सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.
दूरभाष क्रमांक Tel. No. 079-26589281
DIN-20260171MN000000038E

क	फ़ाइल संख्या FILE NO.	S/49-243/CUS/AHD/2024-25
ख	अपीलआदेश संख्या **ORDER-IN-APPEAL No.** (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-527-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	27.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	OIO No. 11/AC/ICD-SND/2024-25 dated 08.11.2024 passed by Assistant Commissioner of Customs, ICD-Sanand.
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	27.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Mayur Wovens Pvt. Ltd. 1484, Village Motibhoyan, Opp. Arvind International, Khatraj-Kalol Road, Kalol, Dist. Gandhinagar – 382721.

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 (यथासंशोधित) में निर्धारित फीस जोअन्य रसीद,फीस,दण्ड,जब्तीऔर विविध मदों के शीर्षके अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/- (रूपए एक हज़ार मात्र),जैसा भी मामला हो,से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां. यदि शुल्क,मांगा गया ब्याज,लगाया गया दंड की राशिऔर 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 अपीलियअधिकरण, 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 के10 % अदा करने पर,जहां केवल दंड विवाद में है,अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

ORDER-IN-APPEAL

M/s. Mayur Wovens Pvt. Ltd., 1484, Village Motibhoyan, Opp. Arvind International, Khatraj-Kalol Road, Kalol, Dist. Gandhinagar – 382721 (hereinafter referred to as 'the appellant') has filed the present appeal in terms of Section 128 of the Customs Act, 1962, against Order-In-Original No. 11/AC/ICD-SND/2024-25 dated 08.11.2024 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner of Customs, ICD-Sanand (hereinafter referred to as 'the adjudicating authority'). Vide impugned order, the appellant's claim for refund of interest of Rs.1,02,71,345/- paid on delayed payment of IGST has been rejected by the adjudicating authority.

2. Facts of the case, in brief, are that the appellant was importing goods under Advance Authorisation Scheme without payment of Customs duties, including IGST leviable under Section 3(7) of the Customs Tariff Act, 1975. It appeared that the appellant had exported the goods first and subsequently imported duty-free goods/inputs under Advance Authorisation by availing Exemption under Notification No. 18/2015-Cus dated 01.04.2015, as amended by Notification No. 79/2017-Cus dated 13.10.2017. Later, in view of the Judgment dated 28.04.2023 of Hon'ble Supreme Court in the case of *Union of India vs. Cosmo Films Ltd.* [(2023) 5 Centax 286 (S.C.)], it was settled that the 'Pre-import condition' for imports under Advance Authorisation is valid and required to be fulfilled. The 'Pre-import condition' was omitted vide Notification No. 01/2019-Customs dated 10.01.2019. Thus, during the period of 13.10.2017 to 09.01.2019 there was 'pre-import condition' in Para 4.14 of the Foreign Trade Policy 2015-20, which was held to be valid by Hon'ble Supreme Court. So, during the period of 13.10.2017 to 09.01.2019, the appellant was required to import the inputs under Advance Authorisation Scheme first; and by using such inputs the goods manufactured by them were required to be exported in discharge of their export obligation. Whereas, in the present case, the appellant has made exports first and imported inputs under Advance Authorisation later duty free, which was not proper.

3. Following the aforesaid Judgment of Hon'ble Supreme Court, the CBIC issued a *Circular No. 16/2023-Customs dated 07.06.2023*, which clarified the procedure for paying IGST and availing Input Tax Credit (ITC). The appellant had stated to have voluntarily paid total sum of ₹2,28,91,548/-, which included IGST of ₹1,26,20,203/- and interest aggregating to ₹1,02,71,345/- for 10 Bills of Entry filed with ICD-Sanand. Interest was

automatically calculated by the EDI System during the reassessment of their Bills of Entry as per the procedure prescribed in the said Circular.

4. Thereafter, the appellant submitted a claim for refund of Interest of ₹1,02,71,345/- vide their letter dated 03.05.2024, which was received by the office of the adjudicating authority on 17.05.2024.

