



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
 OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
 चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.
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 DIN-20251271MN0000818089

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| क | फ़ाइल संख्या FILE NO. | S/49-276/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-495-25-26 |
| ग | पारितकर्ता PASSED BY | SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD |
| घ | दिनांक DATE | 26.12.2025 |
| ङ | उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO. | Final Assessment of Bill of Entry No. 4610117 dated 08.07.2021 by Assistant Commissioner of Customs, Custom House, Surat. |
| च | अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON: | 26.12.2025 |
| छ | अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT: | M/s. GAIL (India) Ltd., GAIL Bhawan, 16, Bhikaji Cama Place, New Delhi - 110066. |



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| 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. |

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| | 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 I 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 शीर्षक 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- | |



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| | 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; पाँच 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 |
| (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

1. M/s. GAIL (India) Ltd., GAIL Bhawan, 16, Bhikaji Cama Place, New Delhi - 110066 (hereinafter referred to as the 'GAIL' or 'the appellant') has filed the present appeal under Section 128 of the Customs Act, 1962, against Final Assessment of Bill of Entry No. 4610117 dated 08.07.2021 filed at Magdalla Port (hereinafter referred to as 'the impugned Bill of Entry'). The said Bill of Entry was earlier provisionally assessed and later finally assessed on 07.06.2024 by Assistant Commissioner of Customs, Custom House, Surat (hereinafter referred to as the 'adjudicating authority'). Finalization of the provisional assessment of the impugned Bill of Entry has been communicated to the appellant vide a letter F.No. CH/907/Misc/2023-24 dated 16.07.2024 issued by Superintendent of Customs, Custom House, Surat (hereinafter referred to as 'the impugned letter') and it was received by the appellant on 26.07.2024.

2. Facts involved in the appeal, in brief, are that the appellant was engaged in import of Liquefied Natural Gas ('LNG') falling under Customs Tariff Item No. 27111100 for which they have filed the impugned Bill of Entry with Magdalla Port, Surat. The impugned Bill of Entry was assessed provisionally. The imported LNG was to be Re-gasified (known as 'RNLG') and then meant for supply to power generating companies. The appellant was availing exemption from Customs duty as per Sr.No. 10 of Notification No. 52/2017-Cus dated 30.06.2017. One of the conditions for availing the said exemption, is that the importer is required to produce a utilization certificate from the power generating company to the effect that the RLNG has been utilized for generating and supplying electrical energy. The appellant has submitted such end use certificate / utilization certificate, which shows the utilized quantity, after deducting 0.66% quantity from the quantity supplied by the appellant, for power generation. So, it appeared that the appellant was not eligible for the said exemption for the 0.66% quantity, which has not been utilized for power generation.

3. According to the appellant, the Assistant Commissioner of Customs, Surat, while finalizing the assessment of impugned Bill of Entry, disallowed the said exemption to the extent 0.66% quantity. The Superintendent of Customs, Surat, vide the impugned letter, communicated the final assessment of impugned Bill of Entry to the appellant. Thereafter, the appellant came to know that the Customs department has disallowed the exemption for the said 0.66% quantity and resultantly, amount of refund, on account of finalization of provisional assessment, has been reduced by the department. According to the appellant, they have received less refund of Customs duty to the extent Rs. 1,61,316/- on account of disallowance of exemption for the said 0.66% quantity.



4. Being aggrieved against the final assessment of the impugned Bill of Entry, as communicated to the appellant vide the impugned letter, the appellant has filed the present appeal. As the appeal has been filed against communication of final assessment and no demand has been raised, pre-deposit under the provisions of Section 129E is not required.

5. The present has been filed on the date 09.01.2025. In the Form C.A.-1, the date of communication of the impugned letter dated 16.07.2024 has been shown as "26.07.2024". As the appeal has been filed after normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962, the appellant has submitted an application dated 01.12.2025 for condonation of delay in filing appeal.

6. One set of the appeal memorandum was sent to the adjudicating authority for comments vide this office letter dated 25.03.2025; however, no reply has been received. So, I proceed to decide the appeal on the basis of documents submitted by the appellant.

