



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 - 20260371MN0000000CA2

क	फ़ाइल संख्या FILE NO.	S/49-479/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-939-25-26
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/219/ARK/DC/REF/2024-25 dated 20.01.2025
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	31.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Viterra India Pvt. Ltd. Commerz II, 27th Floor. Intl. Business Park, Oberoi Garden City Off. W.E.H., Goregaon(East), Mumbai-400063



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.
	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।
	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.



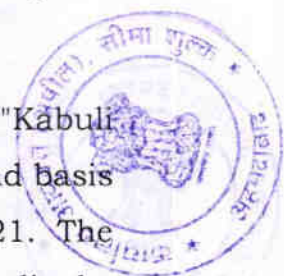
ORDER-IN-APPEAL

Appeal has been filed by M/s. Viterra India Pvt. Ltd., Commerz II, 27th Floor, Intl. Business Park, Oberoi Garden City, Off W.E.H., Goregaon (East), Mumbai-400063, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/219/ARK/DC/REF/2024-25 dated 20.01.2025 (hereinafter referred to as 'the impugned order') issued by the Deputy Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant had filed a refund claim of Rs. 2,68,21,373 /-, due to cancellation of DTA Bills of Entry vide letter F.No. APSEZ/68/Misc Custom/2017-18 dated 24.02.2022 issued by the Specified Officer, APSEZ, Mundra.

2.1 The appellant is an entity involved in the trading of agricultural commodities like Sugar, Pulses, Grains, Vegetable Oil, Oil Seeds, Cotton etc. As a part of their business model, they import goods into FTWZ in India. As and when the goods are sold, depending on whether it is sold to a buyer in DTA, or a buyer in FTWZ, the goods are cleared into the DTA from the SEZ (on filing of Bill of Entry and payment of applicable duty), or are exported from SEZ to outside India(on filing of Shipping Bill), as applicable. They also used to purchase goods on Bond to Bond transfer basis within the FTWZ from the importers have filed Bill of Entry for warehousing and subsequently the goods were either brought into DTA or exported from the FTWZ.

2.2 The appellant has filed Five Bills of Entry for clearance of "Kabuli Chickpeas" for home consumption, which was brought on Bond to Bond basis within the FTWZ during the period from 04.12.2020 to 10.11.2021. The aforementioned goods were sought to be cleared into DTA by them. Accordingly, Five Bills of Entry (4 Bills of Entry for warehousing were filed by other party and 1 Bill of Entry for warehousing was filed by them) for home consumption were filed, and applicable duty was paid. However, before the goods could be cleared into DTA, they found an interested buyer in 2022, and decided to sell the products to the foreign buyer.



2.3 In view of above, they have requested the Department vide letter dated 02.02.2022 to cancel DTA Bills of Entry as they had never cleared the cargo into DTA and directly exported from FTWZ. The Specified Officer, Adani Port and SEZ, Mundra, vide letter dated 24.02.2022, has informed the appellant that the above mentioned Bills of Entry have been cancelled in the NSDL system.

2.4 Thus, instead of being cleared into DTA, the products were sold to the foreign buyer, and were exported out of India by filing Nine Shipping Bills. The goods ,which were supposed to be cleared into DTA, were instead re-exported out of India, which is evident from the table below:-

Sr. No.	Into-Bond Entry (for No. & Date)	Bill of warehousing	Corresponding Bond Bill of Entry (for home consumption) No. & Date	Ex- Corresponding Shipping Bill No. & Date
1	1004212/03.11.2020		2006764/ 11.12.2020 Total Qty: 542.55 MTs.	4001294/17.02.2022 4001321/18.02.2022 4001319/18.02.2022 4001434/21.02.2022 Total Qty: 542.55 MTs.
2	1004213/03.11.2020		2006763/11.12.2020 Total Qty: 542.07 MTs.	4001434/21.02.2022 4001433/21.02.2022 4001608/21.02.2022 Total Qty: 542.07 MTs.
3	1004414/11.11.2020		2006449/11.12.2020 Total Qty: 421.10 MTs.	4001608/25.02.2022 4001605/25.02.2022 4001711/28.02.2022 Total Qty: 421.10 MTs.
4	1004273/11.11.2020		2006450/11.12.2020 Total Qty: 325.24 MTs.	4001711/28.02.2022 4001712/28.02.2022 Total Qty: 325.24 MTs.
5	1005155/07.12.2020		2011642/10.11.2021 Total Qty: 267.41 MTs.	4001712/28.02.2022 4002163/16.03.2022 4002358/18.02.2022 Total Qty: 233.04 MTs.



