



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंजिल 4th Floor, हड्को भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20251071MN0000999DDD

क	फ़ाइल संख्या FILE NO.	S/49-72/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-378-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
	दिनांक DATE	28.10.2025
	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/811/DC/BK/DBK/2023-24 dated 07.03.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	28.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Kwality Paper Products, Plot No. 206, GIDC Phase 2, Dared, Jamnagar, Gujarat 361004.



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 (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 हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods exported
(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 दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए 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 हजार मात्र), जैसा भी मामला हो, से सम्बन्धित 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 सम्बन्ध 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 :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	<p>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-</p> <p>Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -</p> <p>(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 हजार रुपए.</p> <p>(ख) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;</p> <p>(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; पाँच हजार रुपए</p> <p>(ब) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;</p> <p>(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 हजार रुपए.</p> <p>(द) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees</p> <p>(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 ।</p> <p>(द) 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 alone is in dispute.</p>				
6.	<p>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.</p> <p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



ORDER-IN-APPEAL

Appeal has been filed by M/s Kwality Paper Products, Plot No. 206, GIDC Phase 2, Dared, Jamnagar, Gujarat 361004., (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/811/DC/BK/DBK/2023-24 dated 07.03.2024 (hereinafter referred to as 'the impugned order') passed by the Deputy Commissioner (Drawback), Customs House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that the Appellant had filed the following 10 Shipping Bills between 22.10.2014 to 15.05.2015 under DFIA Scheme Code No. 26 for the various items and exported the same:

Table-A

Sr. No.	Shipping Bill No.	Shipping Bill Date	Sr. No.	Shipping Bill No.	Shipping Bill Date
1	5675153	22.10.2014	6	9416669	06.05.2015
2	5883759	05.11.2014	7	9436522	07.05.2015
3	6616252	13.12.2014	8	9509364	11.05.2015
4	6911425	29.12.2014	9	9514811	12.05.2015
5	9332373	01.05.2015	10	9582756	15.05.2015

2.1 Vide the letter dated 17.08.2017 (inwarded on 21.08.2017), the Appellant had applied for conversion of the above Shipping Bills from DFIA Scheme Code No. 26 to Drawback Scheme Code No. 19 on the ground that though the exports were undertaken under DFIA Scheme, no imports were made against the corresponding DFIA Licence. Vide the Deputy Commissioner, Customs House Mundra's OIO No. MCH/DC/RT/120/2018-19 dated 11.05.2018, the exporter's conversion application was rejected on the ground that the application was made on 21.08.2017, which was beyond 3 months from the date of Let Export Order of the above Shipping Bills. The said OIO dated 11.05.2018 was upheld in the Commissioner (Appeals) of Customs, Ahmedabad vide OIA No. MUN-CUSTM-000-APP-307-18-19 dated 12.03.2019.

2.2 Thereafter, an appeal was filed by the Appellant before the Hon'ble CESTAT Ahmedabad. Vide Hon'ble CESTAT Ahmedabad's Order No. 11544/2023 dated 19.07.2023, the appeal was allowed to the extent that



amendment under Section 149 of the Customs Act, 1962 will be duly considered by the proper officer. In compliance to Hon'ble CESTAT Ahmedabad's Order No. 11544/2023 dated 19.07.2023, the Appellant thereafter got the above Shipping Bills converted into Drawback Shipping Bills under Scheme Code No. 19, vide the Amendment Certificate dated 28.12.2023, issued u/s 149 of the Customs Act, 1962, from F.No. CUS/ASS/AMND/844/2023-EA, after duly approval from the Commissioner, Customs House, Mundra. Upon the said Conversion through Amendment Certificate dated 28.12.2023, the Appellant, vide their letters dated 12.01.2024, 15.01.2024 and 30.01.2024 received through emails, asked for drawback of Rs.17,35,921/- @ 6.7% of FOB value of Goods exported in respect of the above 10 Shipping Bills filed between 22.10.2014 to 15.05.2015.

