been refunded to the appellant.

Order

16. In view of the above findings, I set aside the impugned order and allow the appeal by holding that refund of interest of Rs.2,80,276/- paid for the Bill of Entry No. 5328445 dated 01.04.2023 is payable to the appellant viz. M/s. Throns Infrastructure Pvt. Ltd.



(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F.No. S/49-114/CUS/AHD/2024-25

Date: 11.06.2025

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To

M/s. Throns Infrastructure Pvt. Ltd.,
204, Iscon Elegance, S. G. Highway Service Road,
Prahladnagar, Satellite, Ahmedabad – 380015.
(Email: deba.samal@throns.in , divyang.acharya@throns.in)

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoaahm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in ; rra-customsahd@gov.in)
3. The Deputy/Assistant Commissioner of Customs, Custom House, Dahej. (email: sup.ch-cusdahej@gov.in)
4. Guard File.

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