5. A Show Cause Notice dated 09.08.2024 was issued by the Assistant Commissioner of Customs, ICD-Sanand, for rejection of refund claim. After considering the written and oral submissions of the claimant, the adjudicating authority has rejected the refund claim vide impugned order dated 08.11.2024. Being aggrieved, the claimant/appellant has filed the present appeal under the provisions of Section 128 of the Customs Act, 1962.

Admission of Appeal:

6. As the present appeal has been filed against rejection of refund claim, pre-deposit for filing the appeal under the provisions of Section 129E of the Customs Act, 1962, is not required. In the Form CA-1 of the Appeal Memorandum, the Date of communication of the impugned order dated 08.11.2024 has been shown as '08.11.2024'. Whereas, the present appeal has been filed on 24.11.2024. As the appeal has been filed within normal period of 60 days from the date of receipt of impugned order, as stipulated under Section 128(1) ibid, it has been admitted and being taken up for disposal on merits.

Grounds of Appeal:

7. The appellant has raised various contentions in their grounds of appeal. They submitted, inter alia, that the present appeal arises out of the rejection of the appellant's refund claim of ₹1,02,71,345/- representing interest recovered by Customs authorities on payment of Integrated Goods and Services Tax (IGST) in respect of imports made under the Advance Authorization (AA) Scheme during the period from October 2017 to January 2019.

8. The controversy relates to imports made by the appellant against valid Advance Authorizations issued under the Foreign Trade (Development and Regulation) Act, 1992. Under the Advance Authorization Scheme, importers are permitted to import specified inputs duty-free on the condition that such inputs are used in the manufacture of goods which are to be subsequently exported. For the relevant period, the appellant imported

plastic granules under ten Bills of Entry filed at ICD Sanand. At the time of import, exemption from basic customs duty as well as IGST was claimed and granted under Notification No. 18/2015-Cus., as amended. However, with effect from 13 October 2017, Notification No. 79/2017-Cus. introduced a "pre-import condition" for availing exemption from IGST. This condition required that inputs should be imported prior to export of finished goods. Despite this amendment, the appellant continued to import inputs under valid Advance Authorizations, use them in manufacture, and export the finished goods. There was no allegation of diversion or misuse of imported inputs, and the export obligations under the Advance Authorizations were fully discharged. Subsequently, industry-wide investigations were initiated by the Directorate of Revenue Intelligence on the ground that the pre-import condition had not been fulfilled.

9. The appellant further submitted that the validity of the pre-import condition was challenged before various High Courts. The Gujarat High Court, in the case of *Maxim Tubes Co. P. Ltd.* [2019 (368) E.L.T. 337 (Guj.)] struck down the pre-import condition as ultra vires both the exemption notification and the Foreign Trade Policy. The appellant herein was also a petitioner before the Gujarat High Court and obtained relief in its favour. However, the Supreme Court ultimately set aside the High Court judgments by its decision dated 28 April 2023 in the case of *Union of India vs. Cosmo Films Ltd.* [(2023) 5 Centax 286 (S.C.)] and held that exemption from IGST during the period from 13.10.2017 to 09.01.2019 was indeed subject to compliance with the pre-import condition. Significantly, while upholding the validity of the pre-import condition, the Supreme Court observed that importers should be allowed to regularize past imports by paying the applicable tax and availing input tax credit, and directed the Government to prescribe a suitable mechanism for this purpose. In compliance with this direction, the Central Board of Indirect Taxes and Customs issued **Circular No. 16/2023-Cus. dated 7 June 2023,** prescribing a special procedure for reassessment of past Bills of Entry, payment of IGST and cess along with "applicable interest," and generation of a notional out-of-charge to enable availment of input tax credit.

10. Pursuant to this Circular, the appellant approached the Customs authorities at ICD-Sanand and sought reassessment of the ten Bills of Entry. Upon reassessment, electronic challans were generated on the Customs EDI system. These challans reflected a single consolidated amount comprising both IGST and interest. The system did not permit payment of IGST alone. Consequently, the appellant paid a total sum of

₹2,28,91,548/-, which included IGST of ₹1,26,20,203/- and interest aggregating to ₹1,02,71,345/-. After payment, the appellant was allowed input tax credit of the IGST amount. However, the appellant consistently maintained that the interest amount was not legally leviable. According to the appellant, there is no charging provision under the Customs Tariff Act, 1975, for levy of interest on IGST imposed under Section 3(7) of that Act. Interest, being a separate and independent levy, can be charged only if specifically authorized by statute. Since, no such statutory authority existed for the relevant period, the recovery of interest was without authority of law.

