प्रधानआयुक्तकाकार्यालय, सीमाशुल्क , अहमदाबाद

सीमाशुल्कभवन, आलइंडीयारेडीऑकेबाजुमे,नवरंगपुरा,अह्मदाबाद 380 009

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SHOW CAUSE NOTICE

M/s Chiripal Poly Films Ltd, having their registered office at Chiripal House, Shivranjani Cross Roads, Satellite, Ahmedabad, Gujarat-380015 (hereinafter referred to as 'the Importer' for the sake of brevity), holding IEC No. 0810007266, are engaged in import of various goods through ACC, Ahmedabad, Hazira Port & ICD Khodiyar under Advance Authorizations. They are manufacturer importer and exporting their manufactured goods viz. (1) Bi-Axially Oriented Polypropylene (Bopp) Film, (2) Aluminum Metalized Bopp Film, (3) Polyester Metalized Film, (4) Polyester Film, (5) Polyester (Pet) Chips (High Pressure Moulding Grade/Bottle Grade), (6) Other Polyethylene Terepthalate, etc. since January, 2009.

2. Intelligence was developed by the Directorate of Revenue Intelligence, Kolkata (hereinafter referred to as DRI) to the effect that the Importer had imported various input materials viz. Plastic granules, Additives etc. under Advance Authorizations, availing the benefit of exemption under Notification No.18/2015-Customs dated 01.04.2015, as amended, without fulfilling the pre-import condition. The said Notification No. 18/2015-Customs was amended by Notification No.79/2017-Customs dated 13.10.2017 allowing such exemption, subject to pre-import condition. As per the said amendment, exemption from integrated tax leviable under sub-section (7) of Section 3 of the Customs Tariff Act, 1975 would be available if the export obligation has been fulfilled by physical exports only. Thereafter, vide Notification No. 01/2019-Customs dated 10.01.2019, the "pre-import condition" was omitted. Thus, the said "pre-import condition" was to be complied with for the period from 13.10.2017 to 09.01.2019 only.

3. Based on the investigation, a Show Cause Notice No. VIII/10-11/DRI/KZU/Commr/O&A/2021-22 dated 16.09.2022 for recovery of IGST of Rs.16,93,28,540/- involved in 63 Bills of Entry filed at Hazira Port, Ahmedabad Airport and ICD Sabarmati, was issued by the Commissioner of Customs, Ahmedabad to the said Importer.

4. Whereas the issue regarding validity of "pre import condition" was challenged before the Hon'ble Gujarat High Court. The Hon'ble Gujarat High Court allowed SCA along with SCA by Maxim Tubes Co. Pvt. Ltd. V/s. UOI [2019 (368) ELT 337 (Guj.)]. However,

Union of India challenged judgment of the Hon'ble Gujarat High Court before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide Order dated 28.04.2023 over ruled the orders dated 04.02.2019 passed by the Hon'ble Gujarat High Court with directions in para 75 of the said Order dated 28.04.2023, as reported in UOI vs Cosmo Films Ltd [2023(385) E.L.T. 66 (S.C.) / (2023) 5 Centax 286 (S.C.)].

5. Thereafter, CBIC issued Circular No.16/2023-Customs dated 07.06.2023 directing field officers to allow all such importers in India to make payments of duty (IGST), who had not satisfied the "Pre-Import Condition" during the period from 13.10.2017 to 09.01.2019. The Circular also provided that on completion of above payment, POI should make a notional out of charge (OOC) for B/E on Customs EDI System enabling transmission to GSTN Portal to avail Input Tax Credit as per GST provisions.

6. Whereas the Importer had filed 06 (six) Bills of Entry at Hazira Port, Surat in respect of which they had violated the pre-import condition and requested for re-call and re-assessment of the said Bills of Entry filed by them during the period from 27.03.2018 to 05.11.2018. Accordingly, the said Bills of Entry were re-called and re-assessed by the officers in charge of the Port of Import (POI) and the Importer paid the IGST of Rs.4,41,59,678/- alongwith interest of Rs. 3,34,87,037/-, involved in the said 6 Bills of Entry in terms of the Circular No.16/2023-Customs dated 07.06.2023. The details of the concerned bills of entry and corresponding challans are as under.

Sr. No.	BE No.	Date	IGST	Interest	Challan No.	Challan Date
1.	5750994	27.03.2018	1,26,92,088	1,04,52,717	2046115517	07.10.2023
2.	6824169	15.06.2018	61,81,442	48,85,033	2046115514	07.10.2023
3.	8738140	05.11.2018	31,78,530	23,29,035	2046115507	07.10.2023
4.	8330052	05.10.2018	1,23,88,883	88,69,083	2046115497	07.10.2023
5.	8737970	05.11.2018	31,16,206	21,78,356	2044895951	17.07.2023
6.	8201357	25.09.2018	66,02,528	47,72,814	2046115490	07.10.2023
TOTAL			**4,41,59,678**	**3,34,87,037**		

7. Further, the above Show Cause Notice dated 16.09.2022 was adjudicated by the Principal Commissioner of Customs, Ahmedabad vide Order-in-Original No. AHM-CUSTM-000-PR.COMMR-13-2024-25 dated 18.04.2024, wherein the demand of duty (IGST) with interest was confirmed and the imported goods were held liable for confiscation and also penalty was imported. Being aggrieved with the above Order-in-Original No. AHM-CUSTM-000-PR.COMMR-13-2024-25 dated 18.04.2024, the Importer filed an appeal before the Hon'ble CESTAT, Ahmedabad. The Hon'ble CESTAT, Ahmedabad vide Final Order No. 11628-11630/2024 dated 23.07.2024 held that orders on confirmation of demands for interest and appropriation thereof, order of confiscation of goods, imposition of redemption fine and penalty are not sustainable and the appeals were allowed with consequential reliefs.

8. Thereafter, vide letter dated NIL (received on 20.08.2024 and revised letter dated 12.09.2024, received on 18.09.2024), the Importer submitted a refund claim of Rs. 3,34,87,037/- under Section 27 of the Customs Act, 1962, in respect of the interest paid by them.

8.1 The Importer submitted in their above claim that in the challan, interest is also shown because it is observed at Para 5.2 (c) of the Circular dated 07.06.2023 that payment of tax, along with applicable interest, shall be made against the electronic challan by the importers; that they deposited the entire amount as recorded in the challan, because it was not possible to deposit only the amount of tax without interest; that the EDI System would not accept the payment, if the amount being paid was not equal to the total figure/amount in the electronic challan; that payment of only the tax amount was not possible under the challan electronically generated in EDI System and that interest is not applicable in this case.

