



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंजिल 4th Floor, हड्डको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281

DIN- 20251171MN0000419459

क	फ़ाइल संख्या FILE NO.	S/49-175/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-461-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	28.11.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Assessment of Bill of Entry No. 9653379 dated 13.01.2024, which has been communicated vide a letter F.No. CH/DJ/Misc./212/2022-23 dated 09.08.2024 issued by Superintendent of Customs, Custom House, Dahej.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	28.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Bharat Petroleum Corporation Ltd. Bharat Bhavan, 4 & 6, Currinbhoy Road, Ballard Estate, Mumbai - 400001.
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)	बैगेज 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 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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके 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 व्याज, 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				
	<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>(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;</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; पांच हजार रुपए</p> <p>(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 ;</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>(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</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>(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.</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

1. M/s. Bharat Petroleum Corporation Ltd. (hereinafter referred as 'the appellant') has filed the present appeal under Section 128 of the Customs Act, 1962, against finalization of provisional assessment of Bill of Entry No. 9653379 dated 13.01.2024 (hereinafter referred to as 'the impugned Bill of Entry), which has been communicated to them vide a letter F.No. CH/DJ/Misc./212/2022-23 dated 09.08.2024 issued by Superintendent of Customs, Custom House, Dahej (hereinafter referred to as the 'impugned letter').
2. Facts of the case, in brief, are that the appellant has filed the impugned Bill of Entry towards import of LPG Propane and LPG Butane from UAE. The impugned Bill of Entry was assessed provisionally and the appellant has paid duty of Rs.3,46,91,920/- and got clearance of the goods. Assessment of the impugned Bill of Entry was finalized by Customs officer, Custom House, Dahej, by reducing the figures of quantity, value and duty, manually with undated Signature and Rubber Stamp of Superintendent of Customs. Accordingly, the duty was finally assessed as Rs.3,44,79,071/- Finalization of provisional assessment of 18 Bills of Entry, including the impugned Bill of Entry, has been communicated to the appellant vide the impugned letter.
3. Being aggrieved, the appellant has filed the present appeal. The appellant, inter alia, mentioned that the dispute is only with reference to Basic Customs Duty and SWS paid on imported Liquefied Petroleum Gas – Butane (Non-Domestic) in the subject Bill of Entry. That the subject BoE was provisionally assessed on account of difficulty in ascertaining the quantity of subject goods and freight charges at the time of import. That the foreign exporter had applied to the Issuing Authority for issuance of Certificate of Origin supporting the goods exported to the appellants. That however due to reasons beyond the control of the exporter as well as the appellant, the Certificate of Origin was not available at the time of filing of Bill of Entry. Thus, the appellant was unable to avail the benefit of preferential rate at the time of import. Later, the Certificate of Origin was issued retroactively in respect of the imported goods. The appellant submitted a copy of the said Certificate of Origin dated 29.08.2024 in which there is a Remarks, "Issued Retrospectively".
4. Whereas, the provisional assessment was finalized prior to issuance of the said Certificate of Origin 29.08.2024 and communicated to the appellant vide impugned letter




dated 09.08.2024. The appellant further mentioned that upon receiving the impugned letter dated 09.08.2024 they realized that in absence of Certificate of Origin during finalization proceedings, they could not avail the benefit of preferential rate of duty and the assessment has been finalized without considering the benefit of preferential duty under India-UAE CEPA. So, the appellant has filed the present appeal with request to set aside the final assessment and to allow the benefit of Nil rate of BCD, as prescribed at Sr. Nos. 1668 and 1669 of Notification No. 22/2022-Cus dated 30.04.2022. The appellant also sought refund of duty paid in excess along with interest.

5. As the present appeal has been filed with a claim to reduce the assessment of duty and the goods have already been cleared on payment of higher duty, as claimed by the appellant, no pre-deposit is required under the provisions of Section 129E of the Customs Act, 1962.

6. In the Form No. C.A.-1, the appellant has shown the date of communication of the impugned letter dated 09.08.2024, as '09.08.2024'. Whereas, the appeal has been received in this office on 03.10.2024. Thus, this appeal has been filed within the normal period of 60 days, as prescribed for filing appeal under Section 128 of the Customs Act, 1962.

7. In view of the above position, the appeal has been admitted and being taken up for disposal.

8. One set of the appeal memorandum has forwarded to the Assistant Commissioner of Customs, Custom House, Dahej (hereinafter referred to as 'the adjudicating authority') for comments vide this office letter dated 11.11.2024, but no reply thereof has been received. So, I proceed to decide the appeal on the basis of documents submitted by the appellant.