2.5 The duty payment details are as under:-

Sr. No.	DTA Bill of Entry No.	Date	Challan No.	Date	Total Customs duty (Rs.)
1	2006450	04.12.2020	4417000120	07.12.2020	48,31,874/-
2	2006449	04.12.2020	4417000127	07.12.2020	60,89,915/-
3	2006764	11.12.2020	4417800193	15.12.2020	79,53,310/-
4	2006763	11.12.2020	1417909187	11.12.2020	40,47,264/-
5	2011642	10.11.21	4450900076	11.17.2021	10,47,264/-
				Total duty	3,08,68,637/-

2.5 Consequently, the appellant has filed refund claim of Rs. 3,08,68,637/- on 08.04.2022 and submitted the following documents:

- i) Refund request letter dated 08.04.2022.
- ii) Copies of Warehouse Bills of Entry, Ex-Bond Bills of Entry.
- iii) Copies of relevant Shipping Bills (Re-export).
- iv) Copies of duty paid challans.



2.6 The refund claim for Rs. 2,68,21,373/- in respect of Bills of Entry Sr.No. 1 to 4 was time barred as per Section 27 of the Customs Act, 1962. Therefore, refund claim for Bills of Entry Sr. No. 1 to 4 was rejected vide letter F.No. VIII/48-14/Ref/MCG/22-23 dated 18.05.2022. The refund claim for Rs. 40,47,264/- for Bill of Entry No. 2011642 dated 10.11.2021 (Sr.No.5) was filed within stipulated time period, therefore, it was sanctioned.

2.6 Therefore, the appellant has filed appeal with the Commissioner (Appeals), Ahmedabad against the rejection of refund claims. The Commissioner (Appeals), Ahmedabad has passed OIA No. MUN-CUSTOM-000-APP-95-24-25 dated 30.08.2024 and remanded back the matter to the

adjudicating authority for fresh examination of claims of the applicant. The aforesaid order has been accepted by the Committee of the Principal Commissioners/Commissioners, Custom House, Mundra on 14.11.2024, as conveyed by the AC(RRA), CH, Mundra, vide letter dated 20.11.2024.

2.7 The appellant vide letter 14.11.2024, has requested to grant opportunity of virtual hearing. Personal hearing in the matter was held on 29.11.2024 in virtual mode. Ms. Lakshmi Menon, Advocate authorized representative along with Mr. Shrenik Jain, Head Legal and Compliance of the Noticee, appeared for hearing on behalf of the Appellant.

2.8 Consequently, the adjudicating authority passed the following order:

i. He sanctioned refund of Rs. 2,68,21,373/- (Rupees Two Crores Sixty Eight Lakhs Twenty One Thousand Three Hundred seventy three Only) under Section 27 of the Custom Act, 1962 read with rule 47(5) of SEZ Rule, 2006 to the appellant, subject to no adverse remarks from the PAO/E-PAO authority of Central Government of India. If, any adverse remark is being noticed by the PAO/E-PAO authority in future, the appellant is required to deposit said sanctioned amount of Rs. 2,68,21,373/- with appropriate interest in the Government Account.

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 contends that the adjudicating authority should have sanctioned interest on the refund amount as a natural consequential relief at the first instance. It is argued that because the duty was collected and retained without the authority of law—specifically in cases where Bills of Entry were subsequently cancelled—the Appellant is entitled to interest from the date the



payment was originally made until the date the refund was sanctioned. This is supported by Article 265 of the Constitution of India, which prohibits the collection of tax except by authority of law, and established Supreme Court precedents stating that tax paid under a mistake or without legal authority must be returned with interest.

3.2 The Appellant asserts a claim for interest at the rate of 12% per annum, citing various judicial precedents where courts exercised their liberty to prescribe interest rates. Reference is made to cases where interest as high as 15% was awarded on deposits and duty refunds. Furthermore, relying on Article 300A of the Constitution, the Appellant argues that they cannot be deprived of their property without legal authority. Since the money held by the revenue remains the Appellant's property once the demand is set aside, the Appellant is entitled to the benefits (interest) accrued on that property during the period it was withheld.