8.2 The Importer also submitted that the tax that they had to pay was IGST, which is levied under sub-section (7) of Section 3 of the Customs Tariff Act, 1962; that IGST under Section 3(7) of the Customs Tariff Act is not "Customs duty" charged under Section 12 of the Customs Act, 1962, but it is an independent levy under a separate statute and an independent charging section; that under sub-section (12) of Section 3 of the Customs Tariff Act, 1962 it is laid down by the Parliament that the provisions of the Customs Act, 1962 and the Rules and Regulations made thereunder, including those relating to Drawbacks, refunds and exemption from duties shall be applicable, so far as may be, to the tax chargeable under Section 3 of the Tariff Act; that there is no provision under Section 3 of the Customs Tariff Act or any other law for the time being in force, for charging interest in case of payment of IGST levied under sub section (7) of Section 3 of the Customs Tariff Act; that they relied on the decision of Hon'ble Bombay High Court in case of M/s Mahindra & Mahindra Ltd. [2022 (10) TMI 212 – Bombay High Court], wherein it has been held by the Hon'ble High Court that interest and penalty were not chargeable on tax levied under Section 3 of the Customs Tariff Act, because there was no specific provision under this Section of the Tariff Act for charging interest or imposing penalty in respect of duty chargeable under that section and the said judgement of the Hon'ble High Court has been upheld by the Hon'ble Supreme Court while dismissing the Revenue's Special Leave Petition as reported in 2023(8) TMI 135 and the review petition filed by the Revenue in this case has also been dismissed by the Hon'ble Supreme Court vide order made on 09.01.2024.

9. The above refund claim of Rs. 3,34,87,037/- was rejected by the Assistant Commissioner of Customs, Hazira, vide Order-in-Original No. 59/AC/CHH/ REFUND/ 2024-25 dated 19.02.2025, in view of the fact that the re-assessment of the subject Bills of Entry was made as per the request of the Importer and the Importer had not challenged the re-assessment of the Bills of Entry.

10. Being aggrieved, the Importer filed a Miscellaneous Application before the Hon'ble CESTAT, Ahmedabad vide C/Misc/10015/2025 in appeal No. C/10229/2024. The Hon'ble CESTAT vide order dated 19.02.2025, held as under:-:

> *"The Counsel for the party represents that the order was passed in their favour by this bench (different constitution) on 28.07.2024. In pursuance of the relief granted,*

the refund application was filed on 12.08.2024 wherein, three formations involved have been granted refund. In Ahmedabad Commissionerate, the Assistant Commissioner of Customs at ICD Khodiyar and Hazira Surat instead of following the order of this Tribunal, as per judicial discipline and also as per executive warrant as contained in CBEC Circular No. 572/9/2001- CX dated 22.02.2001 and various other circulars issued on this subject requiring that either a stay should be obtained against an order which the field authority finds is contestable or the order be complied with and refund and rebate claim should not be withheld on the ground that an appeal has been filed against the order granting relief, unless stay order has been obtained. The field formations ignoring to honor the order of this Court have issued a show cause notice. Learned Advocate on the other hand points out that all the instructions as well as various judgments supporting the proposition that refund cannot be refused were put up before authorities. Even the judgment of the Apex Court were quoted to the field Assistant Commissioner but he continued to refuse the refund even when no stay order is on record.

2. We have considered the submissions made before us. The position as brought out is not approved by this Bench and the stand taken by the lower authorities is not only against the judicial discipline but also against the executive mandate. This Court at the behest of the AR allows time to appropriately correct the situation as per law, till the next date. The whole action smacks of disobedience of an order or likely contempt of the orders of this Court as no subordinate authority prima-facie can be allowed to re-open any matter decided by this Court. The date is fixed for 24th March, 2025 on which date the Learned AR will file the status report through the concerned Commissioner, with comments specially on the differential treatment meted out to the appellant in his commissionerate only."

10.1 Further, the Importer also filed an appeal before the Commissioner (Appeals), Customs, Ahmedabad against the Order-in-Original No. 59/AC/CHH/REFUND/ 2024-25 dated 19.02.2025. The Commissioner (Appeals) vide Order-in-Appeal No. AHD-CUSTM-000-APP-006-25-26 dated 04.04.2025 held as under:-

"7. ln view of above discussions and respectfully following the judgment of Hon'ble CESTAT, Ahmedabad, I am of the considered view that the Appellant is eligible for refund claim for an amount of Rs. 3,34,87,037/- under the provision of Section 27 of the Customs Act,1962. The impugned order is legally not sustainable and is, accordingly, set aside.

...

9. It is further observed that the aspect of doctrine of unjust enrichment has not been examined in the impugned order. ***Hence, the matter needs to be remanded to the adjudicating authority to only verify the aspect of unjust enrichment and to dispose of refund claim of the Appellant accordingly****.*

...

11. ln view of the above, I set aside the impugned order and allow the appeal filed by the Appellant by way of remand to the adjudicating authority, for passing fresh order, after examining the aspect of unjust enrichment, after taking the submission made by the Appellant in the present appeal on record, after following principles of natural justice."

11. Whereas, in compliance to the said order of the Commissioner (Appeals) and in view of the decision passed by the Hon'ble CESTAT, Ahmedabad vide Final Order No 11628-11630/2024 dated 23.07.2024 in Customs Appeal No. 10228-10230 of 2024, the refund claim filed by the importer was held to be admissible and accordingly the Assistant Commissioner of Customs, Hazira, vide Order-in-Original No. 07/AC/CHH/ REFUND/2025-26 dated 09.04.2025 sanctioned the refund claim of Rs. 3,34,87,037/- to the Importer under Section 27 of the Customs Act, 1962.

12. Whereas, the department has filed Tax Appeals No. 70/2025, 74/2025 and 79/2025 against the above Final Order No 11628-11630/2024 dated 23.07.2024 passed by the Hon'ble CESTAT, Ahmedabad, before the Hon'ble High Court of Gujarat, on the following grounds:

(i) That learned CESTAT ought to have been appreciated that the importer had never revealed to the Department at the time of imports that the said imports were being made wherein they would not adhere to the pre-import conditions imposed therein i.e. violated Section 46 of the CA, 1962. Therefore, for the said suppression of the facts, the demand (of Customs duty in the form of IGST) was rightly raised under Section 28(4) of the Customs Act, 1962. It was only because of the investigation of DRI that the said facts were revealed and the evasion detected.

