



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

DIN – 20260371MN000000A971

क	फ़ाइलसंख्या FILE NO.	S/49-04/CA-2/CUS/MUN/Feb/2025-26
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	MUN-CUSTM-000-APP-920-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
च	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/393/2025-26 dated 21.11.2025
छ	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
ज	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	Deputy Commissioner of Customs (Review), Custom House, Mundra.



1.	यह प्रतिउस 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.	सीमा शुल्क अधिनियम 1962 की धारा 129 डीडी (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 सकता 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)	बैगज 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 गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे 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)	सीमा शुल्क 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 नियम बली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उसके 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 सीमा शुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षक 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 चलानटी. 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.	<p>मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसी माशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं</p>				
	<p>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 :</p>				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधि करण, पश्चिमीक्षेत्रीयपीठ</td> <td>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असार वा, अहमदाबाद-380016</td> <td>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधि करण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असार वा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधि करण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असार वा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	<p>सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन, सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-</p>				
	<p>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 -</p>				
(क)	<p>अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीर कमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररूपए.</p>				
(a)	<p>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;</p>				
(ख)	<p>अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीर कमपाँचलाखरूपएसेअधिकहोलेकिनरूपयेपचासलाखसेअधिकनहोतो, पाँचहज़ाररूपए</p>				
(b)	<p>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 ;</p>				
(ग)	<p>अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीर कमपचासलाखरूपएसेअधिकहोतो, दसहज़ाररूपए.</p>				
(c)	<p>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</p>				
(घ)	<p>इसआदेशकेविरुद्धअधिकरणकेसामने, मांगेगएशुल्कके 10% अदाकरनेपर, जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं, यादंडके 10%अदाकरनेपर, जहांकेवलदंडविवादमेंहैं, अपीलरखाजाएगा।</p>				
(d)	<p>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.</p>				
	<p>उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकि एगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरूपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.</p>				
	<p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p>				
(a)	<p>in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p>				
(b)	<p>for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



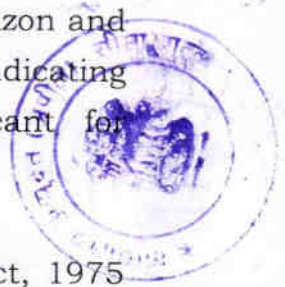
**ORDER-IN-APPEAL**

The Deputy Commissioner of Customs (Review), Custom House, Mundra, (hereinafter referred to as 'the appellant department') have filed the present appeal in terms of Section 129D (4) of the Customs Act, 1962 on the basis of Authorization/Review Order No. 03/OIO/2025-26 dated 06.02.2026 issued by the Commissioner of Customs, Mundra, challenging Order-in-Original No. MCH/ADC/ZDC/393/2025-26 dated 21.11.2025 (hereinafter referred to as "the impugned order") passed by the Additional Commissioner, Custom House, Mundra (hereinafter referred to as "the adjudicating authority") in case of M/s R. Mahadeolal Synthetics Ltd., E-510, Shivkripa Market, Kamala Darwaja, Ring Road, Surat, Gujarat- 395 002 (hereinafter referred to as 'the respondent').

2. Briefly stated, facts of the case are that the respondent, through Customs Broker M/s AL Cargo Services, filed multiple Bills of Entry (mentioned in Table-1 of OIO) filed during the period April 2021 to September 2021 for import of goods declared as "Children Standing Cycle", classified under Customs Tariff Heading 87120090. The respondent self-assessed the goods as falling under the category of "Bicycles and other cycles, not motorised - Other than bicycles" and discharged customs duty at the effective rate of 24.32%.

2.1 During the course of Customs Revenue Audit (Para-09, LAR-22/2021-22) and subsequent document audit conducted at Custom House (AP&SEZ), Mundra, it was noticed from data analysis of Bills of Entry that the respondent had consistently classified the imported items under CTH 87120090. On verification of the description and nature of the goods, it was observed that the items described as "Children Standing Cycle" were commonly known in trade parlance as "Scooters for kids and were marketed and sold as toys. It was also noted that leading e-commerce platforms such as Amazon and Flipkart categorized these products under "Toys and Games", clearly indicating their character as children's play items rather than cycles meant for transportation