3.3 Even if the constitutional arguments are set aside, the Appellant maintains they are entitled to interest under Section 27A of the Customs Act, 1962. The Appellant filed the refund application on April 8, 2022, but the refund was not sanctioned until January 20, 2025. Under Section 27A, if a refund is not granted within three months of the application, interest must be paid from the date immediately following the expiry of those three months. The Appellant argues that the delay in sanctioning the refund, even if it occurred pursuant to an appeal proceeding, does not disqualify them from this statutory interest.

3.4 The appeal places heavy reliance on various High Court and Supreme Court decisions, such as Ranbaxy Laboratories Ltd. and Ajay Industrial Corporation Ltd., which clarify that the liability to pay interest commences three months from the date of the refund application, not from the date of the refund order. The Appellant notes that the Revenue cannot avoid interest by claiming an application was "incomplete" if no deficiencies were pointed out within the prescribed ten-day window. Ultimately, the Appellant argues that the revenue's retention of funds without legal right constitutes unjust enrichment, and interest serves as a necessary remedy for the period the funds were withheld.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 12.03.2026 following the principles of natural justice wherein Ms. Lakshmi Menon, 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 The legislative intent behind the inclusion of interest provisions in fiscal statutes is to compensate the taxpayer for the loss of use of their funds while they were unlawfully or unnecessarily retained by the exchequer. In the Customs Act, 1962, this is primarily governed by Section 27A, which must be read in conjunction with Section 27. Section 27A was inserted into the Customs Act to provide a statutory right to interest. It reads as follows:

"If any duty ordered to be refunded under sub-section (2) of section 27 to an applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, there shall be paid to that applicant interest at such rate... on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty."

5.2 The critical elements of this section are:

- Trigger Point: The "receipt of application" under Section 27(1).
- Grace Period: A period of three months is granted to the department to verify and process the claim.

Mandatory Liability: The use of the word "shall" indicates that the payment of interest is not discretionary but a statutory obligation once the conditions are met.

- Continuity: Interest accrues from the 91st day until the date the refund is actually paid.

5.3 A frequent point of contention—as seen in the history of this case—is how to treat refunds that arise not from the initial decision of the proper officer,



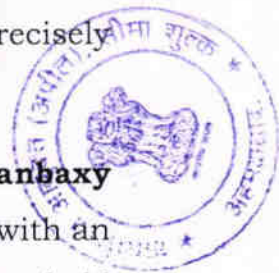
but from an order of an appellate authority. The Explanation to Section 27A clarifies this:

"Where any order of refund is made by the Commissioner (Appeals), Appellate Tribunal, or any court against an order of the Assistant Commissioner of Customs or Deputy Commissioner of Customs under sub-section (2) of section 27, the order passed by the Commissioner (Appeals), Appellate Tribunal or as the case may be, by the court shall be deemed to be an order passed under the said sub-section (2) for the purposes of this section."

5.4 The "deeming fiction" introduced here is crucial. It ensures that even if the refund is sanctioned only after an appellate victory, the law treats that sanction as if it were made under the original refund section (Section 27(2)). This means the "date of application" remains the original date the taxpayer first approached the department. The appellate order does not create a new "start date" for interest; it merely validates the validity of the original application.

5.5 Section 27(1) deals with the application for refund. In the present case, the application was filed on 08.04.2022. The fact that the adjudicating authority initially rejected the claim, which was later set aside in appeal, does not reset the clock. The law compensates the delay caused by the department's erroneous initial rejection. If the department's view were accepted—that interest only starts after a favorable appellate order—it would encourage the department to delay refunds through frivolous rejections, knowing they would not face any financial consequence (interest) for the duration of the litigation. This is precisely what Section 27A seeks to prevent.

5.6 The Hon'ble Supreme Court in the landmark case of **Ranbaxy Laboratories Ltd. vs. Union of India [2011 (273) E.L.T. 3 (S.C.)]** dealt with an identical provision (Section 11BB of the Central Excise Act). The Apex Court held the liability of the revenue to pay interest commences from the date of expiry of three months from the date of receipt of application for refund and not on the expiry of the said period from the date on which the order of refund is made. Applying this to the instant case, the Appellant filed the refund application on 08.04.2022. Under Section 27A, the Department had a period of three months to process and pay the refund. Since the refund was only paid after the impugned order dated 20.01.2025, the interest liability is triggered from 08.07.2022 until the date of actual payment.