Personal Hearing

7. Personal Hearing in this matter has been held on 04.12.2025, which has been attended by Mr. Akshat Kahre, Advocate with Ms. Ujwala B. Gurav, DGM (F&A), GAIL. They reiterated the submissions made at the time of filing appeal. The Advocate has sought one week's time for additional submissions.

Additional Submissions

8. Shri. Akshat Khare, Advocate, has submitted additional submissions dated 12.12.2025. In the additional submissions, he inter alia stated that the issue of disallowance of exemption of customs duty on 0.66% conversion loss is already decided in favour of GAIL in Writ Petition, vide Order dated 29.08.2024 in SCA No. 7238 of 2022 filed before Hon'ble Gujarat High Court. That the appellant has preferred another Writ Petition vide SCA No. 14372 of 2024 before Hon'ble Gujarat High Court against the decision passed by Assistant Commissioner of Customs, Surat, in the present case. That subsequently Hon'ble Gujarat High Court had not entertained the said petition only on the ground of alternate remedy available and permitted the appellant to file present appeal. Thus, the said SCA No. 14372 of 2024 was withdrawn vide order dated 28.11.2024 with a liberty to file the present appeal.

9. As regards arguments in respect of delay in filing of appeal, it has been submitted that they have preferred an application for condonation of delay. It has been further submitted as follows:



9.1 As the per time lines:

- (i) Finalization of BOE was communicated, vide letter dt. 16/07/2024. But same was received on 26/07/2024.
- (ii) The Writ petition was filed on 20/09/2024 and withdrawn on 28/11/2024. Therefore, 69 days are required to be excluded from limitation period u/s 14 of Limitation Act.
- (iii) Thereafter, present appeal was filed on 09/01/2025, i.e. after 167 days from 26/07/2024 (receipt of Finalization of BOE letter).
- (iv) After excluding 69 days spent in writ petition and appealable period of 60 days u/s. 128(1) of Customs Act from total 167 days, the delay comes to 38 days.

9.2 The Applicant further submitted that as per First Proviso of Sec. 128(1) of Customs Act, the Ld. Commissioner (Appeals) can further condone delay of 30 days. It is important to note that the statutory provisions do not restrict condonation of delay beyond 30 days was the case in Sec. 34 of Arbitration & Conciliation Act where the words used was "but not thereafter". The Hon'ble Supreme Court in case of *Simplex Infrastructure Ltd. vs. Union of India*, (2019) 2 SCC 455, held that it is due to words used "but not thereafter" restricts courts to condone delay period more than what is prescribed in statue. Further, Hon'ble Supreme Court in case of *Dhiraj Singh & others vs State of Haryana & others*, (2014) 14 SCC 127, has held that for identical issues limitation should not defeat the substantive rights of litigant.

9.3 Moreover, the Customs Act, does not exclude the applicability of Limitation Act and thus Ld. Commissioner (Appeals) would have jurisdiction to condone 38 days of delay u/s. 5 of Limitation Act when Sec. 128 of Customs Act does not expressly restrict for condoning delay beyond 30 days.

9.4 Furthermore, Sec. 3 of Limitation Act only debars the filing of appeal beyond prescribed period subject to provisions under Sec. 4 to 24 of Limitations Act. So when there is no bar in applying Limitation Act in proceedings under Customs Act, the applicability of Sec. 5 of Limitation Act permits Ld. Commissioner (Appeals) to condone the entire delay of 38 days.

9.5 On the aforesaid facts and circumstances, the Advocate, on behalf of the appellant, requested to allow the present Appeal in the interest of justice.



Discussion and Findings

10. I have carefully gone through the written as well as oral submissions made by, or on behalf of the appellant.

11. . Before going into merits of the appeal, I shall discuss about the application for condonation of delay in filing of appeal. The chronology of events from the date of communication of finalization of provisional assessment, till the date of filing of present appeal, is mentioned below:

