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-20260171MN0000919189

क	फ़ाइल संख्या FILE NO.	S/49- 71/CUS/KDL/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)	KDL-CUS-000-APP - 77 - 25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	21.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF Order – In - Original.	KDL/AC/84/DSR/REF/24-25, dated 29.07.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Om Prakash Satish Kumar, 2, Amar Colony, Nangloi, Delhi - 110041

1	**यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.**
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	**सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.**
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :

(क)	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods 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 हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-

	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.**
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए**
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.**
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड 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 Om Prakash Satish Kumar (hereinafter referred to as "the appellant") under Section 128 of the Customs Act, 1962 against Order-in-Original No. KDL/AC/84/DSR/Ref/2024-25 dated 29.07.2024 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner of Customs, Custom House, Kandla (hereinafter referred to as "the adjudicating authority"). The appellant is aggrieved only to the extent of denial of interest on the refunded amount of ₹50,00,000/-, while the refund of the principal amount has been sanctioned by the adjudicating authority.

2. Facts of the case, in brief, are that the appellant is engaged in the import of timber logs and had claimed refund of Special Additional Duty (SAD) in terms of Notification No. 102/2007-Cus, which was sanctioned vide Orders-in-Original dated 03.10.2008, 12.12.2008 and 26.09.2009. Subsequently, an investigation was conducted and a Show Cause Notice dated 31.03.2011 was issued proposing recovery of the refunded amount of ₹39,38,867/- by denying the benefit of Notification No. 102/2007-Cus.

2.3 During the course of investigation, the appellant deposited an amount of ₹50,00,000/- under protest. The Show Cause Notice was adjudicated vide Order-in-Original dated 04.06.2014, confirming recovery of refund along with interest and penalty and appropriating the amount deposited during investigation. The said order was upheld by the Commissioner (Appeals). Against the same, the appellant preferred an appeal before the Hon'ble CESTAT, Ahmedabad.

2.6 The Hon'ble CESTAT, Ahmedabad, vide Final Order No. 10879/2024 dated 15.04.2024, set aside the demand and allowed the appeal of the appellant with consequential relief. Consequent to the said final order, the appellant filed a refund claim for ₹50,00,000/- along with interest. The adjudicating authority sanctioned the refund of the principal amount but rejected the claim for interest, on the ground that no specific prayer for interest was made before the Hon'ble CESTAT.

3 Being aggrieved by the impugned order, the appellant has filed the present appeal and, inter alia, made the following submissions:

3.1 The appellant submitted that denial of interest solely on the ground that no prayer for interest was made before the Hon'ble CESTAT is legally untenable, as interest on delayed refund is a statutory and compensatory right.

3.2 It was contended that even in the absence of a specific prayer, the adjudicating authority is bound to consider entitlement to interest once refund

is sanctioned, as held by the Hon'ble Bombay High Court in Ajay Industrial Corporation Ltd. v. Assistant Commissioner of Customs, 2024 (3) TMI 997.

3.3 The appellant submitted that the department is obliged to compensate the assessee for wrongful deprivation of its money from the year 2010, and interest is payable as restitution for retention and use of the appellant's funds by the department.

3.4 In support, reliance was placed on several judicial precedents, inter alia:

- Jai Bhagwati Impex Pvt. Ltd. v. Union of India, 2009 (234) ELT 45 (Bom.)
- Kuil Fireworks Industries v. CCE, 1997 (95) ELT 3 (SC)
- Caprihans India Ltd. v. CCE, 2001 (129) ELT 162 (LB)
- Sprint RPG India Ltd. v. CCE, 2002 (140) ELT 73 (Del.)
- Sandvik Asia Ltd. v. CIT, 2006 (196) ELT 257 (SC)
- ONGC v. CC, 2007 (215) ELT 166 (SC)
- Union of India v. Tata Chemicals Ltd., 2014 (306) ELT 3 (SC)

3.5 Without prejudice, it was further submitted that the amount of ₹50,00,000/- deposited during investigation ought to be treated as pre-deposit, and therefore interest is payable under Section 129EE of the Customs Act, 1962. Reliance was placed on:

- Union of India v. Nelco Ltd., 2002 (144) ELT A104 (SC)
- BBM Impex Pvt. Ltd. v. Principal Commissioner of Customs, 2022 (8) TMI 1118 (CESTAT)

3.6 Alternatively, it was submitted that the amount deposited under protest partakes the character of duty, and therefore interest is payable under Section 27A of the Customs Act, 1962 from the date of deposit.