2.2 It was observed that Chapter 95 of the Customs Tariff Act, 1975 covers "Toys, games and sports requisites", and CTH 95030030 specifically covers "tricycles, scooters, pedal cars and similar wheeled toys". In contrast, Heading 8712 covers bicycles and other cycles meant for conveyance. Since the imported goods were designed for children's recreational use and not for transport, they correctly merited classification under CTH 95030030, attracting a much higher effective rate of duty of 85.92% comprising 60% Basic Customs Duty, 10% Social Welfare Surcharge on BCD and 12% IGST



2.3 Due to the mis-classification under CTH 87120090, the respondent paid duty at a substantially lower rate, resulting in short-levy of customs duty amounting to 28,03,720 on the aggregate assessable value of 45,51,494 pertaining to the Bills of Entry detailed in the proceedings. The short-payment of duty was found recoverable along with applicable interest.

2.4 Accordingly, a Show Cause Notice dated 05.12.2024, along with a corrigendum dated 19.07.2025, was issued proposing rejection of the declared classification, re-classification under CTH 95030030, confiscation of the goods under Section 111(m), recovery of differential duty under Section 28(4) with interest, and imposition of penalty under Sections 112(a)(ii) and 114A of the Customs Act, 1962.

2.5 The respondent was granted multiple opportunities of personal hearing on 30.06.2025, 25.08.2025 and 13.11.2025. However, the respondent neither appeared for personal hearing nor filed any written submissions. In view of repeated non-appearance, the adjudicating authority proceeded to decide the case ex-parte, holding that adequate opportunity had been afforded and that the principles of natural justice stood satisfied, relying upon judicial precedents including the decision of the Hon'ble Allahabad High Court in Modipon Ltd vs Collector of Central Excise

2.6 Relevant provisions of law, including Section 46, Section 17, Section 28(4), Section 28AA, Section 111(m) and Section 114A of the Customs Act, 1962, were examined in detail. It was observed that under the self-assessment regime, the respondent is statutorily responsible for making a true and correct declaration and for correct self-assessment of duty. In the present case, the respondent failed to correctly classify the goods despite their true nature being apparent from trade parlance and common understanding.

2.7 The adjudicating authority held that the goods were clearly wheeled toys for children, commonly known as kids' scooters, and were squarely classifiable under CTH 95030030. The declared classification under CTH 87120090 was held to be incorrect and rejected.

2.8 It was further held that the mis-classification had resulted in substantial short-payment of duty, amounting to wilful mis-statement under the self-assessment provisions. The authority held that the goods did not correspond with the particulars declared in the Bills of Entry, rendering them liable to confiscation under Section 111(m) of the Customs Act, 1962. However,



since the goods had already been cleared for home consumption and were no longer physically available, no redemption fine under Section 125 was imposed.

2.9 The authority note that the last proviso to the Section 114A states that "where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114." In the present case, since imposed penalty under Section 114A of the Customs Act, 1962, the authority refrained from imposing penalty under Section 112(a)(ii) of the Customs Act, 1962.

2.10 Accordingly, the adjudicating authority ordered to confiscate the goods under Section 111 (m) of Customs Act, 1962. The adjudicating authority also noted that the goods had already been cleared and were not available physically for confiscation. Since the goods were not physically available for confiscation, the adjudicating authority did not impose any redemption fine in lieu of such confiscation.

3. The appellant department has contended that the adjudicating authority has erred in holding that redemption fine under Section 125 of the Customs Act, 1962 is not imposable merely on the ground that the goods were not physically available for confiscation. Being aggrieved by the non-imposition of redemption fine in lieu of confiscation in the impugned order on account of such non-availability, the appellant department has preferred the present appeal, inter alia, contending as under:

- *"The adjudicating authority has erred in law by holding that redemption fine under Section 125 of the Customs Act, 1962 is not imposable merely because the goods are not physically available for confiscation. The authority failed to appreciate that the statutory trigger for imposition of redemption fine is the authorization of confiscation, and not the physical availability of goods. Once goods are held liable to confiscation under Section 111 or Section 113 of the Customs Act, the power to impose redemption fine automatically flows under Section 125 of the Act.*

- *The Hon'ble Madras High Court in M/s Visteon Automotive Systems India Pvt. Ltd., reported at 2018 (9) G.S.T.L. 142 (Mad.), has conclusively held that:*

*Penalty under Section 112 and redemption fine under Section 125 operate in two distinct fields;*

