



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,
चौथी मंज़िल 4th Floor, हड्डकोभवनHUDCO Bhavan, ईश्वर भुवन रोड IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाषक्रमांक Tel. No. 079-26589281
DIN – 20250471MN000000F7BC

क	फाइलसंख्या FILE NO.	CAPPL/COM/CUSP/1148/2023
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUS-000-APP-016-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.04.2025
ड	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	MCH/ADC/MK/94/2023-24, dated 28.06.2023 issued by Additional Commissioner of Customs, Customs House, Mundra
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	30.04.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s Mithila Quality Products Pvt. Ltd. (IEC NO: AAMCM5504A), 504 B Wing, Sai Sangam Complex, Sector-15, CBD Belapur, Navi Mumbai-400614.

1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेदीजातीहैजिनकेनामयहजारीकियागया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन),वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकते 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 आयतित कोई माल.

(a) any goods imported on baggage.

(ख) भारत में आयत करने हेतु किसी वाहन में लादा गया तो किन 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.

(ब) 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 बना एगएनियमों 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 विविध 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 मद्दसं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रतिमें 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

(ब) 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 अन्यरसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1,000/- (रूपए एक हजार मात्र), जैसा भी माल हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर. 6 की दो प्रतियां। यदि शुल्क, मांग गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम होतो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक होतो फीस के रूप में रु. 1,000/-

(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. मद्दसं. 2

के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि दिकोई व्यक्ति इस आदेश से आहत महसूस करता होता है तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क के न्द्रीय उत्पाद शुल्क और सेवाकर 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 सेवाकर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ

Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench



	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असारा वा, अहमदाबाद-380016	2 nd Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन, सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीन 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 कि सीमाशुल्क अधिकारी द्वारा मांग गया शुल्क और व्याज तथा लगाया गया दंड कीर कम पाँच लाख रुपए या उससे कम होतो 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 कि सीमाशुल्क अधिकारी द्वारा मांग गया शुल्क और व्याज तथा लगाया गया दंड कीर कम पाँच लाख रुपए से अधिक होले कि न रुपये पचास लाख से अधिक न होतो; 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 कि सीमाशुल्क अधिकारी द्वारा मांग गया शुल्क और व्याज तथा लगाया गया दंड कीर कम पचास लाख रुपए से अधिक होतो; 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% अदाकरने पर, जहां शुल्क पाया गया शुल्क एवं दंड विवाद में हैं, यादंड के 10% अदाकरने पर, जहां के वल दंड विवाद में है, अपील रखाजाएगा।	
(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 कीधारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए यागलति योंको सुधारने के लिए याकि सीमा 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 Mithila Quality Products Pvt. Ltd. (IEC NO: AAMCM5504A), 504 B Wing, Sai Sangam Complex, Sector-15, CBD Belapur, Navi Mumbai-400614 (hereinafter referred to as "the Appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against Order-in-Original No. MCH/ADC/MK/94/2023-24, dated 28.06.2023 (hereinafter referred to as "the impugned order") issued by the Additional Commissioner of Customs, Customs House, Mundra (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, facts of the case are that the appellant had imported 2 consignments under Bills of Entry No. 5522458, dated 21.09.2021 and No. 5522494, dated 21.09.2021 and items declared in the said BoE's "earphone, plastic holder stand, small speaker with aux and USB & mini mounted PCB".

2.1 Intelligence was received by Special Intelligence and Investigation Branch of Custom House, Mundra (hereinafter referred to as "SIIB") in respect of suspicion of mis-declaration and undervaluation of the goods declared by the appellant. Therefore, the said consignments were put on hold for the detailed examination. On the examination of cargo of said containers, it was found that the items were different from those declared in the bills of entry. The details of items viz-a-vis quantity as shown in B.E. are given below:

For B.E. 5522494 dated 21.09.2021**TABLE-A**

SR.NO.	ITEMS AS DECLARED IN B.E. 5522494 dated 21.09.2021	QUANTITY	PRICE USD/UNIT	IN IN	PRICE INDIAN RS./UNIT
1	Earphone, other details as per inv & pkl	100040	0.10		7.4
2	Plastic holder stand, other details as per inv & pkl	3000	0.15		11.16
3	Small speaker with Aux/USB, other details as per inv & pkl	10000	0.22		16.368
4	Mini Mounted PCB, other details as per inv & pkl	10000	0.21		15.624
	Total	123040			