(ii) The Supreme Court in the case of Union of India v/s Cosmos Films Ltd & Ors has held as under in the issue relating to pre-import condition for which notification No. 18/2015 – Customs duly amended by Notification No. 79/2017 were issued:

> *"75. For the foregoing reasons, this court holds that the Revenue has to succeed. The impugned judgement and orders of the Gujarat High Court are hereby set aside. However, since the respondents were enjoying interim orders, till the impugned judgements were delivered, the Revenue is directed to permit them to claim refund or input credit (whichever applicable and/or wherever customs duty was paid). For doing so, the respondents shall approach the jurisdictional commissioner and apply with documentary evidence within six weeks from the date of this judgement. The claim for refund/credit shall be examined on their merits on case-by-case basis. For the sake of convenience, the revenue shall direct the appropriate procedure to be followed, conveniently, through a Circular, in this regard."*

(iii) The learned CESTAT failed to observe that the Circular No. 16/2023 was issued upon implementation of Supreme Court Judgement and in compliance with the directions in Supreme Judgement in Civil Appeal No. 290/2023. The learned CESTAT also failed to observe that the issue was examined in the Board and only thereafter instant circular was issued. Hence it cannot be said that the Circular are views of officers.

(iv) That the learned CESTAT ought to have been appreciated that in present case, issue is regarding non payment of IGST levied under Section 3 (7) of the Customs Tariff Act, 1975. IGST is being levied under Section 5 of the IGST Act, 2017 on supply of goods or services on Inter-State supply and on import in India. Further, in the IGST Act, 2017, there is clear provision for recovery of interest on non payment of IGST on Inter-State supply. Further to safeguard the interest and making the level playing field to domestic industry, similar interest on the goods and service being import in India is made leviable under

Section 28AA of the Customs Act, 1962 and it can never be the intention of the statute to not recover interest on non payment of IGST for domestic assesse.

(v) That despite the said Circular issued in pursuance to the direction of the Apex Court judgement for the judgement's implementation, and that the Circular is in force and has not been set aside/ rescinded/ declared illegal or ultra vires, learned CESTAT appears to have overlooked the purpose of the Circular and that the payment of IGST with interest was a mechanism for the importers to avail the input credit or refund as the case may be, has ordered vide the subject Order dated 23-07-2024 that the entire demands of duty are beyond the normal period, the orders of confirmation of demands of duty with interest, fine and penalty are not sustainable on the ground of time barring also, though Appellant has not objected confirmation of duty seriously, which has been paid and allowed as credit by the Revenue as per the Circular dated 07-06-2023 [para 5.23 of the subject CESTAT Order]. The learned CESTAT vide subject Order dated 23-07-2024 at para 7, set aside the orders on confirmation of demands for interest and appropriation thereof, order of confiscation of goods, imposition of redemption fine and penalty.

(vi) That in the backdrop of the aforementioned grounds and averments, the provisions relating to leviability of interest under Section 28AA as enumerated above may be considered. It is submitted that Section 28AA of the Customs Act is one of those uncommon provisions of law, that starts with a non-obstante clause, thereby giving primacy, prevalence and supreme importance to the provisions contained in the said Section, so as to hold them as a determinant and a predominant provision in law. Exhuming the legislative intent therefrom would safely lead to the conclusion of the imperative nature of the levy of interest, in the given circumstances. Thus, sub-Section (1) of Section 28AA (whereunder the demand for interest in the present matter has been made out) makes the imposition of interest as automatic or as an appendage to a case where a duty liability has been fastened under the provisions of Section 28.

(vii) That the learned CESTAT ought to have appreciated the fact of usage of the words "shall" and "in addition to such duty," in Section 28AA (1) emphatically indicates the applicability of interest, to a scenario where duty becomes payable thereto. The regulatory framework and the rate of interest etc. are dealt with in sub-Section (2) of Section 28AA while sub-Section (3) of Section 28AA provides for a situation where no interest was payable. Thus, to appreciate the automatic or the mechanical application of interest, it would be foremost to state that the law itself fastens it on the incumbent by stating "is liable to pay duty in accordance with the provisions of Section 28" [refer Section 28AA (1)]. Also, it is important to note that the words "liable to pay duty" cannot be read in isolation of the remaining part of the phrase. It has to be read in conjunction with the rest of the sentence which reads "……. in accordance with the provisions of Section 28." Thus, it is quite clear as to what has been further borrowed for the realization of interest payable and applicability as an automatic route, are the structural elements of Section 28. Therefore, the very sub-Section itself heralds both leviability and realization of the interest fastened onto the short paid duty. Moreover, there can be no disagreement over the fact that a non-obstante clause is added to a provision in order to uphold its enforceability over anything that may be held contrary thereto and assists the digging out and clarifying the legislative intent. As commonly understood, appending a non-obstante clause to a provision, gives it an over-riding impact and is co-extensive with the operative part, without in the least, cutting down upon the clear terms of the enactment.

(viii) That there are several matters wherein the various Hon'ble Courts have repeatedly upheld the enforceability and the applicability of the interest element, be it with reference to a refund claim or a demand matter as may arise with reference to the additional duty of Customs leviable under Section 3 of the Tariff Act. It is submitted that the Hon'ble Madras High Court in the case of KSJ Metal Impex (P) Ltd. Vs. Under Secretary (Cus), M.F. (D.R.), [2013 (294) ELT 211 Mad.] directed payment of interest on the delayed refund. While the Hon'ble Court was also concerned in the matter, with the implication of CBEC circular No. 6/2008 dated 28.04.2008, that being not germane to the issue herein is not being dwelt upon.

(ix) That the learned CESTAT ought to have been appreciated that there are several other cases where interest was held payable by the Courts either on refund of duty of paid, or recovery of short paid duty, arising out of levy under Section 3 of the Tariff Act, i.e. CVD or Additional Duty of Customs or other provisions of the act ibid. While, as already elaborated upon the case of KSJ Metal Impex Vs. Under Secretary (Cus.) MF (DR) where the Hon'ble High Court pointed out consequences of any default in refund would follow, in the case of MM Enterprises Vs. Commissioner of Customs, Chennai IV, [2021 (376) E.L.T. – 503 Mad.] pertaining to a similar case of special additional duty leviable under Section 3 of the Tariff Act, the Hon'ble Court held that the respondent (Commissioner) was "duty bound" to pay interest in terms of Section 27A of the Act for the delayed refund payable under Section 27 of the Act.