*Redemption fine is imposed in lieu of confiscation of goods;*

*The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act", clearly establish that physical availability of goods is not necessary for imposition of redemption fine; and*



*Redemption fine is intended to avoid the consequences flowing from confiscation under Section 111 of the Act.*

*The adjudicating authority has failed to follow this binding judgment, rendering the impugned order legally unsustainable.*

- *The Hon'ble Gujarat High Court in M/s Synergy Fertichem Ltd., reported at 2020 (33) G.S.T.L. 513 (Guj.), has reaffirmed the above legal position and expressly followed the judgment of the Hon'ble Madras High Court in Visteon Automotive Systems. The Hon'ble Court held that the prerequisite for offering redemption fine is the finding that the goods are liable to confiscation. The Court further clarified that non-availability of goods does not bar the imposition of redemption fine. The impugned order is in direct conflict with this authoritative pronouncement.*

- *The Hon'ble CESTAT, West Zonal Bench, Ahmedabad, in Van Oord India Pvt. Ltd. (Customs Appeal No. 10679/2024-DB, Order dated 13.11.2025), has categorically held that:*

*Physical non-availability of goods does not affect confiscation or imposition of redemption fine;*

*The power to impose redemption fine springs from authorisation of confiscation under Section 111; and*

*Redemption fine is meant to avoid the consequences of confiscation and save the goods from such confiscation.*

*The adjudicating authority, being subordinate to the jurisdictional Tribunal, was bound to follow this settled position of law.*

- *The appellant department further contended that the opening words of Section 125 of the Customs Act, 1962 clearly provide that "Whenever confiscation of any goods is authorised by this Act", the adjudicating authority may impose redemption fine. The statute does not prescribe physical availability of goods as a condition precedent. It is a settled legal principle that once the power of confiscation is traceable to Section 111 or Section 113 of the Act, the physical availability of goods becomes irrelevant for the purpose of imposing redemption fine. This principle applies equally to cases of improper import as well as attempted improper export.*

- *The appellant department further contended that in view of the settled legal position laid down by the Hon'ble Madras High Court, Hon'ble Gujarat High Court, and consistently followed by the Hon'ble CESTAT, the adjudicating authority has committed a clear error of law by not imposing redemption fine under Section 125 of the Customs Act, 1962 solely on the ground that the goods were not physically available.*



*[Handwritten signature]*

• In view of the above facts and submissions, the impugned Order-in-Original passed by the Additional Commissioner of Customs, Custom House Mundra is not legal and proper and therefore, in the interest of justice, prayed to:

- i. Set aside the impugned Order-in-Original to the extent it failed to impose redemption fine under Section 125 of the Customs Act, 1962.
- ii. Refer the matter back to Adjudicating Authority to consider it as a fresh with regard that redemption fine is imposable irrespective of the physical availability of the goods.”

4. A letter F.No.: S/49-04/CA-2/CUS/MUN/Feb/2025-26 dated 12.03.2026 was send to the respondent for submitting their comment. Personal hearing in the matter were scheduled on 17.03.2026. However, no comments was received and no one appeared for personal hearing. Hence, the appeal is taken up for decision on the basis of documents available on record.

5. It is observed that the respondent, the respondent, through Customs Broker M/s AL Cargo Services, imported goods declared as “Children Standing Cycle” during April 2021 to September 2021 and classified them under CTH 87120090, paying duty at 24.32%. Audit scrutiny revealed that the goods were in fact children’s scooters, commonly traded and sold as toys, and thus classifiable under CTH 95030030 covering “wheeled toys”, attracting a higher duty of 85.92%. The misclassification resulted in short-levy of duty amounting to ₹28,03,720/- on an assessable value of ₹45,51,494/-. Accordingly, a Show Cause Notice dated 05.12.2024 (corrigendum dated 19.07.2025) was issued proposing reclassification, recovery of differential duty under Section 28(4) with interest under Section 28AA, confiscation under Section 111(m), and imposition of penalty under Sections 112(a)(ii) and 114A of the Customs Act, 1962. Despite multiple opportunities, the respondent neither appeared for personal hearing nor filed submissions, and the case was decided ex parte. It was held that under the self-assessment regime, the importer is responsible for correct classification, and based on trade parlance and nature of goods, the items were rightly classifiable under CTH 95030030. The misclassification was held to be wilful mis-statement, justifying invocation of the extended period, confirmation of differential duty with interest, and imposition of penalty under Section 114A, while penalty under Section 112(a)(ii) was not imposed in view of the proviso to Section 114A. The goods were held liable for confiscation under Section 111(m); however, no redemption fine under Section 125 was imposed as the goods were not physically available.