2.3 Further, the Appellant also asked for Interest on the said drawback from the date of filing of Shipping Bills @ 6% vide letter dated 12.01.2024, then @ 15% vide letter dated 15.01.2024, and again to @ 6% vide letter dated 30.01.2024. However, no information/documents evidences regarding the claimed Drawback Schedule Serial No. & Rates in detail Item wise for each Shipping Bill was provided by the exporter. Further, for claiming higher rate of Drawback under Category A, the conditions where CENVAT Credit have not been availed need to be satisfied/fulfilled. In addition, there are also drawback caps per unit (in Rupees) which also need to be justified item wise. Accordingly, vide letter dated 15.02.2024, the claim was reverted to the Appellant to make it good in all aspects as per Drawback Rules and Schedule. In reply, vide letter dated 17.02.2024 received through email, the exporter forwarded the following:



- (a) Worksheet/Calculation Sheet Shipping Bill wise and Item wise for drawback claim of Rs.17,16,980/- @ 6.7% of FOB Value of Goods or Rs.6.6/kg (whichever is lower) (as per Table B in OIO)
- (b) Self Declaration for Non-Availment of CENVAT Facility and
- (c) Page. Nos. 72 & 175 of Drawback Schedule 2014-15.

2.4 However, the Drawback Schedule Serial No. was still not provided by the Appellant. Further, 'Non Availment of CENVAT Certificate' from the Jurisdictional Central Excise Office was also not provided, through which it could have been established that CENVAT Credit has not been availed by the exporter. Accordingly, vide letter dated 20.02.2024, the claim was reverted to the



Appellant for the want of the said Certificate, with the copy marked to the Jurisdictional Central Excise Office. Thereafter, vide email dated 27.02.2024, the Appellant had submitted declaration dated 21.02.2024, that they have not been registered with Central Excise Department and therefore No CENVAT facility has been availed by them for the above Shipping Bills. Vide email dated 29.02.2024, the Appellant, in case of being not registered with the Central Excise Office, was requested to certify the same from the Jurisdictional Central Excise Office. Further, as all the above Shipping Bills have been filed under DFIA Scheme, the description of the items exported have not been elaborated to ascertain the department if these Exercise Books and Counter Books fall under Drawback Schedule Serial Nos. 482001, 482002, 482003 or 482004 as these headings have different value caps and hence, the Appellant was requested to categorically state under which of the 4 different Drawback Schedule Serial No. the claim has been filed, vide email dated 29.02.2024.

2.5 Subsequently, in reply to letter dated 20.02.2024 the letter dated 01.02.2024, bearing F. No. IV/16-01/Tech-I/Misc/2022-23, of the Assistant Commissioner, CGST & Central Excise, Division-I, Jamnagar was received through email dated 04.03.2024, stating that the Jurisdictional Range Superintendent has informed that the said taxpayer M/s Kquality Paper Products is not appearing in the AIO System, in the Central Excise Menu. Thereafter, vide email dated 06.03.2024, the Appellant had forwarded the said letter dated 01.02.2024 bearing F. No. IV/16-01/Tech-I/Misc/2022-23 of the Assistant Commissioner, CGST & Central Excise, Division-I, Jamnagar, requesting prompt action for the said claim made. Further, vide email dated 07.03.2024, the Appellant requested to do the needful in respect of the said claim. However, the Appellant did not categorically state under which of the different Drawback Schedule Serial No. the claim has been filed.

2.6 Consequently, the Adjudicating Authority passed the following order:

i. Out of the drawback amount of Rs. 17,16,980/- (Rupees Seventeen Lakh Sixteen Thousand Nine Hundred Eighty Only) claimed with Interest, he sanctioned drawback amounting to Rs.16,79,441/- (Rupees Sixteen Lakh Seventy Nine Thousand Four Hundred Forty One Only), which was disbursed through manual cheque bearing No. 999232 dated 07.03.2024 and rejected the remaining drawback amounting to Rs.37,539/- (Rupees Thirty Seven Thousand



Five Hundred Thirty Nine Only) and Interest; towards drawback claim filed by M/s Kwality Paper Products, Plot No. 206, GIDC Phase 2, Dared, Jamnagar, Gujarat 361004, under Section 75 of the Customs Act, 1962, read with the rules made thereunder.

