



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-20260371MN0000000D7B

क	फ़ाइल संख्या FILE NO.	S/49-415/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- 907-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AK/88/24-25 dated 08.07.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Gajwani Global. Bunder Road, Mundra-B, 2/2/2/96/63, Behind Hospital, Mundra, Kutch, Gujarat-370421.



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/- (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 :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 nd 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 ;
(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 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.
	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. Gajwani Global, Mundra (hereinafter referred to as the "appellant") under Section 128 of the Customs Act, 1962, challenging Order-in-Original No. MCH/ADC/AK/88/24-25 dated 08.07.2024 passed by the Additional Commissioner of Customs, Mundra.

2.1 The facts of the case, in brief, are that the appellant filed Bill of Entry No. 5790448 dated 04.05.2023 through their Customs Broker for import of goods declared as "parts and accessories of printing machine," classifiable under CTH 84439990 of the Customs Tariff Act, 1975, having a declared assessable value of Rs. 6,30,473/-. The goods were imported from M/s. Electronic Way Trading LLC, Dubai (UAE), and duty amounting to Rs. 1,74,863/- (including IGST) was assessed.

2.2 On the basis of an alert issued by NCTC indicating risk of mis-declaration, IPR violations and BIS non-compliance, the consignment was put on hold and subjected to detailed examination under panchnama dated 15.05.2023 by SIIB officers in the presence of concerned representatives.

2.3 Upon examination, the goods were found to be old and used parts/accessories of photocopier machines instead of the declared printing machine parts. Further, undeclared items in the nature of hard disk drives of varying storage capacities and of different countries of origin were also found concealed within the consignments. The goods were observed to be old and used.

2.4 In view of the above, the goods appeared to be mis-declared in terms of description, quantity and country of origin. Further, being old and used goods, the same were considered as restricted/prohibited for import under the Foreign Trade Policy (2015-20) and the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The empanelled Chartered Engineer, vide report dated 08.12.2023, also certified that the goods were old and used and not reconditioned.

2.5 Accordingly, the goods were seized vide Seizure Memo dated 24.06.2023 under Section 110(1) of the Customs Act, 1962 on the reasonable belief that they were liable for confiscation under Sections 111(d) and 111(m) of the Act. Further investigation revealed that the declared premises of the appellant was non-



existent.

2.6 Summons were issued to the appellant under Section 108 of the Customs Act, 1962 on multiple occasions; however, the appellant neither appeared nor submitted any response. Similarly, summons issued to the Customs Broker also remained uncomplished with, and the matter was reported to the concerned authority for appropriate action.

2.7 In view of non-cooperation by the appellant and discrepancies noticed during examination, the declared transaction value was rejected under Rule 12 of the Customs Valuation Rules, 2007 and the assessable value was re-determined at Rs. 13,09,114/-, with corresponding duty of Rs. 3,63,083/-.

2.8 Thereafter, a Show Cause Notice was issued proposing that the impugned goods be treated as old and used waste falling under Schedule III (Part B, Basel No. B1110) of the Hazardous and Other Wastes Rules, 2016 and as restricted goods under the Foreign Trade Policy; that the same be held liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962; and that penalty be imposed on the appellant under Section 112(a) of the Act.

2.9 The adjudicating authority, after due adjudication, held the impugned goods as "E-waste/other waste" and restricted for import, and ordered absolute confiscation of the goods under Sections 111(d) and 111(m) of the Customs Act, 1962 read with relevant provisions of the Foreign Trade (Development and Regulation) Act, 1992. Further, a penalty of Rs. 6,50,000/- was imposed on the appellant under Section 112(a)(i) of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional 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 first contends that the impugned order is legally flawed because the Adjudicating Authority failed to consider submissions made in response to the Show Cause Notice (SCN). Furthermore, they argue a



significant violation of natural justice, asserting that the authority incorrectly claimed the importer waived their right to an SCN and personal hearing in a letter dated March 7, 2024, when no such waiver was actually requested.