11. Relying on this legal position, the appellant filed a refund claim on 17 May 2024 for the interest amount. The claim was supported by judicial precedents, including a binding decision of the Ahmedabad Bench of CESTAT in *Chiripal Poly Films Ltd.* [(2024) 22 Centax 245 (Tri.-Ahmd)] which held that interest is not leviable on IGST paid under the special procedure prescribed by Circular No. 16/2023-Cus., as there was no statutory provision authorizing such levy.

12. The refund claim was, however, sought to be rejected by the department through a Show Cause Notice issued on 9 August 2024. The principal grounds taken by the Department were that the interest had been paid voluntarily, that the claim was barred by principles of res judicata, and that interest was recoverable under the Customs Act read with Section 3(12) of the Customs Tariff Act. The appellant filed a detailed reply refuting these allegations and reiterating that payment of interest was not voluntary but compelled by the design of the EDI system, and that there can be no estoppel or res judicata in matters of taxation. Despite these submissions, the Assistant Commissioner rejected the refund claim by impugned Order-in-Original dated 8 November 2024. In doing so, the Assistant Commissioner held that the CESTAT decision in *Chiripal Poly Films Ltd.* was silent on various issues. He relied on decisions from other benches of the Tribunal, and concluded that interest was payable by virtue of the circular, the bond executed by the appellant, and the provisions of the Customs Act, particularly Section 28AA.

13. The appellant further contended that IGST on imported goods is levied exclusively under Section 3(7) of the Customs Tariff Act and not under the IGST Act. For the relevant period, Section 3 of the Customs Tariff Act did not contain any provision for levy of interest, penalty, or fine in respect of IGST. Section 3(12), as it then stood, merely

made procedural provisions of the Customs Act applicable "so far as may be," and did not incorporate substantive charging provisions relating to interest.

14. This legal position, according to the appellant, stands conclusively settled by judgments of the Gujarat High Court in *Ukai Pradesh Sahkari Khand Udyog Mandli Ltd.* and the Bombay High Court in *Mahindra & Mahindra Ltd.* [(2023) 3 Centax 261 (Bom.)] both holding that interest cannot be levied in the absence of a specific charging provision in the statute imposing the tax. The appellant further points out that the Supreme Court dismissed the revenue's challenge to the *Mahindra & Mahindra* judgment, thereby affirming the legal principle laid down therein.

15. The appellant also placed reliance on the subsequent legislative development brought about by Section 106 of the Finance Act, 2024, which substituted Section 3(12) of the Customs Tariff Act with effect from 16 August 2024 to expressly provide for applicability of provisions relating to interest, offences, and penalties. This amendment, according to the appellant, clearly demonstrates that prior to 16 August 2024, there was no statutory authority to levy interest on IGST under the Customs Tariff Act. Further, the amendment is remedial and prospective, and cannot be used to justify recovery of interest for past periods.

16. The appellant further submitted that reliance placed by the Assistant Commissioner on Bonds executed under the exemption notification is misplaced. A Bond cannot create a tax liability where none exists under the statute. It can only secure compliance with liabilities validly imposed by law. In the absence of a statutory levy of interest, the Bond cannot be invoked to justify recovery.

17. On the issue of voluntariness, the appellant reiterates that payment of interest was compelled by the system-generated challans and was a prerequisite for completion of reassessment and availment of input tax credit. Such payment cannot be characterized as voluntary. Moreover, even voluntary payment does not bar a refund claim when the levy itself is without authority of law, as mandated by Article 265 of the Constitution of India.

18. The appellant also refuted the application of res judicata, emphasizing that settled law consistently holds that principles of res judicata and estoppel do not apply in

taxation matters. If an amount has been collected without authority of law, the assessee is entitled to seek restitution irrespective of earlier payments or conduct.