5.7 The Explanation to Section 27A states that where a refund is ordered by a Commissioner (Appeals), Tribunal, or Court, such an order shall be "deemed to be an order" under Section 27(2). This deeming provision is intended to facilitate the payment, not to shift the start date of the interest calculation. The substantive right to interest is still anchored to the date of the receipt of the initial application.

5.8 In **Ajay Industrial Corporation Ltd. vs. Deputy Commissioner of Customs [(2024) 24 Centax 396 (Bom.)]**, the Hon'ble High Court slammed the Department for resisting interest on similar grounds, holding that Section 27A is a statutory entitlement that must be granted even if not specifically prayed for in the initial application, as it is a mandatory consequence of delay.

5.9 The concept of "Unjust Enrichment" is traditionally applied to taxpayers who seek refunds of duties that they have already passed on to their customers. However, there is a counter-doctrine that is equally vital in a democratic society: the prohibition of the Unjust Enrichment of the State. The Constitution of India, under Article 265, provides that "No tax shall be levied or collected except by authority of law." When the adjudicating authority sanctioned the refund via the OIO dated 20.01.2025, it effectively admitted that the retention of the amount of ₹ 2,68,21,373/- from the date of the BoE cancellation was without the authority of law. Once the legal basis for holding the money is gone, the State becomes a mere "custodian" or "trustee" of the taxpayer's money. For the State to hold onto such funds for nearly three years without compensating the taxpayer via interest is a direct violation of the spirit of Article 265.

5.10 As held by various High Courts, once a refund becomes due, the amount ceases to be "Customs Duty" and assumes the character of a "debt" owed by the State to the subject. In **Sandvik Asia Ltd. vs. Commissioner of Income Tax 2006 (196) E.L.T. 257 (S.C.)**, the Hon'ble Supreme Court held that the Government cannot be allowed to benefit from its own wrong. If the Department's delay in sanctioning a valid refund (or its initial erroneous rejection) denies the taxpayer the use of their capital, the State is enriched at the expense of the citizen. Interest is the only mechanism to mitigate this imbalance.



5.11 In the commercial world, money has a "time value." The sum of ₹ 2.68 Crores in 2022 is significantly more valuable than the same sum in 2025 due to inflation and lost opportunity costs. By paying only the principal amount three years later, the State has effectively "taxed" the Appellant by the amount of the interest that could have been earned. This form of "hidden taxation" is impermissible.

5.12 It is often argued by Revenue that interest is a "windfall" for the taxpayer. On the contrary, Section 27A is a restitutionary provision. It aims to place the taxpayer in the position they would have been in had the refund been processed within the statutory window. The adjudicating authority's failure to grant interest essentially rewards the Department for its initial error in rejecting the refund as "time-barred"—a rejection that was eventually set aside. Permitting the State to retain the interest component would incentivize administrative inefficiency and arbitrary rejections.

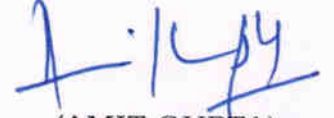
5.13 While the principal refund has been sanctioned, the adjudicating authority has completely ignored the statutory mandate of Section 27A. An appellate authority under the Customs Act has the power to remand the case to the lower authority for quantification and specific directions, particularly where the lower authority has failed to exercise its jurisdiction regarding a statutory right like interest.

5.14 After evaluating the facts and the law, I find that the Appellant is legally entitled to interest under Section 27A of the Customs Act, 1962. The interest must be calculated from the date immediately following the expiry of three months from the date of receipt of the refund application until the date the refund was actually disbursed. The adjudicating authority erred in not granting this interest as a consequential relief in the impugned order. It is necessary to remand the matter to the original authority for the sole purpose of quantifying the interest and ordering its immediate payment.

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

(i) The appeal filed by M/s. Viterra India Private Limited is allowed by way of remand.

(ii) The adjudicating authority is directed to quantify and pay the interest to the appellant for the delay beyond three months from the date of refund application till the date of payment in accordance with existing legal provisions.



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

F. No. S/49-479/CUS/MUN/2024-25 ²⁷⁰¹⁰²⁷²

Date:31.03.2026

By Speed post A.D/E-Mail

To,
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Intl. Business Park, Oberoi Garden City
Off. W.E.H., Goregaon(East), Mumbai-400063



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.