(x) That the learned CESTAT ought to have been appreciated that in the case of SR Polyvinyl Ltd. Vs. Commissioner of Customs (ICD), TKD, New Delhi, [2020 (371) ELT 283 Del.] the Hon'ble Delhi High Court dismissed the department's plea of denial of interest to a case of anti-dumping duty where the relevant notification imposing the said duty got to be quashed. The said refund of interest in the matter was permitted for the delay in sanction of refund by way of automatic application of interest provisions through Section 27A of the Customs Act, pari materia Section 11AB of the Central Excise Act as was considered in the case of Ranbaxy Laboratories Vs. UOI – 2011(10) SCC 292 and relied upon by the petitioners in the present matter.

(xi) That the learned CESTAT ought to have been appreciated that in the case of Micromax Informatics Ltd. Vs. UOI [2018 (361) E.L.T. 968 Del.] the Hon'ble Delhi High Court after elaborate analysis of the various provisions of law pertaining to levy of duty refund and interest and examining relevant notifications and circulars, was definitive about the fact that interest was leviable for delayed refund of SAD, in terms of Section 27A of the Act. Thus the Hon'ble Court held despite the arguments to the contrary and the stand of the revenue regarding non-applicability of interest.

(xii) That learned CESTAT ought to have been appreciated that the Hon'ble Karnataka High Court in the case of Commissioner of Central Excise, Bangalore Vs. Kenna Metal Widia (India) Ltd., [2010 (280) ELT 381 Kar.] held that interest was leviable, whatever be the reason and irrespective of the fact of the assessee being at fault or not. In doing so it adopted the ratio of law as flowing in the following cases:

a. Union Vs. Rajasthan Spinning and Weaving Mills (2009 (238) ELT 3 SC)

b. Commissioner Vs. Presscom Products (2011 (268) ELT 344 Kar.)

(xiii) That the learned CESTAT ought to have been appreciated that the said stance has been consistently adopted by the courts. Thus in the case of Commissioner of Central Excise, Pune Vs. M/s. SKF India Ltd. [2009 (TIOL-82 SC)] the Hon'ble Apex Court upheld the liability to pay interest, despite the fact that the liability to pay duty stemmed from the fact of issuance of supplementary invoices, raised on account of retrospective revision of prices. The apex court, reversing the stand of the High Court, noted the fact that the short payment of duty was "though indeed completely unintended and without any element of deceit etc." It observed that impliedly there was a short payment of duty at the time of clearance and therefore the liability to pay interest.

(xiv) That the learned CESTAT ought to have been appreciated that the Hon'ble Apex Court in the case of Pioneer Silk Mills Ltd. (supra), had the following to say for the liability to pay interest:

> *"18. Once, therefore, duty is ascertained then by operation of law, such person in addition shall be liable to pay interest at such rate as fixed by the Board. The concerned Officer, therefore, in the ordinary course would be bound once the duty is held to be liable on account of collusion, wilful misstatement or suppression of facts to call on the party to pay interest as fixed by the Board at the relevant time."*
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> *(Emphasis Supplied)*

(xv) That learned CESTAT ought to have been appreciated that interest as stated earlier is compensatory, while under the taxation laws, and thus, liability to pay interest is founded on the doctrine of compensation which can be considered as compensation fixed by the authority of law for use or detention of money, or for the loss of money by one entitled for its usage.

(xvi) That learned CESTAT gravely and materially erred in passing the impugned order since the words like Interest, Fine and Penalty are not mentioned in the said Sub Section 3(12) of the Customs Tariff Act, 1975, and further that the learned CESTAT gravely and materially erred in construing that there were no provisions for levy of interest, fine and penalty and therefore, the same cannot be recovered. The learned CESTAT failed to appreciate that even there are no wording as to when and how and at what value the Additional duties would be levied, how the assessment would be done etc. However, assessment of Additional Duties is done as per Section 14 of the Customs Act, and Valuation Rules made thereunder, Date for determination of Additional duty is being done under Section 15 of the Customs Act, 1962, Assessment is being done under Section 17 or 18 of the Customs Act, 1962 as the case may be. Thus, in absence of wording of said mentioned Sections, even the provisions of levy of Additional Duties under Customs Tariff Act, 1975, the same cannot be recovered in absence of mechanism provided under Customs Act, 1962 and the entire Customs Act, 1962 for the recovery of Additional duty would be redundant in absence of specific provision mentioned therein under Customs Tariff Act, 1975.

(xvii) That learned CESTAT ought to have been appreciated that the Hon'ble Apex Court in the case of Pratibha Processors and Ors. Vs. Union of India and Ors, (1996 (11) SCC-101) while dealing with the import of words tax, interest and penalty observed as

under:

> *"14. In fiscal statutes, the import of the words –- "tax", "interest", "penalty", etc. are well known they are different concepts. Tax is the amount payable as a result of the charging provision. It is a compulsory exaction of money by a public authority for public purposes, the payment of which is enforced by law. Penalty is ordinarily levied on an assessee for some contumacious conduct or for a deliberate violation of the provisions of the particular statute. Interest is compensatory in character and is imposed on an assessee who has withheld of any tax as and when it is due and payable. The levy of interest is geared to actual amount of tax withheld and the extent of the delay in paying the tax on the due date. Essentially, it is compensatory and different from penalty –- which is penal in character."*
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> *(Emphasis Supplied)*

(xviii) That in order to offset any argument concerning default in payment of duty, not on account and attributable to the impugned order, it would be appropriate to invite reference to the decision of the Hon'ble Apex Court in the case of Commissioner of Central Excise Vs. International Auto Ltd. [2019 (366) ELT 769 SC] wherein the Hon'ble Apex Court was pleased to hold that payment of duty made by the assessee, if with delay either by own ascertainment or as ascertained by the officer was not exempt from interest chargeable under Section 11AB of the Central Excise Act. It further held that interest was leviable for loss of revenue on any count. The Supreme Court went on to hold that payment of differential duty subsequently was indicative of the fact of interest being automatically leviable.

(xix) That learned Counsel ought to have been appreciated that the Apex Court in the case of Steel Authority India Ltd. Vs. Commissioner of Central Excise Raipur (2010 (250) ELT 3 SC) observed that being a case of short levy, Section 11A read with Section 11AB ibid would be attracted and interest leviable from the relevant date as provided in Rule 8 read with Section 11AB. Noteworthy, to state that the provisions of the Central Excise Act, Section 11A and Section 11AB can be considered mutatis mutandis with the provisions of Section 28 and Section 28AA of the Customs Act. The Supreme Court in the said case stated that "in short, therefore, the principle may be taken to be established that while levy of interest is a part of the adjective law, yet to levy interest there must be a substantive provision. Demand for interest can be made only if the legislature has specifically intended collection of interest." This is so in the present context as well by virtue of Section 28AA of the Act.

