सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN- **20261071MN0000E4684E**

क	फ़ाइलसंख्या FILE NO.	S/49-63/CUS/KDL/DEC/2025-26-
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	KDL-CUS-000-APP-58-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	15.10.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	KDL/AC/HRK/144/2025-26 dated 01.10.2025 issued by The Assistant Commissioner of Customs (Refund), Custom House, Kandla.
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	15.10.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. Kitchen Xpress Overseas Limited

1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क(	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods imported on baggage
(ख(	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग (	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.

4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

ORDER-IN-APPEAL

1. This appeal has been filed by M/s. Kitchen Xpress Overseas Limited (the appellant), a unit in the Kandla Special Economic Zone, under Section 128 of the Customs Act, 1962, against Order No. KDL/AC/HRK/144/2025-26 dated 01.10.2025 (the impugned order), passed by the Assistant Commissioner of Customs (Refund), Custom House, Kandla (the adjudicating authority). The appeal is limited to the part of that order which rejected the appellant's refund claim of Rs. 84,09,219/-. The same order also sanctioned a refund of Rs. 15,21,135/- to the appellant; the appellant is not aggrieved by that part and has not challenged it, so it has become final and is not in issue here.

BRIEF FACTS OF THE CASE

2. The appellant is a Special Economic Zone unit that processes and exports pulses and lentils — sorting, grading, polishing and packing them. That processing throws up non-export-quality residues, described variously as offspec pulses, tukdi or broken pulses, and bhusi/bhuki of pulses mixed with impurities (the subject goods). These residues are cleared into the Domestic Tariff Area (DTA) on payment of duty.

2.1 A classification dispute arose over the subject goods. The appellant classified them under Chapter Heading 0713 of the Customs Tariff Act, 1975 and claimed the duty exemption at Sr. No. 21 of Notification No. 12/2012-Customs dated 17.03.2012. The Department took the view that they fell under Customs Tariff Item 23025000, carrying total duty of about 33% to 36.136%. Until the dispute was settled, the appellant cleared the goods into the DTA under protest, paying duty under Tariff Item 23025000.

2.2 A Show Cause Notice dated 20.09.2021 was issued to the appellant and to the DTA buyer, M/s R.M. Trading Co. It proposed to classify the subject goods under Tariff Item 23025000 and to appropriate the duty of Rs. 15,21,135/- paid under protest for clearances made between 01.01.2018 and 31.03.2020.

2.3 That notice was adjudicated by Order-in-Original No. KDL/ADC/RHM/19/2021-22 dated 11.03.2022 of the Additional Commissioner of Customs. Custom House, Kandla, which classified the goods under Tariff Item 23025000 and confirmed and appropriated the duty of Rs. 15,21,135/-

2.4 The appellant's appeal against that order was rejected by Order-in-Appeal No. KDL-CUSTM-000-APP-148-23-24 dated 11.07.2023.

2.5 The appellant then went to the Hon'ble CESTAT, West Zonal Bench, Ahmedabad. By Final Order No. FO/C/A/12800/2024-CU[DB] dated 25.11.2024, the Tribunal set aside the Order-in-Appeal, allowed the appeal with consequential relief, and held that the subject goods — being a residue or waste from pulses — do not fall under Tariff Item 2302 (which covers residues from cereals or leguminous plants) and are correctly classifiable, as the appellant claimed, under Chapter Heading 0713 as dried leguminous vegetables, shelled, whether or not skinned or split.

2.6 Following that order, the appellant filed a refund application dated 30.06.2025 (received on 04.07.2025) for Customs duty of Rs. 99,30,354/- in all. This was made up of two parts. The first was Rs. 15,21,135/-, the duty paid under protest for 01.01.2018 to 31.03.2020, the very period covered by the Show Cause Notice, the Order-in-Original, the Order-in-Appeal and the CESTAT's Final Order. The second was Rs. 84,09,219/-, duty said to have been paid under protest, on the same classification dispute, for DTA clearances of the subject goods from 01.04.2020 onwards — a period that the Show Cause Notice and the later proceedings never covered.

2.7 As the refund application carried no supporting documents for the later period (01.04.2020 onwards), the adjudicating authority issued a deficiency memo dated 15.09.2025 and a reminder dated 23.09.2025. The appellant furnished nothing further. A personal hearing in the refund proceedings was held on 26.09.2025, at which Shri Vivek Milak, Authorised Signatory of the appellant, appeared and repeated what was said in the refund application dated 30.06.2025.

