



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-20260371MN000000F057

क	फ़ाइल संख्या FILE NO.	S/49-355/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-910-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	31.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/179/ARK/DC/REF/24-25 dated 14.11.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	31.03.2026
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. HLG Trading, Space "E", 3rd Floor, Surya Kiran Building, The Mall Ludhiyana- 141001.



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 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)	बैगेज़ 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 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/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए 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 :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> 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 रूपए.
(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 रूपए
(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 ;
	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 रूपए.
(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
	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**

The present appeal has been filed by M/s. HLG Trading, Ludhiana (hereinafter referred to as the "appellant") under Section 128 of the Customs Act, 1962, challenging Order-in-Original No. MCH/179/ARK/DC/REF/24-25 dated 14.11.2024 (hereinafter referred to as "the impugned Order") passed by the Deputy Commissioner of Customs, Custom House, Mundra.

2.1 The facts of the case, in brief, are that the appellant had imported "Polyester 100% knitted fabric (mix/leftover rolls)" under four Bills of Entry, classifiable under CTH 60063200 of the Customs Tariff Act, 1975. The said Bills of Entry were reassessed by the department by enhancing the declared value. Being aggrieved by such enhancement, the appellant paid the differential duty amounting to Rs. 56,70,854/- and preferred appeals before the Commissioner (Appeals), Customs, Ahmedabad, which were rejected vide Order-in-Appeal dated 28.10.2020.

2.2 Thereafter, the appellant preferred appeals before the Hon'ble CESTAT, Ahmedabad, which vide Final Order dated 16.11.2023 set aside the earlier orders and remanded the matter to the adjudicating authority for fresh adjudication. Pursuant to the said remand, the adjudicating authority vide Order-in-Original dated 08.02.2024 accepted the transaction value declared by the appellant under Rule 12 of the Customs Valuation Rules, 2007 and ordered reassessment of the Bills of Entry accordingly.

2.3 Consequent to the favorable de novo adjudication order, the appellant filed a refund claim of Rs. 12,02,225/- on 11.09.2024 under Section 27 of the Customs Act, 1962, on account of excess duty paid. In support of the refund claim, the appellant submitted relevant documents including copies of the adjudication orders, appellate orders, CESTAT order, self-declaration regarding non-passing of duty incidence, and a Chartered Accountant's certificate certifying that the incidence of duty had not been passed on, thereby satisfying the requirement of unjust enrichment.

2.4 The adjudicating authority, after examination of the refund claim and supporting documents, sanctioned the refund amount of Rs. 12,02,225/- under Section 27 of the Customs Act, 1962, subject to verification by the Pay and Accounts Office (PAO/E-PAO) and with a condition that any adverse remark at



a later stage would require the appellant to repay the sanctioned amount along with applicable interest.

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Deputy Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant is filing this appeal to contest the Order-in-Original No. MCH/179/ARK/DC/REF/2024-25, dated 14.11.2024, passed by the Assistant Commissioner of Customs (Refunds), Mundra. While the department sanctioned a refund of Rs. 12,02,225/- regarding the excess duty paid on four bills of entry for imported polyester knitted fabric, they failed to grant any interest on this belated payment. The appellant contends that because the excess duty was collected by the department through the "loading" of goods' value at the time of import, they are legally entitled to interest on the withheld amount.

3.2 The appellant argues for a specific interest rate of 12% per annum from the date of the initial deposit until the actual date of refund payment. To support this, they rely on the CESTAT Chandigarh decision in Fuji Kawa Power and the CESTAT Allahabad decision in Parle Agro Pvt. Ltd. vs. Commissioner, Central Goods and Service Tax, Noida. These precedents establish that when excess amounts are charged and subsequently refunded, the taxpayer should be compensated for the period the funds were unavailable to them.

The appeal further draws upon a wide range of judicial authorities, including Supreme Court and High Court rulings, to emphasize that interest is a necessary corollary to the delayed refund of deposits made pending proceedings. Notable citations include Sandvik Asia Ltd. vs. Commissioner of Income Tax and Commissioner of Central Excise, Hyderabad vs. ITC Ltd., the latter of which notes that even the CBEC has issued circulars affirming that interest is payable on the refund of deposits. The appellant maintains that these collective rulings mandate the respondent to pay up-to-date interest at the applicable rate.



**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 26.02.2026, following the principles of natural justice wherein Shri B. Satish Sundar, Advocate, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

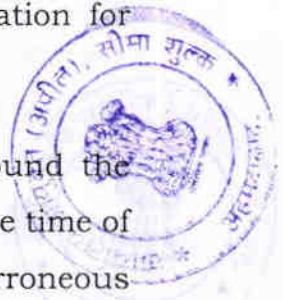
**DISCUSSION AND FINDINGS:**

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

5.1 Section 128 of the Customs Act, 1962, provides for a period of sixty days for filing an appeal, with a further grace period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed with a delay of seventeen days beyond the initial sixty-day period, but within the extended thirty-day period. The Appellant has submitted that they had already submitted letter dated 10.01.2025 and as a matter of precaution, application for condonation is being submitted. 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.

5.2 The fundamental controversy in this appeal revolves around the characterization of the sum of ₹ 12,02,225/- paid by the Appellant at the time of clearance. The Adjudicating Authority has proceeded on the erroneous assumption that this amount constitutes "duty" and therefore, any interest claim must be strictly governed by the narrow confines of Section 27A of the Customs Act, 1962. However, a deeper legal analysis reveals that this payment was not a voluntary discharge of tax liability but a conditional deposit made to secure the release of goods amidst an active valuation dispute.