(xx) That learned CESTAT ought to have been appreciated that likewise, the Hon'ble Supreme Court in the case of Commissioner of Central Excise Vs. International Auto Ltd. had held that in view of the statutory provisions under Section 11A of the Central Excise Act, default in the payment of the duty either by virtue of own ascertainment or as ascertained by the Revenue Officer was not exempt from interest chargeable under Section 11AB.

(xxi) That the learned CESTAT ought to have been appreciated that an important case having a bearing in the present matter is that of Union of India Vs. Valecha Engineering Ltd. While the issue concerned therein was the refund of interest paid voluntarily and as directed by the Settlement Commission. In appeal the Hon'ble High Court however, held

that the Settlement Commission was not having jurisdiction to direct refund of interest. It remanded the matter for directing interest either in terms of the bond or notification or Section 28AB of the Customs Act. To a specific question, as also raised at the time of hearing, as to whether the provisions of interest under the Customs Act were incorporated or not in the Tariff Act, the Hon'ble Court, in no uncertain terms held that the definition in the duty of the Customs Act indicates that the provisions of the Customs Act pertaining to duty are applicable to duty payable under the Tariff Act, and as interest provisions are compensatory and not penal, and are a re-compensation for the State on account of the failure to pay duty, interest under Section 28AB of the Act was payable when Section 28 was attracted and duty ascertain as due under the Tariff Act, by applying the machinery provision of the Customs Act. In short to state that once duty payable is ascertained, the relevant provisions of the Customs Act seeking payment of interest were applicable and therefore the Hon'ble Bombay High Court upheld the leviability of interest.

(xxii) That learned CESTAT ought to have been appreciated that the Hon'ble Supreme Court in the case of Commissioner of Trade Tax Vs. M/s. Kanhoo Ram Thekedar, [2005 (185) ELT 3 (S.C)] has taken the view that interest liability accrues automatically. In the case of M/s. Kamat Printers Pvt. Ltd. Vs. Union of India the Bombay High Court had held that once duty is ascertained then by operation of law such person in addition, shall be liable to pay interest at such rate as applicable.

(xxiii) That learned CESTAT ought to have been appreciated that when and as held by various authorities interest provisions are held to apply automatically to cases of delayed refunds (despite non-inclusion of the term "interest" in Section 3(12) of the Tariff Act), it cannot be held otherwise for a case of delayed payment of duty what is good for the goose has to be good for the gander.

(xxiv) That the learned CESTAT ought to have appreciated that in the case of Commissioner of Central Excise Vs. SKF India Ltd. in Civil Appeal No.5190-91/2008, while upholding the adjudicating authority's order for payment of interest for delayed payment of duty (due to upward revision of prices), the Hon'ble Apex court had gone by the principle of "consequences of failure" to discharge the obligation in law, that can also be termed as automatic applicability of interest under Section 11AB of the Central Excise Act, to short paid duty ascertained under Section 11A of the act ibid. The provisions of the excise act being similar to the provisions of the Customs Act, there, therefore remains no dispute in the matter about the leviability and payment of interest on the short paid duty amount, as applicable.

(xxv) That the learned CESTAT ought to have been appreciated that with reference to IGST levy and its assessment on import of goods are concerned, Hon'ble Kerala High Court, in the case of M/s. Ajwa Dry Fruit Impex Versus Union of India, as reported at 2023(11) TMI 773 – Kerala High Court, had already held that "….sub-Section (15) of Section 2 defines duty which means Customs duty. Section 28 empowers the assessing authority to assess and recover the duties not levied, not paid, short levied or short paid or erroneously refunded. Section 28 therefore is not only in respect of duty which means Customs duty but, it is in respect of duties which may be applicable on imported item/goods; and therefore, the competent authority is empowered to make assessment regarding claim of exemption from IGST under Section 28 of the Act". Thus, when demand can be made under the provisions of Section 28 of the Act, obviously, interest

under the provisions of Section 28AA clearly applicable on the short-paid/non-paid amount of IGST.

(xxvi) In the case of M/s. Texmaco Rail Engineering Limited Versus Commissioner of Customs (Port), Kolkata, as reported at 2024 (1) TMI 902 – CESTAT, Kolkata, wherein the appellant initially contested the leviability of interest. The appellant argued that the charging section for CVD was not Section 12 of the Customs Act but the appropriate sections of the Tariff Act and that the provisions of the Customs Act relating to interest were not borrowed under Section 3 of the Tariff Act. The appellant relied on several judicial precedents, including the Supreme Court's decision in Hyderabad Industries Limited Vs. Union of India, which held that additional duty (CVD) levied under Section 3(1) of the Tariff Act is independent of the Customs duty levied under Section 12 of the Customs Act. However, learned CESTAT found that the provisions of the Customs Act, including those relating to interest, are applicable to the duty chargeable under Section 3 of the Tariff Act by virtue of Section 3(8) (the-then – now Section 3(12) of the Tariff Act. The Tribunal noted that Section 28AA of the Customs Act, which mandates the payment of interest on short-paid duty, is applicable to cases where duty is determined under Section 28 of the Customs Act. The Tribunal also emphasized that interest is compensatory in nature and not penal, and its levy is automatic upon the determination of duty under Section 28.

(xxvii) That the learned CESTAT ought to have been appreciated that once the provision of provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulation made thereunder made applicable to the Additional Duties of Customs levied under Section 3 of the Customs Tariff Act, 1975 it is bad in law to construe that there is no provision for interest, fine and penalty are made therein and therefore the same cannot be recovered.

(xxviii) That the Learned CESTAT ought to have been appreciated that on a harmonious reading of the aforesaid decision of Hon'ble Supreme Court and followed by this Hon'ble High Court held that Additional Duties are custom Duty chargeable under Section 12 of the Customs Act, 1962 as there are provision of recovery of Customs Duty short paid/non paid along with interest and penalty are available under Section 28, 28AA, and therefore, the finding of the Ld. CESTAT that in absence of substantial provision under Section 3 of the Customs Tariff Act, 1975, no interest and penalty cannot be imposed is not tenable.