Table-1

| Chronology of events in respect of appeal filed by M/s. GAIL , Surat, against assessment of Bill of Entry No. 4610117 dated 08.07.2021 | | |
|--|---|-------------|
| | | Date |
| A | Date of communication of assessment, i.e. Date of receipt of letter dated 16.07.2024 | 26-07-2024 |
| B | Date of filing of SCA 14372 of 2024 with High Court of Gujarat | 20-09-2024 |
| C | Date of Order of Hon'ble High Court through which the SCA allowed to be withdrawn | 28-11-2024 |
| D | Date of filing appeal with Commissioner (Appeals), Customs, Ahmedabad | 09-01-2025 |
| | Time taken: | No. of days |
| 1 | From "A" to "B", i.e. Date of communication of assessment to Date of filing SCA with High Court | 56 |
| 2 | From "B" to "C" (including both dates, as per Explanation (a) of Section 14 of Limitation Act, 1963), i.e. Time spent while SCA was pending with Hon'ble High Court | 70 |
| 3 | From "C" to "D", i.e. After allowing withdrawal of SCA by Hon'ble High Court till the date of filing of this appeal with Commissioner (Appeals) | 41 |
| 4 | From "A" to "D", i.e. Total time taken from date of communication of assessment till date of filing of this appeal with Commissioner (Appeals) | 167 |
| 5 | Delay in filing of appeal with Commissioner of Customs (Appeals), after deducting normal appeal period of 60 days (167 days - 60 days), for which application for Condonation of Delay has been filed | 107 |
| 6 | Delay in filing of appeal with Commissioner (Appeals) after deducting both periods (i) normal appeal period of 60 days and (ii) period while SCA was pending with Hon'ble High Court (167 days - 60 days - 70 days) | 37 |



12. As per the provisions of Section 128(1) of Customs Act, 1962, an appeal can be filed before Commissioner (Appeals) within sixty days from the date of communication of decision or order. However, as per the Proviso to Section 128(1), if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. Thus, the Commissioner (Appeal) has can condone the delay of 30 days, but he has no statutory power to condone the delay beyond the period of 30 days. In other words, Commissioner (Appeals) cannot allow appeal, which is filed after a period of 90 days (i.e. 60 days + 30 days), from the date of communication of decision or order, against which the appeal is to be filed.

13.1 In the present case, the appeal has been filed after a period of 167 days from the date of communication of the impugned order, resulting into delay of 107 days, as shown in the above Table-1. I note that the appellant had filed a Special Civil Application No. 14372 of 2024 before Hon'ble High Court of Gujarat against finalization of assessment of the impugned Bill of Entry, as communicated vide the impugned letter. Later, the appellant had sought permission to withdraw the said SCA, which has been allowed by Hon'ble High Court vide Order dated 28.11.2024. The said Oral Order is as under:

"Heard learned advocate Mr. Akshat Khare for the petitioner; learned advocate Mr. Ankit Shah for the respondent No.1 and learned advocate Ms. Nidhi Vyas for the respondent No.2.

Learned advocate Mr. Akshat Khare for the petitioner under instructions seeks permission to withdraw this petition so as to enable the petitioner to move an appropriate application in accordance with law before the respondent-authorities.

Permission as prayed for, is granted.

Without entering into the merits of the matter, this petition is disposed of as not pressed at this stage. Notice is discharged."

13.2 From the above Order, it can be seen that Hon'ble High Court has not expressly ordered to exclude the period, during which the SCA was pending, from the period of limitation as prescribed under Section 128 for filing present appeal. However, as per Section 14 of the Limitation Act, 1963, the time during which the plaintiff was prosecuting the matter with another Court with due diligence in bona fide manner can be excluded. Therefore, after excluding the period of 70 days, during which the matter was pending with Hon'ble High Court, the delay in filing the present appeal comes to 37 days, as shown in the above Table-1.



14. As regards condonation of delay beyond the period of 30 days in filing of appeal, I rely upon the Judgment of the Hon'ble Supreme Court in case of *Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur* [2008 (221) E.L.T. 163 (S.C.)], wherein the Hon'ble Apex Court while interpreting the Section 35 of the Central Excise Act, 1944, which is *pari materia* to Section 128 of the Customs Act, 1962, held that the appeal has to be filed within 60 days, but in terms of the proviso, further time of 30 days can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The relevant para of the said Judgment is reproduced below (underline supplied):

“8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of Statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the Statute. The period upto which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Indian Limitation Act, 1963 (in short, the ‘Limitation Act’) can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only upto 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days period.”