5.3 It is undisputed that the Appellant challenged the enhancement of value immediately. The payment of differential duty was made under the shadow of a valuation dispute which eventually reached the Hon'ble CESTAT. In the eyes



of the law, a payment made to avoid the detention of goods or to facilitate clearance while the assessment is being contested is a payment "under protest." As held by the Hon'ble Supreme Court in *Mafatlal Industries Ltd. vs. Union of India* [1997 (89) ELT 247 (SC)], where a person pays duty but challenges the legality of the levy, such payment is not an admission of liability. Consequently, once the higher appellate forum (CESTAT in this case) sets aside the assessment, the "excess" amount collected loses the character of "duty." It is transformed into a "Revenue Deposit" or "Pre-deposit" held by the Government without the authority of law.

5.4 Section 27 of the Customs Act, 1962, typically deals with refunds arising from clerical errors, miscalculations, or exemptions discovered post-facto. In such cases, the three-month window for interest under Section 27A is justifiable. However, in the instant case, the refund is a consequence of an adjudicatory victory. When a demand is quashed by an appellate authority, the amount recovered by the Revenue becomes a de hors the statute collection. In *Principal Commissioner vs. Parle Agro Pvt. Ltd.* [2021-TIOL-306-CESTAT-ALL], it was categorically held:

*"The amount deposited by the appellant is not a 'duty' but is a 'deposit' during the investigation or during the pendency of the appeal. Once the appeal is allowed, the said amount is required to be refunded with interest from the date of deposit till the date of payment."*

This principle was further affirmed by the Hon'ble Allahabad High Court in Central Excise Appeal No. 18 of 2021, where the Court dismissed the Revenue's appeal, stating that the restrictive provisions of the Act cannot override the right to restitution for money held illegally.

Article 265 of the Constitution of India mandates that "No tax shall be levied or collected except by authority of law." If an assessment is set aside, the "collection" of that differential amount is retrospectively rendered unauthorized. If the Revenue is allowed to retain this amount for five years (as happened here) and then return only the principal without interest from the date of receipt, it would amount to an "unjust enrichment" of the State at the expense of the citizen's working capital. The Hon'ble Supreme Court in *Sandvik Asia Ltd. vs. CIT* [2006 (196) ELT 257 (SC)] observed:

*"There is no question of the delay being only of few days... the Appellant has been deprived of the use of its monies for several years... the State cannot be allowed to derive benefit from its own wrong."*

5.6 The Appellant has vehemently argued for a higher rate of interest, citing the long-drawn-out nature of the litigation and the financial loss incurred. I have examined these claims within the strictures of the Customs Act. The power to determine the rate of interest under Section 27A is vested in the Central Government by notification. Under Notification No. 18/2011-Customs (N.T.) dated 01.03.2011, the rate has been fixed at 6% per annum. As an Appellate Authority created under the statute, I do not have the jurisdiction to enhance this rate or "strike down" the notification. While the Appellant refers to commercial lending rates or "equitable" interest of 12% to 18%, I must restrict the relief to the 6% rate mandated by the legislature. This position is supported by the Hon'ble Supreme Court in Commissioner of Central Excise vs. ITC Ltd. [2005 (179) E.L.T. 15 (S.C.)], which held that interest is a matter of statutory provision and cannot be granted on a higher basis than what the law allows.

5.7 The Adjudicating Authority implicitly relied on the statutory limit of Section 27A. However, as discussed in T T Limited vs. CCE (2025 CESTAT Allahabad), payments made before adjudication or under the shadow of a dispute are not "duty" in the strict sense. The Adjudicating Authority failed to distinguish between a "Refund of Duty" (arising from an error of the importer) and "Restitution of Deposit" (arising from a wrongful act of the department).

5.8 No tax shall be levied or collected except by authority of law. When the department's assessment was found illegal by the CESTAT in 2023, the collection of ₹ 12,02,225/- in 2019 became a collection without authority of law. Restitution must be complete, which includes the time-value of money.

5.9 Based on the detailed discussion above, I find that the Appellant is entitled to interest from the date of payment (August 2019) till the date of realization. The payment was clearly under protest/shadow of dispute. The right to receive interest under Section 27A of the Customs Act, 1962, is not a "reward" for the assessee's diligence, nor is it a "penalty" on the officer for their lethargy. It is a strictly compensatory mechanism built into the statute to ensure that if the Sovereign retains a citizen's funds without the authority of law (as confirmed by the subsequent sanction of the refund), the citizen is compensated for the loss of the "use value" of that money. Section 27A is not an embargo on the grant

of interest from the date of deposit in cases where the underlying assessment is quashed by an appellate authority. The Appellant has successfully established their entitlement through the binding precedents of the Apex Court and the clear wording of the statute. The statutory interest under Section 27A is a minimum restitution required under the law to prevent the unjust enrichment of the Treasury at the expense of the Appellant. Therefore, I find that the Appellant is entitled to interest from the date of deposit of the respective amounts (August 2019) until the date of actual refund sanctioned in 2024.

6. In view of the findings above, I pass the following order:

(i) The Miscellaneous Application for Condonation of Delay is allowed.

(ii) The appeal filed by M/s HLG Trading is hereby allowed.

(iii) The impugned Order-in-Original No. MCH/179/ARK/DC/REF/2024-25 is modified to the extent that the Appellant is granted interest as per existing legal provisions.

(iv) The interest shall be calculated from the date of deposit of the respective amounts (August 2019) until the date of actual refund sanctioned in 2024.

(v) The Adjudicating Authority is directed to calculate and disburse the interest amount.



*[Handwritten Signature]*

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

F. No. S/49-355/CUS/MUN/2024-25

Date:31.03.2026

By Speed post A.D/E-Mail

*260/10261*

To,  
M/s. HLG Trading,  
Space "E", 3rd Floor,  
Surya Kiran Building, The Mall  
Ludhiana-141001.

Copy to:

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