SUBMISSIONS OF THE APPELLANT:

Being aggrieved with the impugned order, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

3.1 As per section 75A interest is payable where any drawback payable to a claimant under section 74 or section 75 is not paid within a period of one month from the date of filing a claim for payment of such drawback. It is stated that after export, there was no import by the appellant. Since the appellant could not fulfill the export obligations he applied for cancellation of the certificate, which was duly cancelled by the authorities on 16.02.2016. Thus, in such facts, the appellant could have applied for conversion only after getting cancellation of the said DFIA. The appellant applied for such conversion 17.08.2017. Upon the application and on the date of application for conversion of SBs the duty drawback was automatically payable to the appellant since there is no dispute as to entitlement of the appellant on eligibility of drawback as per section 75 of the Act and thus the date of payment of interest has to be 3 months from the date of SBs as per section 27A r.w.s 75 of the Act.

3.2 The Hon'ble High Court of Mumbai in the case of Repro India Ltd 2009 (235) ELT 614 (Bom.) has specifically laid down in Para 8 which read that the intention of the Government is not to export taxes but only to export the goods. It is stated that conversion of the SBs from DFIA to Drawback is not allowed to appellant, the appellant would have been perforce required to export the taxes, which gets included in the FOB value. This being not the intention, conversion of DFIA Shipping Bills into Drawback Shipping Bills ought to have been allowed and no fault can be attributed to the appellant for non-conversion of SBs vide application dated 17.08.2017 (filed on 21.08.2017). The Substantial benefit available otherwise could not be denied for the procedural aspects like in this case. Making request for conversion is a procedural aspect, when the export of goods is the prime condition. Therefore, when the export is not in any dispute, substantial benefit attached to export cannot go away on procedural aspects. It is not the case of the department that the appellant has in anyway availed double

benefit. However, in the present case, since there is no import, the question of any benefit is not taken at all so far.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 09.09.2025, following the principles of natural justice wherein Shri Hiren J Trivedi , Advocate appeared for the hearing on behalf of the Appellant . He re-iterated the submission made at the time of filing the appeal and also the additional submissions made on 08.09.2025 along with judgments filed along with it. The gist of additional submissions dtd. 08.09.2025 is as under:-

- (i) Communication with DGFT
- (ii) Order dated 20.08.2019 of DGGT regarding cancellation the Duty Free Authorization No: 2410041526 dated 21.07.2014
- (iii) Order of CESTAT dated 19.07.2023
- (iv) Mail dated 04.04.2024 from Custom House, Mundra, Drawback Section
- (v) Copy of letter dated 15.01.2024, 17.01.2024 & 17.02.2024, 14.03.2024
- (vi) Correspondence with Mundra Customs regarding placing OIO dated 07.03.2024 on hold and mail dated 21.03.2024
- (vii) Compilation of following Case laws :-

- Union Of India Vs. B.T. Patil And Sons Belgaum (Construction) Pvt Ltd- reported at (2024) 15 Centax 101 (S.C.)/2024 (388) E.L.T 399 (S.C.)
- Messrs Mahalaxmi Rubtech Ltd. Vs. Union Of India- reported at 2021 (3) TMI 240 - Gujarat High Court
- Union Of India Vs. Mahalaxmi Rubtech Ltd- reported at (2023) 6 Centax 154 (S.C.)/2023 (385) E.L.T. 99 (S.C.)
- Gujarat Tea Processors And Packers Ltd Vs. Union Of India & Ors. – reported at 2024 (10) TMI 68 - Gujarat High Court.
- SAVI LEATHERS Versus UNION OF INDIA- reported at (2024) 22 Centax 5 (Del.)



DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Deputy Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal as well as additional submissions

5.1 On going through the material on record, I find that the following issues need to be addressed:

- (i) That condonation of delay application so filed by the appellant is to be allowed or otherwise i.e. whether the appeal is time barred or not.
- (ii) Whether the rejection of the Appellant's claim for interest on the sanctioned Drawback amount, based on the initial filing of Shipping Bills under the DFIA Scheme (Code No. 26), is legally sustainable under Section 75A of the Customs Act, 1962.
- (iii) Whether the conversion of Shipping Bills from DFIA to Drawback Scheme, being a procedural aspect after export, should nullify the Appellant's right to interest on delayed Drawback payment as envisaged under Section 75A read with Section 27A of the Customs Act, 1962.