2.8 The adjudicating authority then passed the impugned order dated 01.10.2025. It sanctioned the refund of Rs. 15,21,135/- for the period the CESTAT order covered (01.01.2018 to 31.03.2020). It rejected the refund of Rs. 84,09,219/- for the period from 01.04.2020 onwards, on the ground that no Show Cause Notice, Order-in-Original, Order-in-Appeal or CESTAT order had ever covered that period, and that, with no modified assessment or self-assessment order for the Bills of Entry of that period, the refund could not be entertained — applying the Hon'ble Supreme Court's ruling in ITC Ltd. v. Commissioner of C. Ex., Kolkata-IV [2019 (368) E.L.T. 216 (S.C.)].

2.9 The record also shows that, by its letter dated 20.11.2025, the appellant separately asked the jurisdictional authorities to pass assessment orders on all the Bills of Entry for the later period under Section 17(5) of the Customs Act, 1962, so that duty could be adjusted or refunded for that period. That request is said to be pending.

2.10 Aggrieved by the rejection of the refund of Rs. 84,09,219/- for the later period, the appellant has filed this appeal.

GROUNDS OF APPEAL

3. The appellant submits that the classification dispute concerning off-spec pulses, broken pulses (tukdi) and bhusi/bhuki of pulses mixed with impurities stands decided in his favour by the Hon'ble CESTAT, Ahmedabad, vide Final Order No. FO/C/A/12800/2024-CU[DB] dated 25.11.2024, wherein the Tribunal held the goods classifiable under Chapter Heading 0713 instead of Tariff Item 23025000. He contends that the subsequent clearances made during the period from 01.04.2020 onwards involved the same category of goods and the same classification dispute, and that the Department cannot deny consequential relief merely because the relevant Bills of Entry fall outside the period covered by the original Show Cause Notice. He further submits that he paid the differential duty under protest and that such payment did not amount to acceptance of the Department's classification. Accordingly, he seeks consequential relief in respect of the subsequent clearances as well, subject to verification of the relevant Bills of Entry and the duty paid.

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3.1 The appellant relies upon the judgment of the Hon'ble Supreme Court in *ITC Ltd. v. Commissioner of Central Excise, Kolkata-IV* [2019 (368) E.L.T. 216 (S.C.)] and submits that the requirement of modification of assessment before grant of refund prescribes the appropriate procedural course but does not extinguish his substantive claim to consequential relief. He also relies upon *Collector of Central Excise, Kanpur v. Flock (India) Pvt. Ltd.* [2000 (120) E.L.T. 285 (S.C.)], *Priya Blue Industries Ltd. v. Commissioner of Customs (Preventive)* [2004 (172) E.L.T. 145 (S.C.)], *Commissioner of Customs, Tuticorin v. Sakthi Sugars Ltd.* [2020 (372) E.L.T. 577 (Tri.-Chennai)], *Aman Medical Products Ltd. v. Commissioner of Customs, Delhi* [2010 (250) E.L.T. 30 (Del.)] and *Khurana Oleo Chemicals v. Commissioner of Customs, Ludhiana*, Final Order Nos. 60505-60506/2026 dated 11.08.2026, in support of his submissions concerning the effect of disputed assessments, payment under protest and consequential refund. He accordingly submits that the refund claim should not be rejected solely because the assessments for the subsequent period have not yet been modified.

3.2 After the personal hearing, the appellant, through his detailed written submissions, further submitted that classification is the substantive issue, whereas verification of individual Bills of Entry is necessary to establish the identity of the goods, their technical specifications and composition, quantity, date of clearance, classification adopted, applicable tariff rate, duty paid and evidence of payment under protest. He contends that, once the correct classification of the goods has been determined by the competent authority, the same determination should receive consequential effect in respect of all eligible Bills of Entry involving identical goods, subject to Bill-of-Entry-wise verification. He argues that the Department should not retain differential duty merely because particular Bills of Entry were not included in the earlier adjudication proceedings. Without prejudice to his primary contention, he requests that, if formal reassessment or modification of the subsequent-period Bills of Entry is considered necessary in view of the judgment in *ITC Ltd.*, the matter be referred to the competent assessing authority for undertaking the requisite proceedings in accordance with law, followed by determination of the consequential refund under Section 27 of the Customs Act, 1962. He accordingly prays that the rejection of the refund claim of ₹84,09,219/- be set aside and that consequential reassessment/modification, refund and interest, wherever admissible under law, be allowed.

PERSONAL HEARING

4. A personal hearing in this appeal was held on 12.08.2026, at which Shri Shridev Vyas, the appellant's authorised representative, appeared and reiterated the grounds of appeal. At the hearing, the appellant also filed detailed written submissions, which have been taken on record, as above and considered in this order.