3.2 A primary technical argument is that the imported goods are "old and unused" rather than "old and secondhand," which would make them freely importable parts of capital goods under the Foreign Trade Policy (FTP). The appellant challenges the classification of the items as "prohibited" under Section 111(d), arguing that even if they were considered secondhand, they are at most "restricted," not prohibited. They further dispute the application of the Hazardous and Other Waste Rules, 2016, noting that the goods are components rather than "electrical and electronic assemblies" (Basel B1110) and, regardless, do not require prior informed consent for import.

3.3 Regarding valuation, the appellant argues that the Adjudicating Authority improperly rejected the declared transaction value without following the sequential procedure required by the Customs Valuation Rules, 2007. They contend that relying solely on a Chartered Engineer's market survey report is legally unsustainable, especially since the report was not provided to the importer. Because the goods are unique (old but unused), the appellant maintains that "similar" or "identical" goods do not exist in the market for comparison, rendering the re-valuation under Rule 7 invalid.

3.4 Finally, the appellant challenges the absolute confiscation and the quantum of the penalty imposed. They argue that even if the goods were found to be restricted, they should be released upon payment of a redemption fine rather than being absolutely confiscated. Additionally, they dispute the ₹6,50,000 penalty under Section 112(a)(i), noting that this section applies only to "prohibited" goods. Since there was no duty evasion, they argue that the maximum penalty under Section 112(a)(ii) for non-prohibited goods should not exceed ₹5,000.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 10.12.2025 following the principles of natural justice wherein Shri Vishal Ajay Kumar, Consultant, 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 Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal.

5.1 The crux of the dispute lies in the categorization of the goods. The Appellant contends they are "used components," while the Revenue asserts they are "hazardous waste." Under Rule 3(1)(17) of the HOWM Rules, 2016, "hazardous waste" means any waste which by reason of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics causes danger or is likely to cause danger to health or environment. Further, Schedule III, Part A and Part B list specific electronic assemblies and scrap that require prior permission from the MoEFCC for import.

5.2 In the instant case, the Chartered Engineer's report explicitly states that the goods are non-functional, mixed with scrap, and exhibit characteristics of "e-waste." Rule 15(1) of the HOWM Rules, 2016, stipulates that any import without the permission of the Central Government (MoEFCC) shall be deemed "illegal traffic." The Hon'ble Supreme Court in Research Foundation for Science vs. Union of India (2005) has held that the "Precautionary Principle" and the "Pollutant Pays Principle" are part of the environmental law of the country. The Court emphasized that hazardous waste must not be allowed to enter the country under the guise of "used goods" or "charity" without strict compliance with the Basel Convention and domestic rules.

5.3 I find that the Appellant failed to produce any permission from the MoEFCC as required under Rule 12(4) of the HOWM Rules, 2016. Therefore, the import is inherently illegal and the goods fall under the category of "prohibited goods" as defined in Section 2(33) of the Customs Act, 1962.

5.4 The Adjudicating Authority has invoked Sections 111(d) and 111(m) for the confiscation of the subject goods. I shall elaborate on the applicability of these provisions in detail. Section 111(d) of the Customs Act, 1962, mandates the confiscation of any goods imported or attempted to be imported contrary to any prohibition imposed by or under the Act or any other law for the time being in force. As per Section 2(33) of the Customs Act, "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force. It is a settled legal position that if an



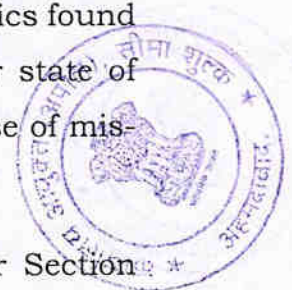
import is subject to conditions and those conditions are not met, the goods fall within the ambit of "prohibited goods." Reference is made to the Hon'ble Supreme Court judgment in *Om Prakash Bhatia vs. Commissioner of Customs, Delhi* [2003 (155) E.L.T. 423 (S.C.)], wherein it was held that if the conditions for import are not complied with, such goods are to be treated as prohibited goods.