5.2 Section 128 of the Customs Act, 1962, provides for a period of sixty days for filing an appeal, with a further condonable period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed with a delay of twenty-eight days beyond the initial sixty-day period, but within the extended thirty-day period. The Appellant has attributed the delay to the facts that the impugned order was sent to their old address which was returned by post. Thereafter they requested for hand delivery of the same by their CHAS and accordingly the said order was collected by their authorised person on 18.03.2024. Further due to summer vacations in Gujarat High court their advocate prepared the appeal in June. While parties are expected to exercise due diligence, minor delays attributable to administrative oversights, especially when the appellant acts promptly upon discovering the issue, are generally

condoned by appellate authorities to ensure that justice is not denied on mere technicalities. Considering the explanation provided, which indicates no deliberate inaction or gross negligence, I find that the Appellant has shown "sufficient cause" for the delay. Therefore, the miscellaneous application for condonation of delay is allowed in the interest of natural justice and the appeal is admitted.

5.3 The central issue is the applicability of Section 75A of the Customs Act, 1962, which mandates the payment of interest if any drawback is not paid within one month from the date of filing a claim. The adjudicating authority rejected the interest claim on the ground that the SBs were initially filed under the DFIA Scheme (Code No. 26), a scheme "other than Drawback Scheme Code No. 19". The fundamental principle governing Drawback is to neutralize the duties and taxes borne by the exported goods, ensuring that the country does not export taxes. The Hon'ble High Court of Mumbai in *Repro India Ltd. vs. Union of India* [2009 (235) ELT 614 (Bom.)] explicitly upheld this objective. The Appellant rightly argues that denying conversion and, consequently, the interest on delayed payment, would force them to have exported goods inclusive of taxes, defeating the legislative intent.

5.4 The Appellant's situation involves a multi-stage process i.e Original filing under DFIA (Code 26), Cancellation of DFIA Certificate (16.02.2016) because no imports were made, Application for conversion to Drawback (17.08.2017), Sanction of Drawback (₹ 16,79,441/-). The legal validity of the conversion itself is not in dispute at this stage, as the drawback amount was ultimately sanctioned. The only dispute is the interest payable for the delay in this sanction. The Adjudicating Authority's rejection hinges on a literal interpretation of the SBs being "under DFIA Scheme Code No. 26". However, once the conversion is allowed and Drawback is sanctioned, the claim for drawback is deemed to have been filed under the Drawback Scheme. Any delay in the payment of this sanctioned drawback amount would attract the provisions of Section 75A of the Customs Act, 1962. Section 75A does not differentiate between an original Drawback claim and one arising from a subsequent conversion, provided the claim for the payment of drawback is filed and subsequently delayed.

5.5 The impugned order appears to have failed to adequately address the fundamental legal questions raised by the conversion:



- a. What is the effective date of the claim for the purpose of triggering the one-month period under Section 75A, given the conversion? The Appellant suggests the date of the conversion application (17.08.2017).
- b. Why does the final sanction of Drawback not retrospectively validate the claim for interest under Section 75A?

5.6 The adjudicating authority's finding that the interest claim is "baseless and brazen" merely because the initial SBs were filed under a different scheme is a finding of fact/law without sufficient justification in light of the subsequent official cancellation of the DFIA and sanction of the Drawback.

5.7 It is a well-established principle in administrative and quasi-judicial law that orders must be speaking orders, providing clear reasons and addressing all material submissions. Where a quasi-judicial authority fails to apply its mind to critical facts (like the DFIA cancellation and the no-double-benefit argument) or binding legal precedents (like the Repro India Ltd. case), the matter is fit for

remand.

5.8 The judgment of the Hon'ble High Court of Mumbai in the case of Repro India Ltd. vs. Union of India laid down a fundamental principle concerning the Drawback Scheme and its legislative intent. The Court specifically held that the intention of the Government in granting drawback is "not to export taxes but only to export the goods". The principle of implication which underscores that the benefit of Drawback is meant to neutralize the burden of duties/taxes suffered by the inputs/materials used in the manufacture of exported goods, ensuring that Indian exports are competitive in the international market. The mechanism of Drawback serves as a refund of domestic taxes paid on the materials consumed in manufacturing.