19. In conclusion, the appellant submitted that the impugned order suffers from fundamental errors, ignores binding precedents, misconstrues statutory provisions, and upholds a levy that did not exist in law during the relevant period. The appellant therefore prayed for setting aside of the Order-in-Original, grant of refund of ₹1,02,71,345/-, and payment of interest on such refund in accordance with law.

Personal Hearing:

20. Personal Hearing in this case was held in virtual mode, i.e. through video conference, on 13.01.2026, which was attended by Shri Arun Tulsian, CFO of the appellant. He reiterated the written submissions made by them.

Discussion and findings:

21. One set of the appeal memorandum has been sent to the Assistant Commissioner of Customs, ICD-Sanand, vide this office letter F.No. S/49-243/CUS/AHD/2024-25/4261 dated 27.12.2024 for comments, but no reply thereof has been received. Therefore, I proceed to decide the appeal on basis of documents submitted by the appellant.

22. I have gone through the written as well as oral submissions made by the appellant. The issue to be decided in present appeal is whether the impugned order rejecting refund of interest, paid towards delayed payment of IGST, under the provisions of Section 27 of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

23. The appellant has contended that payment of interest on IGST is unsustainable as there is no charging provision under the Customs Tariff Act, 1975, authorizing the levy of interest on IGST. In other words, Section 3(12) of the Customs Tariff Act, 1975 (as stood prior to its amendment w.e.f. 16.08.2024) did not borrow the provision for charging interest from the Customs Act, 1962. Further, Section 3(12), as it stood during the period of import and payment of IGST, did not extend the provisions of the Customs Act, 1962, relating to interest on delayed payment of IGST levied under Section 3(7) of the Customs Tariff Act, 1975. The issue pertains to legal interpretation of the 'pre-import condition', which was ambiguous and subsequently clarified only after the Supreme Court's ruling in

Cosmo Films Ltd. [(2023) 5 Centax 286 (S.C.)] and issuance of the CBIC Circular No. 16/2023-Cus dated 07.06.2023.

24. As regards, non-levy of interest on IGST, the appellant has relied upon various judicial pronouncements to support their claim. The appellant has relied upon the Final Order No. 11628-11630/2024 dated 23.07.2024 passed by Ahmedabad Bench of Hon'ble CESTAT in the case of *Chiripal Poly Films Ltd. vs. Commissioner of Customs, Ahmedabad* [(2024) 22 Centax 245 (Tri.-Ahmd) = 2024 (9) TMI 940 - CESTAT AHMEDABAD]. In the said Final Order, it has been held that interest is not leviable on IGST paid under the procedure prescribed by Circular No. 16/2023-Cus., as there was no statutory provision authorizing such levy of interest of IGST. The adjudicating authority has not followed ratio of the said Final Order in the present case. In this regard, I am of the view that as the said Final Order of the jurisdictional CESTAT was required to be followed in the present case, inasmuch it has not been stayed or overruled by any higher forum.

25. I observe that the adjudicating authority misinterpreted the conditions of the Bond, which requires payment of 15% interest if the importers fails to fulfil their export obligation; whereas, in the present case, there is not allegation that the appellant was failed to fulfil export obligation under Advance Authorization scheme. Further, I am of the view that the statutory interest, which cannot be levied in terms of applicable Acts, should not be levied in terms of Bond.

26. I rely upon the decision of the Hon'ble Bombay High Court in *Mahindra and Mahindra Ltd. v. Union of India* [2022-VIL-690-BOM-CU = (2023) 3 Centax 261 (Bom.)], wherein Hon'ble High Court categorically held that in the absence of a specific charging provision under the Customs Tariff Act, the levy of interest and penalty on IGST is unsustainable. Against this Judgment, Customs Department had filed an SLP (C) Diary No. 18824/2023 with Hon'ble Supreme Court. Vide Order dated 28.07.2023, the said SLP has been dismissed by Hon'ble Supreme Court by observing, *"We do not find any merit in the Special Leave Petition."*. Against this dismissal, Customs Department has filed a Review Petition (C) Diary No. 41195/2023 with Hon'ble Supreme Court; however, the same has also been dismissed vide Order dated 09.01.2024. Thus, the decision of the Hon'ble Bombay High Court in the case of *Mahindra and Mahindra Ltd. (supra)* became final.