3.7 The appellant contended that the impugned order is non-speaking, as it does not examine the statutory provisions or the binding judicial precedents relied upon, thereby violating principles of natural justice.

4. Record of Personal Hearings:

In accordance with the principles of audi alteram partem, the Appellant was afforded the opportunity of personal hearing which was attended virtually by Ms. Raksha Bhandari, Advocate on behalf of the Appellant on 13.01.2026 wherein she reiterated the submissions made at the time of filling appeal and. Further relied on the decision of Hon'ble CESTAT Ahmedabad in the case of KLJ Plasticizers Ltd, versus C.C. – Kandla (11) TMI 1459 – CESTAT Ahmedabad.

5. Discussion and Findings:

5.1 Before adverting to the merits of the case, it is observed that the appellant has preferred the present appeals with a delay of 24 days beyond the prescribed period of limitation and has sought condonation of the said delay. Upon careful consideration of the explanation furnished and being satisfied that sufficient cause has been shown, the delay in filing the appeals is condoned in exercise of the powers conferred under the proviso to Section 128(1) of the Customs Act, 1962.

Having condoned the delay, I proceed to examine the appeals on merits.

5.2 I have carefully examined the records of the case, the impugned Order-in-Original, and the detailed grounds of appeal filed by the appellant.

5.3 I find that in the present appellate proceedings, the appellant has raised elaborate legal grounds for claiming interest on the refunded amount by relying upon various decisions of the Hon'ble Supreme Court, Hon'ble High Courts and the Hon'ble CESTAT, including claims under Sections 27A and 129EE of the Customs Act, 1962, as well as on principles of restitution.

5.4 On perusal of the impugned order, it is observed that such detailed legal grounds and reliance on judicial precedents were not examined by the adjudicating authority, and the claim for interest has been rejected solely on the ground that no prayer for interest was made before the Hon'ble CESTAT. It is evident that the adjudicating authority did not have the occasion to examine the applicability of the statutory provisions and judicial precedents now relied upon by the appellant while passing the impugned order.

5.5 It is a settled principle that where new legal grounds based on statutory interpretation and binding judicial precedents are raised for the first time at the appellate stage, and the same require examination, the matter merits reconsideration by the original authority to ensure proper and reasoned adjudication.

5.6 I further find that the impugned order does not contain any reasoned findings on the issue of entitlement to interest, nor does it discuss the applicability of the judicial precedents cited by the appellant. To that extent, the impugned order is non-speaking on the issue of interest.

5.7 In view of the above, and without expressing any opinion on the merits of the appellant's claim for interest, I am of the considered view that the issue relating to admissibility of interest requires re-examination by the adjudicating authority.

5.8 Accordingly, the impugned order is liable to be set aside to the extent of denial of interest, and the matter is required to be remanded for fresh consideration.

5.9 Upon remand, the adjudicating authority shall consider the submissions made by the appellant, examine the statutory provisions and judicial precedents relied upon, and pass a reasoned and speaking order in accordance with law, after affording the appellant a reasonable opportunity of being heard.

6. The appeal is allowed by way of remand in the above terms.



सत्यापित/ATTESTED

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

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

F. No. S/49- 71/CUS/KDL/2024-25 5346

Date: 21.01.2026

By Registered post A.D/E-Mail
To,

1. M/s Om Prakash Satish Kumar,

   2, Amar Colony, Nangloi, Delhi - 110041.

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Commissioner of Customs, Kandla.
3. The Assistant Commissioner of Customs, Tuna Port, Kandla.
4. Guard File.