5.9 The Repro India Ltd. judgment is highly applicable and material to the appeal by M/s Kwalaty Paper Products for the reasons as the Appellant initially filed Shipping Bills (SBs) under the DFIA Scheme (Code No. 26), but since they made no imports under that scheme, the DFIA Certificate was cancelled. They subsequently applied for conversion to the Drawback Scheme and were eventually sanctioned the Drawback amount. The Appellant contends that the refusal to grant interest on the delayed payment of Drawback is based

solely on the procedural aspect of the initial scheme filing. The Appellant argues that if the conversion to the Drawback Scheme (and the consequential benefits like interest) is denied, they "would have been performance required to export the taxes, which gets included in the FOB value". This directly invokes the principle from the Repro India Ltd. case that the government's intention is "not to export taxes". The Appellant clearly states that since there was no import under the DFIA, no double benefit has been availed. Once the DFIA benefit is officially forgone (by cancellation) and the Drawback is sanctioned, denying the ancillary benefit of interest under Section 75A (for delayed payment) effectively penalizes the exporter for a change in choice of scheme despite adhering to the government's overall policy of compensating domestic duties/taxes on exports.

5.10 The Repro India Ltd. case establishes that the substantive right to avoid exporting taxes must prevail. Since the Drawback was ultimately sanctioned (confirming the substantive right), the question of interest under Section 75A must be decided based on when that claim became legitimate (i.e., upon conversion/cancellation of DFIA) and not merely dismissed based on the initial procedural filing code. Therefore, the matter is remanded to the Adjudicating Authority to re-adjudicate the interest claim by correctly applying the fundamental principle that the conversion to Drawback, having been accepted and Drawback sanctioned, should not lead to the Appellant "exporting taxes" by being denied the mandatory interest under Section 75A.

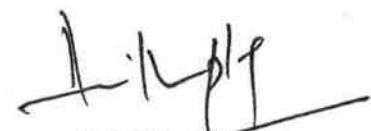
5.11 Given the procedural nature of the claim (conversion after DFIA cancellation), the economic rationale behind Drawback, and the absence of clear reasoning in the impugned order as to why the conversion and subsequent sanction do not trigger the interest provisions of Section 75A, a fresh examination is warranted. The adjudicating authority must specifically address the impact of the DFIA cancellation on 16.02.2016, the subsequent conversion request on 17.08.2017, and the applicability of Section 27A read with Section 75A in this factual matrix. Therefore, I find that the issue regarding the rejection of interest needs *de novo* consideration by the adjudicating authority. The adjudicating authority shall apply the principles of Section 75A and Section 27A to the facts of the conversion and sanction, duly considering the judicial pronouncements cited by the Appellant, especially the intent of the Drawback Scheme, and provide a speaking order with clear reasons for its conclusion.

6. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- (i) The impugned Order dated 07.03.2024 is hereby SET ASIDE on the issue of rejection of interest claim.
- (ii) The appeal is allowed by way of remand to the Adjudicating Authority, for de novo adjudication.
- (iv) The Adjudicating Authority shall provide a fresh opportunity of personal hearing to the Appellant and pass a fresh speaking order, specifically addressing:
 - (a) The date of the Drawback claim filing, considering the conversion from DFIA to Drawback Scheme.
 - (b) The applicability of Section 75A of the Customs Act, 1962, and the period for which interest, if any, is payable.
 - (c) The Appellant's reliance on the Repro India Ltd. judgment and the contention of "no double benefit" having been availed.

7. The appeal filed by M/s Kwality Paper Products is hereby allowed by way of remand.




(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-72/CUS/MUN/2024-25

Date: 28.10.2025

By Speed Post/E-Mail

To,
M/s Kwality Paper Products,
Plot No. 206, GIDC Phase 2, Dared,
Jamnagar, Gujarat 361004.

सत्यापित/ATTESTED

अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Customs House, Ahmedabad.
2. The Principal Commissioner of Customs, Customs House , Mundra.
3. The Deputy/Assistant Commissioner of Customs (Drawback), Customs House, Mundra.
4. Guard File.