DISCUSSION AND FINDINGS

5. I first deal with the preliminary points. The impugned order dated 01.10.2025 was communicated to the appellant on the same day, and the appeal was filed in December 2025. To the extent the filing runs beyond the sixty days allowed by Section 128(1) of the Customs Act, 1962, it falls within the further thirty days that the proviso to that Section allows me to condone.

The delay is short, it is not shown to have caused any prejudice to the Revenue, and there is no good reason to shut out the appeal on this count. I therefore condone the delay and take up the appeal on merits.

5.1 This appeal is against the rejection of part of a refund claim. No duty, interest or penalty has been demanded from the appellant, so the mandatory pre-deposit under Section 129E of the Customs Act, 1962 does not apply.

5.2 A copy of the appeal memorandum was sent to the adjudicating authority for comments by this office letter dated 18.05.2026, but no reply has come. I therefore decide the appeal on the record, after giving the appellant a full hearing. Notice of the personal hearing was given to both sides and the link to attend in virtual mode was shared with them, in keeping with the principles of natural justice.

5.3 The scope of this appeal should be clear at the outset. The appellant does not challenge, and is not aggrieved by, the sanction of Rs. 15,21,135/- for 01.01.2018 to 31.03.2020; that part of the order stands and is final. The issues arising for determination in the present appeal are whether the rejection of the refund claim of ₹84,09,219/- pertaining to the period from 01.04.2020 onwards is sustainable in law and, in view of the appellant's submissions seeking reassessment/modification of the relevant Bills of Entry, what consequential directions, if any, are warranted when the said reassessment proceedings have not yet attained finality.

5.4. In the written submissions filed during the personal hearing, the appellant submits that the dispute essentially concerns the classification of the subject goods and not any particular Bill of Entry in isolation. He contends that the differential duty paid on the subsequent clearances was paid under protest and, therefore, did not signify acceptance of the classification adopted by the Department. Relying upon the decision of the Hon'ble Supreme Court in *ITC Ltd. v. Commissioner of Central Excise, Kolkata-IV* [2019 (368) E.L.T. 216 (S.C.)], the appellant submits that the requirement of modification of the relevant assessment before grant of refund should not result in denial of the substantive relief claimed by him. He argues that, if reassessment or modification of the Bills of Entry pertaining to the subsequent period is necessary, the appropriate course would be to facilitate such proceedings and thereafter consider the consequential refund, rather than reject the claim merely because the assessments remain unmodified.

5.5 The appellant further submits that he had approached the competent Customs authority at Kandla SEZ by letter dated 20.11.2025, seeking reassessment/modification of the relevant Bills of Entry for the subsequent period. He has also placed the said letter on record as part of the present appeal and requests that the issue of reassessment/modification be duly considered and decided by the competent authority in accordance with law. In support of his submissions, the appellant relies upon *Commissioner of Customs, Tuticorin v. Sakthi Sugars Ltd.* [2020 (372) E.L.T. 577 (Tri.-Chennai)], *Khurana Oleo Chemicals v. Commissioner of Customs, Ludhiana* [CESTAT, Chandigarh, Final Order Nos. 60505-60506/2026 dated 11.08.2026], *Collector of Central Excise, Kanpur v. Flock (India) Pvt. Ltd.* [2000 (120) E.L.T. 285 (S.C.)], *Priya Blue Industries Ltd. v.*

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Commissioner of Customs (Preventive) [2004 (172) E.L.T. 145 (S.C.)] and *Aman Medical Products Ltd. v. Commissioner of Customs, Delhi* [2010 (250) E.L.T. 30 (Del.)].

5.6 In *ITC Ltd. v. Commissioner of Central Excise, Kolkata-IV* [2019 (368) E.L.T. 216 (S.C.)], the Hon'ble Supreme Court held that a refund claim under Section 27 of the Customs Act, 1962 cannot be used as a mechanism to reopen or modify an assessment. Accordingly, where the refund claimed arises from an assessment that has not been modified in accordance with law, such modification is required before the consequential refund can be considered. The Hon'ble CESTAT's Final Order dated 25.11.2024 pertains to the Bills of Entry relating to the period from 01.01.2018 to 31.03.2020 and does not, by itself, modify the assessments relating to the subsequent period. However, the requirement of modification of assessment must be considered in conjunction with the appellant's request for such modification and cannot, by itself, be a ground for finally rejecting the refund claim without consideration of the available statutory remedy.