TABLE-A-1

ITEM NAME	ITEM DESCRIPTION	NO. OF CARTOONS	NO. OF BOXES/BAGS IN CARTOON	NO. OF ITEMS IN EACH BOX/BAG	TOTAL ITEMS
MICROPHONE STAND	MICROPHONE STAND	21	100	1	2100
PCB	MOTORCYCLE ELECTRIC BIKE GRIP(UNBRANDED)	14	100	1	1400
HEADPHONES	REALME BUDS 2 IN PLASTIC PACKET	59	50	20	59000
HEADPHONES	BOAT ROCKERZ IN PLASTIC PACKET	69	50	20	69000
HEADPHONES	BOAT ROCKERZ IN EAR STEREO EARPHONES IN BOXES	17	50	10	8500
HEADPHONES	REALME HIMADAS	10	50	20	10000
HEADPHONES	VIVO WIRELESS	24	200	1	4800
HEADPHONES	BOAT ROCKERZ WIRELESS	44	200	1	8800
HEADPHONES	OPPO WIRELESS	25	200	1	5000
HEADPHONES	SAMMSUNG WIRELESS	17	200	1	3400
HEADPHONES	BOAT PLUG IN NIRVANA	5	50	20	5000
SPEAKERS	JAYBALLY	200	50	1	10000
HEADPHONES	1 PLUS	65	100	1	6500
HEADPHONES	REAL ME BUDS Q2	10	100	10	10000
HEADPHONES	UNBRANDED	25	20	100	50000
TOTAL		605			253500

For B.E. 5522458, dated 21.09.2021**TABLE-B**

SR.NO.	ITEMS AS DECLARED IN B.E. 5522458, dated 21.09.2021	QUANTITY	PRICE IN USD/UNIT	PRICE IN INDIAN RS./UNIT
1	Earphone, other details as per inv & pkl	109300	0.10	7.44
2	Plastic holder stand, other details as per inv & pkl	11300	0.15	11.16
3	Small speaker with Aux/USB, other details as per inv & pkl	12500	0.22	16.368
4	Mini Mounted PCB, other details as per inv & pkl	15000	0.21	15.624
	Total	148100		

TABLE-B-1

ITEM NAME	ITEM DESCRIPTION	NO. OF CARTOONS	NO. OF BOXES/BAGS IN CARTOON	NO. OF ITEMS IN EACH BOX/BAG	TOTAL ITEMS (In Nos.)
SPEAKERS	JAYBALLY WIRELESS SPEAKER AST-311	201	50	1	10500
SPEAKERS	AM PORTABLE WIRELESS SPEAKER	49	50	1	2450
HEADPHONES	AIRPODS PRO WITH WIRELESS CHARGING CASE	132	100	1	13200
HEADPHONES	REALME BUDS 2	100	50	20	100000
HEADPHONES	ONE PLUS 110 BT (EARPHONE)BLUETOOTH EARPHONES IN BOXES	100	100	1	10000
HEADPHONES	BOAT ROCKERZ (235V2) WIRELESS BLUETOOTH HEADSETS	50	200	1	10000
HEADPHONES	BOAT AIRDOPES 611 TWIN WIRELESS EARBUDS	10	100	1	1000
HEADPHONES	BOAT AIRDOPES 121 TWIN WIRELESS EARBUDS	9	100	1	900
HEADPHONES	BOAT AIRDOPES 131 TWIN WIRELESS EARBUDS	11	100	1	1100
HEADPHONES	BOAT AIRDOPES 601 TWIN WIRELESS EARBUDS	10	100	1	1000
HEADPHONES	REALME BUDS AIRQ2 REAL SOUND UNWIRED	20	100	1	2000
PCB	MULTIFUNCTIONAL MOBILE PHONE CHARGING BRACKET	30	100	1	3000
MICROPHONE STAND	MICROPHONE STANDS (NEW SERIES) UNBRANDED	83	100	1	8300
TOTAL		805	1250		163000

2.2 Examination revealed that the goods were misdeclared and undervalued - instead of the declared items, various types of branded and unbranded wireless headphones and speakers were found. Since market values could not be easily determined, an approved Chartered Engineer was appointed. His valuation indicated a significant undervaluation compared to the declared values. Further, on account of misdeclaration and undervaluation with an intent to



evade Customs duty, the cargo/goods valuing Rs. 98,70,900/- (Rs.46,00,560/- & Rs.52,70,340/-) imported by the appellant under BE No. 5522494 and No. 5522458 both dated 21.09.2021 and was lying at Honeycomb CFS, Mundra were placed under seizure u/S 110 of the Customs Act, 1962 vide seizure memo DIN-20211271MO0000333A43 dated 31.12.2021 and was handed over to the Assistant Manager, Honeycomb CFS under Supratnama dated 31.12.2021.