5.5 Rule 15 of the HOWM Rules, 2016, explicitly defines imports without permission as "illegal traffic." By operation of law, any "illegal traffic" under environmental rules automatically triggers the "prohibition" clause under Section 111(d). The Appellant's failure to provide the mandatory MoEFCC authorization is not a mere procedural lapse but a substantive violation of an environmental prohibition intended to prevent India from becoming a dumping ground for global e-waste.

5.6 Section 111(m) provides for confiscation of any goods which do not correspond in respect of value or any other particular with the entry made under the Customs Act. The Appellant declared the goods as "Old and Used Electronic Components." However, physical examination supported by expert Chartered Engineer opinion confirmed that the goods were "Electronic Waste/Scrap." There is a fundamental distinction between a "component" and "waste". The mis-declaration of "waste" as "used components" is a strategic choice often employed to bypass the stringent regulatory framework of the HOWM Rules. By providing an incorrect description in the Bill of Entry, the Appellant attempted to hide the true nature of the goods from the risk management system (RMS) and the assessing officers.

5.7 In the present case, these two sections operate in tandem. The goods are liable under 111(d) because they are prohibited and under 111(m) because the declaration made in the Bill of Entry was factually incorrect. The Appellant's argument that they were "used goods" and thus freely importable under FTP is a misplaced interpretation that ignores the specific "waste" characteristics found during examination. The "particulars" of the goods—specifically their state of functionality and residual life—were suppressed, leading to a clear case of mis-declaration.

5.8 The Adjudicating Authority has imposed penalties under Section 112(a). The Appellant contends that these penalties are unwarranted as there was no "willful" intent. I find this argument legally untenable. Section 112(a) provides for a penalty on any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to



confiscation under Section 111. Once it is established that the goods are liable for confiscation under Section 111, the penalty under Section 112(a) follows as a natural legal consequence.

5.9 As an importer, the Appellant has a statutory obligation to ensure that the goods being brought into the country comply with all local laws, including environmental regulations. By importing e-waste without the mandatory "Certificate of Residual Life" and MoEFCC permission, the Appellant committed a series of omissions that directly led to the confiscation of the goods.


5.10 The reasoning provided by the Adjudicating Authority in the OIO—that the goods are "hazardous waste" based on the Chartered Engineer's report and lack of statutory permissions—is legally sound and factually supported. The attempt by the Appellant to distinguish "waste" from "used goods" fails the "functionality test" established in multiple judicial rulings.

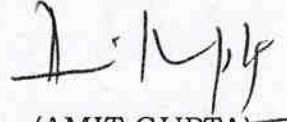
5.11 In conclusion, having scrutinized the factual matrix and the statutory framework, it is established beyond reasonable doubt that the imported goods are "hazardous waste" disguised as functional used components. The Appellant's failure to comply with the mandatory prior authorization from the MoEFCC, as stipulated under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, renders the entire transaction an "illegal traffic" as defined by law. The deliberate mis-description in the Bill of Entry was clearly intended to circumvent the environmental safeguards and prohibitions that classify such goods as "prohibited" under Section 2(33) of the Customs Act, 1962. Consequently, the findings of the Adjudicating Authority regarding the liability for confiscation under Sections 111(d) and 111(m), and the subsequent imposition of penalty under Section 112(a), is legally sound, factually substantiated, and consistent with the "Precautionary Principle" upheld by the Hon'ble Supreme Court. The judicial precedents cited by the Appellant are inapplicable given the specific "waste" nature of the goods found upon physical examination. Accordingly, the appeal is devoid of merit and the order for absolute confiscation remains the only appropriate legal remedy to safeguard the domestic environment from the dumping of electronic waste.



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6. In view of the discussions and findings recorded above, the appeal filed by M/s Ganjwani Global is hereby rejected and the Order-in-Original No. MCH/ADC/AK/88/24-25 dated 08.07.2024 is upheld in its entirety.

सत्यापित/ATTESTED

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


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

F. No. S/49-415/CUS/MUN/2024-25

Date: 30.03.2026

By Speed post A.D/E-Mail

To,
 M/s Gajwani Global.
 Bunder Road, Mundra-B, 2/2/2/96/63,
 Behind Hospital, Mundra,
 Kutch, Gujarat-370421.



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.