(xxix) That the learned CESTAT has referred the following provisions laid down under vide Section 8B(9) and Section 9A(8) of the Customs Tariff Act, 1975 and have inferred that there were specific provisions for interest, appeals, offence and penalties have been mentioned whereas such provisions are not incorporated under Section 3 (12) of the Customs Tariff Act, 1975 and therefore, interest, fine and penalty cannot be imposed. The learned CESTAT has not appreciated the facts that said Sub Section 8B(9) and Sub Section 9A(8) of the Customs Tariff Act, 1975 were inserted with regard to new levy of Safeguard Duty and Anti-Dumping Duty respectively which are being levied by issuance of Notification only and these Safe Guard Duty and Anti-Dumping Duty are not part of the Customs Duty whereas the Additional Duty of Customs levied under Section 3 of the Customs Tariff Act, 1975 are part of the Customs Duty and there was already the provisions of Customs Act, 1962 and Rules and Regulation made there under were made applicable. Since the provisions for levy of interest, fine and penalty available under the Customs Act, 1962, and made applicable vide Sub Section 3 (12) of the Customs Act, 1962, it is bad to read only the words mentioned therein and to leave the remaining

provisions which are explicitly laid down under Customs Act, 1962 and Rules and Regulation.

(xxx) That the learned CESTAT gravely and materially failed to appreciate an important aspect for consideration from leviability of duty standpoint is with regard to the refund of such duty wherever as may be applicable. Thus, it could be argued that Section 26 or Section 26A or Section 27 of the Customs Act deal with merely the duty imposed under the Customs Act Section 12. With regard to refund of other duties as leviable under the Customs Tariff Act say Section 3 (Additional Duty of Customs), Section 8B (Safeguard Duty) or Section 9A (Anti-dumping Duty) on such articles, the refund is enabled by virtue of the provisions contained in (erstwhile sub-section 8 or) the current sub-section (12) of Section 3, sub-section (9) of Section 8B or sub-section (8) of Section 9A respectively of the Tariff Act. Besides, Section 9AA of the Tariff Act provides for a specific consideration of the refund of anti-dumping in certain cases.

(xxxi) That despite non-incorporation of the word “interest”, in sub-Section 3(12) of the Tariff Act, adopting the various provisions of the Customs Act, the Hon’ble Delhi High Court in the case of Principal Commissioner of Customs Vs. Riso India Pvt. Ltd. (2016 (333) ELT 33 Del.) besides holding that the word “duty” as defined in Section 2(15) of the Customs Act was wide enough to cover all kinds of Customs duties, categorically held the applicability of the interest provisions to a case of delayed refund.

(xxxii) That in any event, learned CESTAT ought to have been appreciated that notwithstanding the provisions of Section 28(4) of the Custom Act, the subject matter involves execution of Bond executed by the importer wherein the importer had contractually obligated itself vide its executed Bond for payment of applicable duties with interest for violation of the conditions of the subject Notification.

(xxxiii) That the learned CESTAT has gravely and materially erred in having overlooked the statutory authority and legality by virtue of which the Bond had been executed. It is a matter of record that the Bond executed by the importer was filed under Section 143 of the Customs Act, 1962 for the clearance of the imported goods under Advance Authorization availing the benefit of exemption under Customs Notification No. 18/2015. Furthermore, the execution of the Bond was by virtue of the statutory authority of Section 143(1) of the Customs Act, 1962 and the subject imports were cleared subject to the conditions specified in the Bonds executed by the importer.

(xxxiv) That the learned CESTAT ought to have appreciated that the importer had not fulfilled the conditions of the aforementioned Notification and had not complied with the terms and conditions of the Notification. It is submitted that the importer appears liable to be proceeded against as per the conditions of the Bond executed under Section 143(1) of the Customs Act, 1962. The conditions of the Bond, inter alia state that the Government through the Commissioner of Customs or any other officer of the Customs may recover the same (amount) due from the Obligor(s) in the manner laid under sub-section (1) of the section 142 of the Custom Act.

(xxxv) The learned CESTAT ought to have appreciated that in the Order in Original it was discussed that there was no time limit prescribed for recovery of any liability in case of Bonds filed under Section 143(1) of the Customs Act, 1962 as it is a continuous liability on

the part of the importer to follow the conditions prescribed in the Bond. The learned CESTAT ought to have appreciated that the law empowers the officers of Customs to enforce the bond when conditions are not fulfilled. The learned CESTAT gravely and materially erred in failing to appreciate that the importer had executed the Bond at the time of import under Advance Authorisation and had undertaken to pay the duty along with interest as stipulated under Notification No.18/2015-Customs dated 01-04-2015, as amended by Notification No. 79/2017-Cus, dated 13-10-2017. Hence it is a contractual obligation on the part of the importer to pay the duty along with interest as per the conditions of the Notification.

(xxxvi) That the learned CESTAT has failed to appreciate the Adjudicating Authority's finding that interest has been demanded under Section 28AA of the Customs Act, 1962 and that the provision of Section 143 of the Customs Act, 1962 have been invoked in subject matter and only have stated that in absence of substantial provisions for interest and penalty, same cannot be levied/imposed. Learned CESTAT failed to appreciate that the importer had executed the Bond at the time of import under Advance Authorisation and had undertaken to pay the duty along with interest as stipulated under Notification No.18/2015-Customs dated 01-04-2015, as amended by Notification No. 79/2017-Cus, dated 13-10-2017. It is a contractual obligation on the part of the importer to pay the duty along with interest as per the condition of Notification. The Revenue is empowered as per provisions of Section 143 of the Customs Act, 1962 to enforce the Bond which is not having any time barring aspect. In the present case, there is specific conditions laid down under Notification No. 18/2015 dated 01-04-2015, as amended by Notification No. 79/2017-Cus, dated 13-10-2017 issued under Section 25 (1) of the Customs Act, 1962. Here it is worth to reproduce the condition no. (iv) of the Principal Notification No. 18/2015-Customs dated 01-04-2015 under which the importer had claimed the payment of IGST.

(xxxvii) The learned Tribunal had relied upon the decision of Mahindra and Mahindra, wherein no bond had been furnished by the assessee while in the present case the importer has duly furnished a bond under Section 143 of the Customs Act, 1962. The law empowers the officers of Customs to enforce the bond when conditions are not fulfilled. In addition, there is no time limit for enforcement of the bond, as also discussed supra. It is respectfully submitted that the above discussion shows that these Acts cannot be treated in isolation and are essentially enmeshed. "Sections 2 and 3(1) of the Tariff Act are not charging sections" but only complement and supplement Section 12 of the Customs Act, 1962.