2.3 Further, appellant vide their letter dated 15.12.2021 requested for provisional release of goods of BE No.5522458 & 5522494 both dated 21.09.2021 and subsequently, the request was considered and letter dated 24.01.2022 and 14.02.2022 were issued to the Additional Commissioner, Import Assessment, Custom House, Mundra for provisional assessment and release of seized goods under section 110A of the Customs Act, 1962. Thereafter, the bills of entry were assessed provisionally, details of which are as under:

Sr. No.	Bill of entry No. & date	Assessable value	Duty /Tax assessed				Date of payment of Duty	Date of Out of charge	Details of Bond & B.G.
			Custom Duty	SWS	IGST	Total Duty			
1	5522494 dtd. 21.09.21	4619025	689535	68954	967953	1726442	05.02.22	04.03.22	Bond for Rs. 4600560/-; B.G. for Rs.348722/-
2	5522458 dtd. 21.09.21	5343588	794428	79443	1119143	1993014	06.02.22	04.03.22	Bond for Rs. 5270340/-; B.G. for Rs.400546/-
	Total	9962613	1483963	148397	2087096	3719456			

2.4 Further, it appeared that the appellant in connivance with their Customs Broker namely M/s B.N.Thakkar and M/s Shreeji Link and Logistics had violated the provisions of Custom Act, 1962 undervalued and mis-declared the goods and had abetted in the attempt of appellant in filing incorrect declarations and valuation of the goods while filing the Bills of Entry. Further, the appellant had paid the Customs duty of Rs. 37,19,456/- during the investigation.

2.5 On conclusion of investigation, a show cause vide SCN no. S/16-65/Enq-Mithila/SIIB-A/CHM/21-22 dated 02.12.2022 issued by the the Additional Commissioner of Customs (SIIB), Mundra, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why :



A.I.

- i) the goods valued to Rs.99,62,613/- covered under impugned bills of entry should not be confiscated under the provisions of Section 111(m) of the Customs Act, 1962;
- ii) Customs Duty of Rs.37,19,456/- on the aforesaid imported goods should not be demanded, confirmed and recovered from them under Section 28 (4) of the Customs Act, 1962 and since the entire duty has been paid, the same should not be appropriated;
- iii) Interest at appropriate rates should not be levied and recovered from them under Section 28AA of the Customs Act, 1962;
- iv) Penalty should not be imposed on the importer under Section 114 A of the Customs Act, 1962.

2.5.1 Penalty under Section 117 of the Customs Act, 1962 should not be imposed on Customs Broker namely M/s B.N.Thakker & Sons and M/s Shreeji Link and Logistics.

2.6 Thereafter, the adjudicating authority vide the impugned order passed the following order as:

- i. He confirmed the demand of Customs Duty of Rs. 37,19,456/- on the imported goods involved in the instant case under Section 28(4) of Customs Act, 1962 and appropriated the same.
- ii. He confiscated the imported goods involved in the instant case under Section 111(m) of Customs Act, 1962. However, the goods are not available for confiscation as they had already been provisionally released and full amount of Customs Duty has already been paid. Under the circumstances he imposed a redemption fine of Rs. 5,00,000/- under Section 125 of the Customs Act, 1962.
- iii. He imposed the penalty of Rs. 37,19,456/- under Section 114A of Customs Act, 1962 on the appellant. However, the benefit paying reduced amount of penalty to the extent of Rs. 9,29,864 (being 25% of duty involved) shall be available to the appellant subject to the condition that the interest payable under Section 28AA of Customs Act, 1962 is also paid within 30 days from the date of communication of this order, subject to the further condition that the said reduced penalty of Rs. 9,29,864/- shall also be paid by the appellant within 30 days from the date of receipt of this Order.



11/

iv. He imposed penalty of Rs. 20,000/- under Section 117 of Customs Act, 1962 on the Customs Broker namely M/s B.N.Thakker & Sons and M/s Shreeji Link and Logistics.