PERSONAL HEARING

9. Personal Hearing in respect of the appeal was held on 10.09.2025, which has been attended by Mr. Gaurav Bajaj, Deputy General Manager (Corporate Taxation) and Ms. Janvi Bothra, Assistant Manager (Corporate Taxation) of the appellant. They reiterated the submissions made at the time of filing of appeals. They also mentioned that they would submit additional submissions shortly.



10. Vide email dated 21.11.2025 the appellant has submitted additional submissions, which are as follows.

ADDITIONAL SUBMISSIONS

Imported goods are eligible for preferential duty benefit under the India-UAE CEPA.

11. The Appellants submitted that the imported goods viz. Butane under CTI 27111300 are exempted from whole of Basic Customs Duty vide S. No. 1669 of Notification No. 22/2022-Cus dated 30.04.2022. Relevant excerpt below:

Notification No. 22/2022- Customs dated 30.04.2022

TABLE-I

<i>S. No.</i>	<i>Tariff Item</i>	<i>Description</i>	<i>BCD Rate in % (unless otherwise specified)</i>
1668	27111200	<i>All Goods</i>	0
1669	27111300	<i>All Goods</i>	0

Rules of Origin criteria stand satisfied in respect of the imported goods.

12. As per Rule 4(d) of the ROO Notification, mineral products and natural resources extracted or taken from UAE's soil, water, seabed or beneath the seabed, inter alia, are considered as wholly obtained or produced in the territory of UAE.

13. The Appellants submit that the imported goods, i.e. 'Liquefied Petroleum Gas - Propane' and 'Liquefied Petroleum Gas - Butane' are mineral products and natural resources extracted from UAE's soil and are thus, wholly obtained or produced products. Further, the imported goods are produced in the UAE i.e., Exporter's territory.

14. In view of the above, the Appellants submit that the imported goods qualify as originating in the UAE in terms of Rule 3(1) of the ROO Notification.

15. Further, as per rule 13 of the ROO Notification, preferential treatment shall only be granted to those originating goods that are transported directly from UAE to India and vice-versa.

16. As seen from the import documents including bill of lading, the Country of Consignment is UAE and the Port of Loading and Shipment is Ruwais, UAE. The documents also show that the Port of Import in India is Dahej. Therefore, the imported goods are directly transported from the originating country, i.e. UAE to India.



17. As the imported goods satisfy the origin criteria laid down in the ROO Notification, they are eligible to avail the benefit of preferential rate of duty under the CEPA Notification.

Valid Certificates of Origin issued for the imported goods.

18. Rule 15 provides for the Certificate of Origin and lays down the certification procedure. As per the Rule, the Certificate of Origin is to be issued prior to, at or within a period of five working days from the date of exportation. However, in exceptional cases, the Certificate of Origin may be issued retrospectively within 12 months from the date of shipment.

19. The Appellants submit that in the above import, the imported goods were shipped on 27.12.2023 vide the above-mentioned Bills of Lading. The Certificates of Origin dated 29.08.2024 were issued retrospectively for the imported goods. The Certificates of Origin have been issued within 12 months from the date of shipment and is valid for the imported goods, as stipulated under Rule 15 of the ROO Notification.

20. In the present case, the Exporter had applied to the Issuing Authority for the issuance of Certificate of Origin supporting the imported goods exported to the Appellants. However, due to reasons beyond the control of the Exporter as well as the Appellants, the Certificate of Origin was not available at the time of exportation as well as at the time of filing of BoE by the Appellants. Thus, the Appellants were unable to avail the benefit of preferential tariff at the time of import.

21. It is only later on that the Issuing Authority issued the Certificates of Origin retroactively in respect of the imported goods and the same has been duly provided by the Exporter to the Appellants.

22. In view of the above, the Appellants submit that the imported goods are covered under the Notification No. 22/2022-Cus dated 30.04.2022 granting preferential duty benefit to import of goods under the India-UAE CEPA and satisfy the origin criteria laid down in the ROO Notification to qualify as originating in the UAE. Further, the imported goods are covered by valid Certificates of Origin and benefit of exemption should be granted to Appellant.

CBIC instructions dated 16th Oct 2024 to consider retrospectively issued COO and grant benefit to importers



23. Instruction No. 21/2024 dated 16.10.2024 addresses the issues faced by trade w.r.t implementation challenges being faced under the India-UAE CEPA. The issue discussed in the said instructions primarily pertained to non-acceptance of retrospectively issued certificates of origin and consequent denial of preferential benefit under the CEPA. While procedural discrepancies such as non-marking of 'ISSUED RETROSPECTIVELY' column by the issuing authority and non-uploading of certificate of origin on e-Sanchit are cited as ground for rejection of claim, a substantive issue that section 149 of the Customs Act do not allow amendment in bill of entry after out-of-charge has also been raised.