5.1 It is observed that the present appeal has been preferred by the appellant department solely on the ground that the adjudicating authority failed

to impose redemption fine under Section 125 of the Customs Act, 1962, merely on the basis that the goods were not physically available for confiscation. It is further observed that the impugned order does not contain any specific finding or reasoning for non-imposition of redemption fine. Accordingly, in my considered view, the impugned order, to that extent, is a non-speaking order insofar as the issue of non-imposition of redemption fine is concerned.

5.2 It is further observed that the appellant department has relied upon the following case laws

- (i) M/s Visteon Automotive Systems India Pvt. Ltd., reported at 2018 (9) G.S.T.L. 142 (Mad.)
- (ii) M/s Synergy Fertichem Ltd., reported at 2020 (33) G.S.T.L. 513 (Guj.)
- (iii) Final Order No. 11039-11040/2025 DATED 13.11.2025 of Hon'ble CESTAT, West Zonal Bench, Ahmedabad, in the case of Van Oord India Pvt. Ltd. Versus Commissioner of Customs, Ahmedabad in Customs Appeal No. 10679/2024-DB.

wherein it has been held that physical availability of goods is not necessary for imposition of redemption fine.

5.3 It is further observed that the appellant department has also prayed to refer the matter back to Adjudicating Authority to consider it as a fresh with regard that redemption fine is imposable irrespective of the physical availability of the goods.

5.4 In view of the foregoing, it is observed that the adjudicating authority, while passing the impugned order, has not recorded any specific finding or provided cogent reasons for non-imposition of redemption fine under Section 125 of the Customs Act, 1962. It is further noted that the appellant department has relied upon various judicial pronouncements wherein it has been consistently held that physical availability of the goods is not a *sine qua non* for imposition of redemption fine, and that such fine can be imposed even where the goods are no longer available. In these circumstances, I find that the matter requires reconsideration by the adjudicating authority with due application of the legal position as well as the contentions advanced by the appellant department. Accordingly, I am inclined to remand the matter to the adjudicating authority for passing a fresh, reasoned and speaking order after duly examining the grounds of appeal and affording an opportunity of hearing in accordance with the principles of natural justice.

5.5 Thus, I am of the considered view that remitting of the matter to the lower authority has becomes *sine qua non* to meet the ends of justice. The

adjudicating authority is required to examine all the contentions raised by the appellant department and record his finding and issue order accordingly. In this regard, I rely upon the 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)*, which have also relied upon the case of *Medico Labs - 2004(173) ELT 117 (Guj.)*, wherein it has been held that Commissioner (Appeals) continue to have power of remand even after the amendment of Section 35(A) of the Central Excise Act, 1944 by Finance Act, 2001 w.e.f. 11.05.2001.

6. In light of the aforesaid facts and circumstances, the appeal filed by the appellant department is allowed by way of remand. The matter is remitted to the adjudicating authority to pass a reasoned and speaking order, in accordance with the principles of natural justice and applicable legal provisions. It is clarified that no opinion has been expressed on the merits of the case or on the submissions made by the appellant department, and the same shall be examined independently by the adjudicating authority.

  
(AMIT GUPTA)

COMMISSIONER (APPEALS)  
CUSTOMS, AHMEDABAD.

By Registered Post A.D.

F.Nos. S/49-04/CA-2/CUS/MUN/FEB/2025-26

Dated -30.03.2026

To,

(i) The Deputy Commissioner of Customs (Review),  
Custom House, Mundra.

(ii) M/s R. Mahadeolal Synthetics Ltd.,  
E-510, Shivkripa Market, Kamala Darwaja,  
Ring Road, Surat, Gujarat- 395 002



**Copy to:**

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Principal Commissioner of Customs, Customs House, Mundra.
3. The Joint/ Addl. Commissioner of Customs, Custom House, Mundra.
4. The Joint/ Additional Commissioner of Customs, Custom House, Mundra. Pl find enclosed one above copy to serve the respondent in person, as the same returned undelivered by the post.
5. Guard File.