27. Further, I find that the statutory provisions of Section 3(12) of the Customs Tariff Act, 1975, have been substituted by the Finance (No. 2) Act, 2024 and which came into effect from 16 August 2024. The said provisions, prior to amendment and after amendment, are reproduced below:

Prior to amendment/substitution vide the Finance (No.2) Act, 2024:

> *"(12) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to drawbacks, refunds 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."*

With effect from the amendment/substitution vide the Finance (No.2) Act, 2024:

> *"(12) The provisions of the Customs Act, 1962 (52 of 1962) and all rules and regulations made thereunder, including but not limited to those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, exemptions, **interest**, recovery, appeals, offences and penalties, shall, as 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 or all rules and regulations made thereunder, as the case may be."*

It is nowhere mentioned that the above-mentioned amendment to Section 3 of the Customs Tariff Act, 1975, is retrospective in nature. Therefore, I find that interest on delayed payment of IGST is leviable w.e.f. 16.08.2024, but not for the period prior to 16.08.2024.

28. This view was affirmed and applied in the case of ***A. R. Sulphonates Pvt. Ltd. v. Union of India*** [(2025) 29 Centax 212 (Bom.) = 2025 (4) TMI 578 (Bom.)], where the Hon'ble High Court quashed the demand of interest and penalty on IGST levied under Section 3(7) of the Customs Tariff Act, 1975, and also held that CBIC Circular No. 16/2023-Cus, to the extent it seeks to recover interest, is not legally tenable. The relevant paragraphs of the said Order of Hon'ble Bombay High Court are reproduced below (emphasis supplied):

"70. In our view, for all the reasons stated hereinabove, the impugned Order, to the extent that it levies interest and penalty, is without the authority of law and is liable to quashed and set aside.

71. As far as Circular No. 16/ 2023-Customs dated 7th June, 2023 is concerned, it seeks to recover interest along with IGST. The relevant part of the said Circular reads as under:-

> *"(a). for the relevant imports that could not meet the said pre-import condition and are hence required to pay IGST and Compensation Cess to that extent, the importer (not limited to the respondents) may approach the concerned assessment group at the POI with relevant details for purposes of payment of the tax and cess along with applicable interest."*

72. In our view, for all the reasons stated herein above, the said Circular, to the extent that it seeks to recover interest, is bad in law.

73. As far as redemption fine imposed by the impugned Order is concerned, the same is demanded in lieu of confiscation of goods under Section 111(o) *of the Customs Act. As per* Section 111(o) *of the Customs Act, the goods shall be liable for confiscation in the event the condition subject to which the goods are exempted from duty is not observed. As already held by us on the basis of the Judgement of the Hon'ble Supreme Court in the case of* Orient Fabrics Limited *(supra),* Section 3 (12) *of the Tariff Act, after its amendment by Finance (No.2) Act, 2024, dated 16th August, 2024, makes applicable the provisions relating to interest, offences and penalties of the* Customs Act to the Tariff Act. *As already held by us, Section 3 (12) of the Tariff Act, as amended, is applicable only after 16th August,2024 and is not applicable to the present case. Accordingly, in the present case, no confiscation could have been imposed.*

74. Further, the Joint Director General of Foreign Trade, by Trade Notice No. 7 of 2023-24 dated 8th July, 2023 clarified that all imports made under the Advance Authorization Scheme on or after 13th October, 2017 and upto and including 9th January, 2019, which could not meet the pre-import condition, may be regularized by making payments as prescribed in the Customs Circular

No. 16/2023 - Customs dated 7th June, 2023. For this reason also, no confiscation can be done nor any redemption fine can be imposed.

75. Further, in the present case, once the Petitioner pays the IGST, it would amount to the Petitioner not having availed the benefit of the exemption and the issue would be regularized. Therefore, the provisions of Section 111 (o) of the Customs Act will not be attracted. Consequently, no fine and penalty would be recoverable from the Petitioner.