(xxxviii) That learned CESTAT ought to have been appreciated that going by the principle of liberal construction as applicable to cases of no ambiguity and especially so in taxation matters, not an iota of doubt would remain about the applicability of the provisions of the Customs Act, Rules and Regulations, to that of Section 3 of the Tariff Act. That being the stated position, interest for delayed payment of duty/IGST under Section 28AA of Customs Act is certainly payable in the facts and circumstances of the present case. It may be relevant to point out to a well settled rule of construction, that to ascertain the legislative intent, all the constituent part of the legal provisions are "to be taken together and each word, phrase or sentence is to be considered in the light of the general purpose and object of the Act itself." (Ref - Popatlal Shah Vs. State of Madras [UOI & Ors.1953 (AIR) 274 SC)]. It was also held therein that the title and the preamble, for whatever their value might be as aids to construction of a statute, undoubtedly throw light on the intention and design of the legislature and indicate the scope and purpose of the legislation. Viewed in this context, it

is abundantly clear from the title and scope of Section 28AA of the Act, that interest is applicable on duty levied under Section 3 of the Tariff Act, as it is held to be a duty of Customs within the meaning of Section 2(15) of the Act and further reinforced by the non-obstante opening of the sub-Section, that re-emphasized that interest is unquestionably leviable for the delayed payment of duty/IGST.

(xxxix) That it has often been held to be a duty of the court to press into action, the maxim *ut res magis valeat quam pereat* to arrive at a meaningful interpretation and to construe the enactment in a manner so as to implement rather than defeat the legislative intent and purpose. As it is the said maxim is put to operation when two meanings are sought to be derived at from the enactment interpreting the plain words used in the statute. Thus, adopting this principle and in view of the plethora of court orders referred in earlier paras permitting the interest outgo in respect of levy under Section 3 of the Tariff Act, interpretation as would carry forward the legislative intent, is required to be adopted. The mandate of the legislature is required to be interpreted to advance the purpose of the legislation, equally in all situations. Thus, reading down the law, as held by courts in several such rulings does not advance in the present case.

(xl) That the learned CESTAT ought to have been appreciated that it is an established legal principle of interpretation that while considering a statute it is important to gather the *mens sententai legis* of the legislature. Where the words used in a statute are clear and there is no obscurity or ambiguity the intention of the legislature is clearly conveyed and discernible, they need to be given their natural meaning and application.

(xli) That since there appears no ambiguity in law, and the law is required to be in interpreted in a plain and simple manner. Were the word/phrase “including” in Section 3(12) of the Tariff Act was to be omitted in usage of the language of the Section, it could have been considered that the intent of legislature was to invite reference to Customs provisions only to the three specified areas of Customs working, viz. drawbacks, refunds and exemption from duties. That, however not being the case, it automatically falls in place that all the provisions of the Customs Act and the rules and regulations are essentially dovetailed into, for consideration and applicability in the Customs Tariff Act, 1975 disregard of all ifs or buts. Thus, the Respondent is duty bound to pay the interest, more so when the demand for IGST is as enshrined and in accordance with law and admittedly not disputed by the Respondent.

(xlii) That under the circumstances, the case laws relied upon by learned CESTAT are of no bearing to the present matter, for it is well known that precedents sub-silentio and without arguments are of no moment (in the factual matrix of the present case). What is binding upon us is the principle and the factual context of the case in which it was decided. It is respectfully submitted that obiter does not constitute a binding precedent and that quotability of law, applies to the ratio decidendi and statements that are not part of the ratio decidendi are distinguishable as obiter dicta and are not authoritative.

(xliii) That the learned CESTAT ought to have appreciated that therefore it can be stated that the intent of the Legislature was always to make all provisions of the Customs Act, 1962 applicable to all types of additional duties leviable on the goods imported into India under the Customs Tariff Act, 1975 including the provisions relating to interest and penalties which is substantiated by the fact that the substitution of Sub- Section (8) of

Section 9A of Customs Tariff Act vide Finance Act, 2009 has been made applicable retrospectively w.e.f. 01.01.1995. However, no such amendment was required to be carried out in respect of Section 3 of the Customs Tariff Act as the Customs Act, 1962 in entirety was already applicable in respect of additional duties levied under the said Section.

(xliv) That learned CESTAT ought to have been appreciated that in view of the above, it is quite apparent that the provisions contained in aforesaid sub-Section (12) of Section 3 are legislation by reference. It makes reference to provisions of the Customs Act, 1962 and the rules and regulations made thereunder, which are made applicable to the duty or tax or cess chargeable under Section 3 of the Customs Tariff Act, 1975 as they apply in relation to the duties leviable under the Customs Act, 1962. It is well settled that the implication of legislation by reference is that any modification, repeal or re-enactment of Customs Act, 1962 will also be applicable for duty or tax or cess or IGST chargeable under Section 3 of the Customs Tariff Act, 1975.

(xlv) That if the language of the statute in the then Section 3(12) of the Tariff Act ibid are held to limit the scope of the provision to the arenas of drawbacks, refunds and exemptions from duties and not to include other measures required as for a smooth holistic working of a tax statute, for instance appeals or aspects concerned with assessment of goods, the said provision would be rendered as a partially meaningful and largely factual entity and therefore defeat the statutory intention itself.

(xlvi) That for tax levy, a charge is first created by insertion of a charging Section in the statute book, followed by a mechanism/machinery to render the liability created effective and the mode for the recovery and collection of the tax, including penal provisions to cater to a situation of default or aberration. This is followed by other related mechanisms like levy of interest, grant of incentives etc. Thus, in the given context while learned CESTAT has passed the said order about the inapplicability of interest, learned CESTAT has failed to demonstrate the machinery adopted to make the realization of the tax feasible, by way of an assessment process, in the absence of non-adoption of the provisions of the Customs Act, but for those relating to drawbacks, refunds or exemption from duty. Thus in the first place, if that were to be the case no demand for IGST leviable under Section 3 of the Tariff Act, could even be contemplated.

(xlvii) That the learned CESTAT has erred to understand that only the provisions relating to drawbacks, refund and exemption from duties of the Customs Act would be applicable in respect of duties levied under Section 3 of the Customs Tariff Act, 1975. However, it is worth noting that the word preceding the specific provisions of Customs Act mentioned in the said sub-section is “including” which means the list provided is not an exhaustive list and other items and elements not specifically mentioned are also included in the list. Thus, it is very clear that Customs Act in its entirety has been made applicable to Section 3 of the Customs Tariff Act including the provisions relating to interest and penalties. Hon’ble Supreme Court in its various judgements has taken the same view in respect of use of word “includes” or “including” in the legislation.