24. Point No. 2.3 of the said instruction stated that where preferential treatment was not claimed or extended at the time of import, the importer does not lose the right to claim the benefit upon subsequent submission of a valid COO within stipulated time frame, provided that authenticity of COO and product origin are not disputed. Further, it stressed upon the fact that a harmonious reading of the provisions is required so that the legal entitlement under the trade agreement is not nullified. At point no. 3 of the said instruction, CBIC has referred to rule 15 (13) of the rules given in notification no. 39/2022-Cus. (N.T.) dated 30.04.2022 which provides that minor discrepancies, including typing or formatting errors, shall not render a COO invalid, provided the certificate corresponds to the products under import and such minor errors do not affect the authenticity of the COO or the accuracy of the information contained therein. Further, CBIC concluded the instruction with a view to provide relief to the trade with respect to minor discrepancies where it does not affect the authenticity of the CoO. The closing extracts from the instructions is below –

"In nutshell, minor procedural discrepancies concerning rules of origin should not be seen as countering the intent of extending substantive benefit under trade agreement, unless such discrepancies cast a doubt on the originating status of the product."

25. In view of the above instruction which is binding on Custom authorities, the appellant requested to consider COO and grant refund of duty already paid.

Matter is settled considering various favourable judgements

26. In this regard, reliance is placed on the decision pronounced by the Hon'ble CESTAT, Chennai in the case of CC (Port Import), Chennai v. Exide Industries Ltd., 2017 (357) E.L.T. 414 (Tn. Chennai) wherein the Hon'ble CESTAT held that if goods were eligible for an exemption under FTA, non-possession of certificate of origin at the time of clearance ought not become a barrier to avail the exemption. Thus, goods are liable to



be reassessed since a minor procedural infraction ought not deny a substantive benefit to the appellant.

27. In appellant's own case of import of LPG- Butane and Propane, commissioner of Customs (Appeal), Kolkata has issued a favourable order to consider the COO and reassess the bill of entry considering the COO. Relevant portion of the order is reproduced below:

"That the exporter had applied to the issuing authority for the issuance of Certificate of origin supporting the imported goods exported to the importer. However, due to reasons beyond the control of the exporter as well as the Importer, the Certificate of Origin was not available at the time of exportation as well as at the time of filing the Bills of Entry by the importer. Thus, the importer was unable to avail the benefit of preferential tariff at the time of import. Later the issuing Authority had issued the Certificates of Origin retroactively against the imported goods and the same appeared to correspond to and cover the imported goods under Sl. No.1668 and 1669 of the Notification No. 22/2022-Customs dated 30/04/2022. The importer has therefore received retrospective CoO Certificates duly issued by the exporting country in terms of the provisions of Notification No. 22/2022-Customs dated 30/04/2022, and based on such retrospectively issued Certificates, the importer has claimed their eligibility of exemption and hence, the department should consider the importer's submissions and decide the matter afresh after following principles of natural justice".

28. Pursuant to the remand matter CoO has been considered by original adjudicating authority and bill of entries have been ordered to be reassessed considering CoO and grant benefit of custom duty.

29. In a recent judgement of Hon'ble CESTAT Ahmedabad, in the matter of Indian Oil Corporation Ltd versus Commissioner of Customs Ahmedabad, customs appeal no. 10456 of 2024 the tribunal has held that the benefit of CBIC instruction dated 16th Oct 2024 (supra) should be allowed to assessee. Relevant portion of the order is produced below:

"..... we are of the opinion that the matter is liable to be remanded to the Adjudicating Authority with the direction to consider the issue of giving benefit of exemption to the appellant from payment of Customs duty on the basis of Certificate of Country of Origin retrospectively, which was not claimed at the time of filing Bills of Entry or Out of Charge order in the light of CBIC Instruction No. 21/2024-Customs dated 26.10.2024 and in the light of observations made in this order"

30. In view of the above judgements, the appellant has requested to consider COO and grant refund of duty already paid.

Duty paid in excess shall be refunded along with interest considering the imported goods being exempted under India-UAE CEPA

31. The appellant submits that imported goods are eligible for exemption from customs duty under the India-UAE CEPA. The Appellants thus submitted that the excess duty has been discharged on the imported goods inadvertently even though the same was not payable in view of exemption under Notification No. 22/2022-Cus dated 30.04.2022 read with the ROO Notification. Thus, the Appellants submit that the excess Customs Duty paid by them is consequently refundable to them. The Appellants submit that in terms of Section 18(4) of the Customs Act, if any refundable amount is not refunded within 3 months from the date of assessment or re-assessment of duty, interest shall be paid on such unrefunded amount till the date of refund of such amount.