76. For all the aforesaid reasons, we pass the following orders:-

(i) It is declared that Circular No.16 of 2023-Customs dated 7th June, 2023, to the extent that it purports to levy interest upon the IGST payment, is beyond the provisions of the Customs Tariff Act, 1975 and is bad in law;

(ii) The impugned Order dated 1st August, 2024, to the extent that it seeks to recover interest, confiscate goods, impose redemption fine and impose penalty, is quashed and set aside;

(iii) It is declared that the amendment to the provisions of Section 3 (12) of the Customs Tariff Act, 1975 by Finance (No.2) Act, 2024 dated 16th August, 2024 is prospective in nature and is applicable only from 16th August, 2024 onwards;

..... ".

In view of the above Order, the amended Section 3(12) of the Customs Tariff Act, 1975 is prospective in nature and would apply only with effect from 16th August 2024. Therefore, no interest on IGST could be levied for the period prior to 16th August 2024.

29. Thus, the decisions in the cases of *Chiripal Poly Films Ltd. (supra), Mahindra & Mahindra (supra)* and *A. R. Sulphonates Pvt. Ltd. (supra)* establish that Section 3(12) of the Customs Tariff Act, prior to its amendment effective from 16.08.2024, did not extend the provisions of the Customs Act, 1962, for charging interest to IGST. Therefore, collection of interest on delayed payment of IGST devoid of legal authority. The issue involved in the aforesaid orders/judgments is identical in nature and squarely covers the present case as they had also dealt with the levy of interest on IGST as in the present case. No

contrary Orders any higher forum is available on this issue. Thus, the principles of judicial discipline ought to be followed, and relief be granted on the basis of the aforesaid decisions of jurisdictional Tribunal, High Court of Bombay and Supreme Court of India.

30. Further, at the time of passing the impugned Order-in-Original dated 08.11.2024, the judgment dated 09.04.2025 of Hon'ble Bombay High Court in the case of A. R. Sulphonates Pvt. Ltd. (supra) was not available. Therefore, the adjudicating authority had no opportunity of examine the present case in light of the said Judgment. None of the decisions relied upon by the adjudicating authority in the impugned order is regarding levy of interest on IGST prior to the date 16.08.2024. Whereas, the Judgment dated 09.04.2025 of Hon'ble High Court of Bombay in the case of ***A.R. Sulphonates Pvt. Ltd.*** [(2025) 29 Centax 212 (Bom.) = 2025 (4) TMI 578 - BOMBAY HIGH COURT] specifically deals on this issue, which is involved in the present case. Therefore, I am of the considered view that the matter needs to be remanded back to the adjudicating authority, who shall examine the facts of the case and decide the issue on the basis of the aforesaid judgments/orders.

31. In view of the discussions made above, I am of the considered view that the impugned order is not legal and proper and therefore, requires to be set aside. Accordingly, I allow the appeal by way of remand to the adjudicating authority with the direction to pass the fresh speaking order in light of the aforesaid judgments/orders. As regards powers of Commissioner (Appeals) to remand cases, I 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 orders of Hon'ble Tribunal in case of Prem Steels P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri. – Del.)] wherein it has been held 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.

32. In view of the above facts, discussion and findings, I pass the following order:

Order

I set aside the Order-In-Original No. 11/AC/ICD-SND/2024-25 dated 08.11.2024 and remand the matter to the Deputy/Assistant Commissioner of Customs, ICD-Sanand, for passing de-novo adjudication order after considering the Orders/Judgments of higher forums, as mentioned in Para 24 to Para 30 of this order.

The appeal is allowed by way of remand.

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD

F. No. S/49-243/CUS/AHD/2024-25 Dated: 27.01.2026

By email (as per Section 153(1)(c) of the Customs Act, 1962)

To
M/s. Mayur Wovens Pvt. Ltd.
1484, Village Motibhoyan,
Opp. Arvind International,
Khatraj-Kalol Road, Kalol,
Dist. Gandhinagar – 382721.
(email: arun@ppwovensacks.com , info@mayurwovens.com)

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
   (email: ccoahm-guj@nic.in)

2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
   (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)

3. The Deputy/Assistant Commissioner of Customs, ICD-Sanand.
   (email: customs-sanand@gov.in)

4. Guard File.

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