5.7 The record indicates that the appellant has approached the competent Customs authority at Kandla SEZ by letter dated 20.11.2025, seeking reassessment/modification of the Bills of Entry pertaining to the period from 01.04.2020 onwards. The said application is stated to be pending. The classification dispute concerning the subject goods was decided in favour of the appellant by the Hon'ble CESTAT for the earlier period, and the said order has not been stayed by the Hon'ble Supreme Court. The applicability of that classification determination to the subsequent clearances, however, is required to be examined with reference to the relevant Bills of Entry, the identity and description of the goods, and the facts and circumstances governing those clearances. The pending application must, therefore, be considered and decided by the competent Customs assessing authority in accordance with the applicable provisions of law, having due regard to the CESTAT order and the material available on record.

5.8. In these circumstances, the appropriate course is to set aside the rejection of the refund claim of ₹84,09,219/- and remand the matter for fresh consideration, subject to the outcome of the proceedings concerning reassessment/modification of the relevant Bills of Entry. The competent Customs assessing authority having jurisdiction over the relevant assessments shall consider and decide the appellant's application dated 20.11.2025 by a reasoned order, in accordance with law and after affording an opportunity of being heard wherever required. This direction shall not be construed as a direction to permit reassessment or modification irrespective of the applicable statutory requirements, or as a pre-determination of the merits of the pending application.

5.9. Upon disposal of the reassessment/modification application, the Assistant Commissioner of Customs (Refund), Kandla, shall reconsider the refund claim in the light of the decision so taken and the applicable law. The refund authority shall verify the relevant Bills of Entry, the nature and classification of the goods cleared, the duty actually paid, and the amount, if any, admissible as refund. The statutory requirements relating to limitation under Section 27 of the Customs Act, 1962 and unjust enrichment, wherever applicable, shall also be examined. The Hon'ble CESTAT's Final Order dated 25.11.2024 shall be duly considered and applied to the extent legally applicable to the subsequent clearances.

Vishwajeet Singh

5.10. The Department's Civil Appeal No. 7402 of 2025 before the Hon'ble Supreme Court, in the absence of any stay of the CESTAT order, shall not, by itself, be treated as a ground to disregard the operative order. At the same time, the competent authorities shall remain at liberty to take such measures to safeguard the interests of revenue as are permissible under law. The present remand shall not be construed as a direction for automatic sanction of the entire refund amount or as dispensing with any statutory requirement governing its admissibility.

5.11. It is observed that the rejection of the refund claim has arisen, to a substantial extent, from the absence of effective coordination between the authorities concerned in addressing the issue of reassessment/modification of the relevant Bills of Entry and the consequential refund. Since the matter involves two separate offices, namely the competent Customs assessing authority at Kandla SEZ and the Assistant Commissioner of Customs (Refund), Kandla, both authorities shall ensure due coordination and timely exchange of relevant records and information to facilitate expeditious disposal of the reassessment/modification application and the consequential refund claim. The proceedings shall be pursued in a coordinated manner and brought to their logical conclusion within a reasonable period, in accordance with law, so that the appellant is not subjected to undue delay on account of the involvement of separate authorities.

Order

6. In view of the foregoing, I ppass the following order:

6.1.1 The impugned order is set aside to the extent that it rejects the refund claim of ₹84,09,219/- pertaining to the period from 01.04.2020 onwards, and the matter is remanded for fresh consideration in the manner indicated above.

6.2 The sanction of refund of ₹15,21,135/- pertaining to the period from 01.01.2018 to 31.03.2020, which is not the subject matter of the present appeal, remains undisturbed.

6.3. The observations made herein are confined to the issues arising in the present appeal. The admissibility and quantum of the refund, including the questions of limitation and unjust enrichment, shall be examined by the competent authority in accordance with law, in the light of the outcome of the reassessment/modification proceedings, as applicable. The appeal is accordingly disposed of by way of remand in the above terms.

Vishwajeet Singh
15.10.2026

(Vishwajeet Singh)

Commissioner of Customs (Appeals),

Ahmedabad

15.10.2026

To,

M/s Kitchen Xpress Overseas Limited, a unit in the Kandla Special Economic Zone (KASEZ), Gandhidham, Kutch, Gujarat (Appellant).

Copy to:

1. The Assistant Commissioner of Customs (Refund), Custom House, Kandla (the adjudicating authority), for information and necessary action.

2. The jurisdictional proper officer, Kandla SEZ, for compliance with the direction regarding reassessment under Section 17(5).

3. The Commissioner of Customs, Custom House, Kandla.

4. The Chief Commissioner of Customs, Ahmedabad Zone.

5. Guard File.