32. In view of the above, the appellant prayed that finalisation order F.No. CH/DJ/Misc./212/ 2022-23/205 dated 9th August 2024 to be set aside and benefit of exemption from payment of Custom duties under India-UAE CEPA is granted considering the certificate of original submitted.

FINDINGS

33. I have carefully gone through the written as well as oral submissions made by or on behalf of the appellant viz. M/s. Bharat Petroleum Corporation Ltd. The issue involved in the appeal is regarding non-extending the benefit of preferential rate of duty based on Country of Origin Certificate under Indo-UAE CEPA. However, it is admitted fact that while finalization of provisional assessment, the Certificate of Origin was not available and so, the appellant could not produce it before the assessing officer. As the appellant had not claimed the said benefit and not submitted relevant documents at the time of finalization of assessment, the assessment was finalized without granting the benefit of preferential rate based upon Country of Origin Certificate.

34. The appellant has right to file appeal against assessment of Bill of Entry, which the appellant has exercised. In view of the judgment of Hon'ble Supreme Court in the case of *ITC Ltd. Vs. Commissioner of Central Excise, Kolkata-IV [2019 (368) E.L.T. 216 (S.C.)]*, an appeal against assessment of Bill of Entry can be filed, even if no speaking order has been issued towards assessment. In the case on hand, no speaking order has been issued by the adjudicating authority. So, I am of the view that claim of the



appellant needs to be examined by the adjudicating authority and then assessment is required to be finalized by passing speaking order.

35. I find that the date of finalization of provisional assessment is nowhere mentioned in the documents submitted by the appellant. However, it has been communicated to the appellant vide letter F.No. CH/DJ/Misc./212/2022-23 dated 09.08.2024 issued by Superintendent of Customs, Custom House, Dahej. Whereas, the Country of Origin Certificate has been issued on 29.08.2024 retrospectively. Therefore, the adjudicating authority has no occasion of examine and verify the applicability of the Country of Origin Certificate while finalization of provisional assessment. So, I am of the view that the matter needs to be remanded to the adjudicating authority to finalize provisional assessment by speaking order after considering the documents, which are to be submitted by the appellant to the adjudicating authority.

36. 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) E.L.T 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.

37. As regards the claim of the appellant for refund of duty with interest, I find that the appellant has not submitted any document through which they have requested the assessing officer or adjudicating authority to withhold finalization of the provisional assessment till the receipt Country of Origin Certificate. In the appeal memorandum, the appellant themselves stated that upon receiving the impugned order, they realized that in absence of Certificates of Origin during finalization proceedings they could not avail the benefit of preferential duty. Thus, there is no delay attributable on part of Customs Department. As per Section 18(4) of the Customs Act, 1962, if the refundable amount on account of finalization of provisional assessment is not refunded within three months from the date of final assessment, interest shall be payable. Further, in order to get refund of differential duty on account of finalization of assessment, the appellant is required to file refund claim under the provisions of Section 27(1) within the time-limit as prescribed under Section 27(1B)(c) of the Customs Act, 1962. The present appeal is



not against any order in respect of refund. Therefore, the question of deciding admissibility refund and interest thereon, does not arise at this stage.

38. In view of the above discussion and findings, I pass the following order.

Order

I set aside the final assessment of Bill of Entry No. 9653379 dated 13.01.2024 filed by M/s. Bharat Petroleum Corporation Ltd. and direct the Deputy/Assistant Commissioner of Customs, Custom House, Dahej, to finalize the provisional assessment of the impugned Bill of Entry by passing speaking order after considering the documents, including Certificate of Origin, which are to be submitted by the appellant for finalization of provisional assessment. The appeal is allowed by remand without expressing any view of admissibility of benefit of Notification No. 22/2022-Customs dated 30.04.2022.



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

F.No. S/49-175/CUS/AHD/2024-25

Date: 28.11.2025

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To

M/s. Bharat Petroleum Corporation Ltd.
Bharat Bhavan, 4 & 6, Currinbhoy Road, Ballard Estate, Mumbai – 400001.

(email: gauravbajaj@bharatpetroleum.in bothrajanvi@bharatpetroleum.in
info@bharatpetroleum.in)

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
(email: ccoaahm-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, Custom House, Dahej.
(email: sup.ch-cusdahej@gov.in chdahej@gmail.com)
4. Guard File.