(xlviii) That interest provisions for short paid duty in terms of Section 28AA of the Customs Act, shall equally apply to a case of determination of duty under Section 28 of the Customs Act, be it duty levied under Section 12 of Customs Act or IGST under Section 3(7) and 3(9) of the Tariff Act or any other provision thereof or any other law for the time

being in force.

(xlix) That the sub-section 12 of section 3 of Customs Tariff Act, 1975 which reads as *"The provisions of the Customs Act 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to drawbacks, refund and exemption from duties shall so far as may be apply to the duty or tax or cess, as the case may be, chargeable under this section as they apply in relation to the duties leviable under that Act."*

(l) That in view of the above the learned CESTAT's Final Order No. 11628 - 30/2024 dated 23-07-2024 arising out of Customs Appeal No. 10228-230 all of 2023 filed by the Importer against OIO No. AHM-CUSTM-000-PR-COMMR-11-24-25 dated 18/04/2024 passed by Principal Commissioner of CUSTOMS, Ahmedabad (in CUSTOM APPEAL NO. 10228 to 10230 of 2021) is not proper and legally not correct and the same is liable to be set aside.

13. Whereas, the Tax Appeals No. 70/2025, 74/2025 and 79/2025 filed by the department against Final Order No. A/11628-11630/2024 dated 23.07.2024 before the Hon'ble High Court of Gujarat, Ahmedabad is pending for final decision. Therefore, the refund of Rs. 3,34,87,037/- sanctioned vide No. 07/AC/CHH/ REFUND/2025-26 dated 09.04.2025 by the Assistant Commissioner of Customs, Hazira, appears to be erroneously refunded.

14. Whereas, as per provisions of Section 28 of the Customs Act, 1962, where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any willful mis-statement or suppression of facts, the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice. Further, under the Explanation 1 provided for the purposes of this section, "relevant date" means the date of refund in a case where duty or interest has been erroneously refunded.

15. Further, as per Section 28AA. Interest on delayed payment of duty. –

> *(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.*
>
> *(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.*

16. Pre-notice consultation hearing in terms of the provisions of Section 28(1)(a) read

with Pre-Notice Consultation Regulations, 2018 was held on 21.11.2025 in virtual mode, wherein Shri P.P. Jadeja, Consultant appeared on behalf of the Importer. In virtual hearing, Shri P.P. Jadeja, Consultant reiterated the contents of their submission dated 17.11.2025. The Importer vide letter dated 17.11.2025 has contended that the proposed show cause notice will be contrary to the Hon'ble CESTAT's Final Order dated 23.07.2024 and the refund of interest has been rightly allowed and released correctly as a consequential relief in terms of Final Order dated 23.07.2024 of the Hon'ble CESTAT, Ahmedabad.

17. After careful consideration of the issue involved and records of pre-consultation held on 21.11.2025 and written submission dated 17.11.2025 filed by the Importer, I find that the refund of Rs. 3,34,87,037/- (Rupees Three Crore, Thirty Four Lakh, Eighty Seven Thousand and Thirty Seven Only) has been sanctioned vide OIO No. 07/AC/CHH/ REFUND/2025-26 dated 09.04.2025 consequent to Final Order No. A/11628-11630/2024 dated 23.07.2024 passed by the Hon'ble CESTAT, Ahmedabad. Since the Department has filed an appeal before the Hon'ble High Court of Gujarat against Final Order No. A/11628-11630/2024 dated 23.07.2024, present show cause notice is required to be issued against the refund sanctioned vide OIO No. 07/AC/CHH/ REFUND/2025-26 dated 09.04.2025 to safeguard the Government Revenue.

18. Now, therefore, M/s Chiripal Poly Films Ltd, having their registered office at Chiripal House, Shivranjani Cross Roads, Satellite, Ahmedabad, Gujarat-380015, is hereby called upon to show cause to the Principal Commissioner of Customs, Ahmedabad having his Office at 1st floor, Customs House, Ashram Road, Near Akashwani Bhavan, Navrangpura, Ahmedabad, as to why the refund amount of Rs. 3,34,87,037/- (Rupees Three Crore, Thirty Four Lakh, Eighty Seven Thousand and Thirty Seven Only) sanctioned vide OIO No. 07/AC/CHH/ REFUND/2025-26 dated 09.04.2025 by the Assistant Commissioner of Customs, Hazira, should not be demanded and recovered under Section 28 (1) of the Customs Act 1962 along with interest under Section 28AA of the Customs Act 1962 on the above said grounds.

19. M/s Chiripal Poly Films Ltd, having their registered office at Chiripal House, Shivranjani Cross Roads, Satellite, Ahmedabad, Gujarat-380015, is required to file their reply within thirty days from the receipt of this Notice. They are also directed to produce at the time of showing cause, all the evidences upon which they intend to rely in support of their defense. They are further required to indicate in their written reply as to whether they desire to be heard in person before the case is adjudicated.

20. If no reply is received from them within 30 (Thirty) days of the receipt of this Notice or if they do not appear before the Adjudicating Authority when the case is posted for hearing, the case will be decided ex-parte, on the basis of available records without any further reference to them.

21. This Show Cause Notice is issued without prejudice to any other action that may be taken against them under the Customs Act, 1962 and the Rules framed there under or under any other law for the time being in force.

22. The documents/relied upon documents were submitted by the Noticee and are available with them, hence the same are not supplied.

23. The Department reserves its right to amend, modify or supplement this Notice at any time on the basis of evidences available/evidences gathered later on, prior to the adjudication of the case.

Digitally signed by
Shiv Kumar Sharma
Date: 03-12-2025
14:09:22

(Shiv Kumar Sharma)
Principal Commissioner

BY REGISTERED A.D./SPEED POST/HAND DELIVERY

F.No. VIII/10-10/Pr.Commr./O&A/2025-26 Dated: 03-12-2025
DIN: 20251271MN0000010431
To,

M/s Chiripal Poly Films Ltd,
Chiripal House, Shivranjani Cross Roads,
Satellite, Ahmedabad, Gujarat-380015

Copy to:-

1. The Deputy/Asstt. Commissioner of Customs, H.Q. (Audit), Ahmedabad.
2. The Deputy/Asstt. Commissioner of Customs, Hazira, Surat
3. Guard File