3. Being aggrieved with the impugned order, the appellant have filed the present appeal and mainly contended that;

- That the Adjudicating Authority has mentioned that opportunities of Personal Hearing were granted in the matter, but the appellant has not received any notice of Personal Hearing in the case and also no documents relied in the show cause notice was provided before adjudication of case, thereby violating the principles of natural justice.
- That goods were seized on 31.12.2021, but the Show Cause Notice was issued only on 02.12.2022, beyond the statutory six-month limit under Section 110(2) of the Customs Act, without any extension, rendering the seizure invalid and entitling unconditional release.
- That once provisional assessment was made under Section 18, only final assessment should have followed. Confiscation and penalty proceedings are impermissible without final assessment, thus vitiating the entire adjudication.
- That the transaction value was rejected without reasons under Rule 12 of the CVR, 2007, and no alternative valuation method was discussed, violating Section 14 of the Custom's Act and related rules. Hence, the valuation is arbitrary and unsustainable.
- That without completing final assessment under Section 18, there cannot be a valid finding of duty short-levy under Section 28, making the demand and penalty under Section 114A illegal and perverse.
- That since the goods are dutiable, if at all a penalty was warranted, it should have been under Section 112 with a cap of 10% of the duty sought to be evaded, not under Section 114A.
- That the adjudicating authority relied on a valuation report not supplied to the appellant and failed to explain the methodology adopted, making the adjudication flawed and contrary to the principles of fair hearing.
- That there is no evidence that the alleged misdeclaration was intentional or due to any deliberate act by the Appellant; hence, confiscation and penalty are unwarranted.



- That as the goods were not physically available at the time of adjudication, the imposition of redemption fine is illegal and against settled law.

PERSONAL HEARING

4. Shri Ashwini Kumar, Advocate, appeared for personal hearing on 27.12.2024 on behalf of the Appellant. Further, due to change of the Appellate Authority, a fresh Personal Hearing was provided to which Shri Ashwini Kumar, Advocate attended the PH on 24.04.2025 held in virtual mode. He reiterated the submission made in the appeal memorandum and submitted that in the instant case, the goods were subjected to provisional assessment under Section 18 of the Customs Act, 1962 which has an overriding effect over other provisions of the Act, but the adjudicating authority proceeded under Section 28 of the Act, without assessment being finalized and thus, there cannot be any question of duty not-paid or short-paid. Hence, the proceeding under the said provision is de hors in the eye of law. Once, the proceedings under Section 28 is held to be without authority of law, the penalty under Section 114A would not be applicable. Further, while enhancing the valuation, the adjudicating authority ought to have followed the procedure specified in the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, but no Rules have been quoted under which the valuation of the goods have been determined. Thus, the enhancement of value under the proceedings arbitrary and improper.

DISCUSSION & FINDINGS

5. I have gone through the appeal memorandum filed by the Appellant, records of the case and submissions made during personal hearing. The issues to be decided in present appeal are whether the impugned order passed by the adjudicating authority for confiscation of imported goods under Section 111(m) of the Customs Act, 1962 and imposing Redemption fine under Section 125 of the Customs Act, 1962 and penalty under Section 114 AA of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

5.1 Being aggrieved, the appellant has filed the present appeal on 24.07.2023. In the Form C.A.-1, the date of communication of the Order-In-Original dated 28.06.2023 has been shown as 08.07.2023. Therefore, the appeal has been filed within normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit and the appellant has already paid the full duty amount during the investigation, it has been admitted and being taken up for



disposal in terms of Section 128A of the Customs Act, 1962.

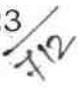
5.2 It is observed that the appellant have contended that they have not received any opportunity of personal hearing granted by the adjudicating authority and relied upon documents. In this regard, I find that the appellant could not present his case before the original adjudicating authority at the first instance. Therefore, I am of the considered view that in the interest of justice an opportunity may be granted to the appellant to be heard and to provide the relied upon documents.

5.3 In view of the above, I find that remitting the present appeal to adjudicating authority for passing fresh order for considering the submissions made by the appellant in the present appeal has on record, become sine qua non to meet the ends of justice. Accordingly, the case is remanded back to the adjudicating authority, in terms of sub-section of (3) of Section 128A of the Customs Act, 1962, for passing a fresh order by following the principles of natural justice. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs - 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del)] holding that Commissioner (Appeals) has power to remand the case under Section - 35A (3) of the Central Excise Act, 1944 and Section - 128A (3) of the Customs Act, 1962.

6. In view of the above discussion, I allow the appeal by way of remand to the adjudicating authority for passing fresh order after taking the submissions made by the appellant in the present appeal on record. The adjudicating authority shall examine the available facts, documents, submissions and issue speaking order afresh following principles of natural justice and legal provision.




 (AMIT GUPTA)
 COMMISSIONER (APPEALS)
 CUSTOMS, AHMEDABAD.

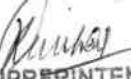
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Dated - 30.04.2025

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