In view of the above Judgment of the Apex Court, I do not agree with the contention of the appellant that the delay of 107 days (as applied for) or 37 days (after excluding the period of pendency of SCA) in filing of present appeal can be condoned under the provisions of Section 5 of the Limitation Act. The case law of *Simplex Infrastructure Ltd.*

vs. *Union of India*, (2019) 2 SCC 455 and *Dhiraj Singh & others vs State of Haryana & others*, (2014) 14 SCC, relied upon by the appellant regarding condonation of delay are not applicable to the case on hand because the issue involved in those cases is different from the present case.

15. Further, I find that above views expressed in the Judgment of *Singh Enterprises* (supra) have been reiterated by the Hon'ble Supreme Court in the case of *Amchong Tea Estate [2010 (257) E.L.T. 3 (S.C.)]* by observing that special law would override the general law. By relying upon the said Judgments of Hon'ble Supreme Court, Hon'ble High Court of Kerala in the case of *V. P. Khader Vs. Commissioner [2019 (25) G.S.T.L. 209 (Ker.)]*, observed that the Commissioner and the Tribunal being creature of statute could not have condoned delay beyond the period provided for condonation.

16. Similarly, in the case of *Gopinath & Sharma Vs. CESTAT, Chennai [2013 (32) S.T.R. 172 (Mad.)]*, Hon'ble Madras High Court has held that once the period of limitation has run itself out, the Appellate Authority does not have power to condone the delay in filing the appeal beyond the maximum period prescribed under the Act; and referring to *Singh Enterprises* case [2008 (221) E.L.T. 163 (S.C.)], Tribunal has rightly dismissed the appeal. Further, vide Order dated 04.07.2013 in SLP (C) No. 19014 of 2013, Hon'ble Supreme Court has dismissed the petition filed by M/s. Gopinath & Sharma against the said order of Madras High Court, which has been reported as *2013 (32) S.T.R. J78 (S.C.)*.

17. Further, the Hon'ble High Court of Gujarat in case of *Ramesh Vasantbhai Bhojani [2017 (357) E.L.T. 63 (Guj.)]* and the Hon'ble Tribunal, Bangalore in the case of *Shri Abdul Gafoor Vs Commissioner of Customs (Appeals) [(2024) 18 Centax 294 (Tri.-Bang) = 2024-TIOL-565-CESTAT-BANG]* took a similar view while dealing with Section 128 of the Customs Act, 1962.

18. In terms of legal provisions under Section 128 of the Customs Act, 1962 and in light of the judicial pronouncements by Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Tribunal, it is settled proposition of law that the appeals before first appellate authority under the provisions of Customs Act, 1962, are required to be filed within 90 days, including the condonable period of 30 days, as provided in the statute; and the Commissioner of Customs (Appeals) is not empowered to condone any delay beyond 30 days.




19. In light of the above discussion, I am of the view that the present appeal, which has been filed after a period of more than 90 days from the date of receipt of the impugned order, resulting into delay of more than 30 days, is time-barred in terms of Section 128(1) of the Customs Act, 1962. Thus, the appeal is liable to be rejected on the grounds of limitation without going into merits.

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

Order:

I reject the application for condonation of delay of 107 days in filing appeal and dismiss the appeal filed by M/s. GAIL (India) Ltd. against final assessment of Bill of Entry No. 4610117 dated 08.07.2021 being time-barred in terms of provisions of Section 128(1) of the Customs Act, 1962.




(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

F.No. S/49-276/CUS/AHD/2024-25

Date: 26.12.2025

By E-mail / Speed Post [As per Section 153(1)(b)&(c) of the Customs Act, 1962]

To
M/s. GAIL (India) Ltd.,
GAIL Bhawan, 16, Bhikaji Cama Place,
New Delhi - 110066.
(email: info@gail.co.in ujawal@gail.co.in)

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad Zone, Customs House, Ahmedabad. (email: ccoahm-guj@nic.in)
2. The Pr. Commissioner of Customs, Ahmedabad.
(email: cus-ahmd-guj@nic.in ; rta-customsahd@gov.in)
3. The Deputy/Assistant Commissioner of Customs, Custom House, Surat.
(email: customhousesurat@gmail.com)
4. Shri. Akshat Khare, Advocate, M/s. Moson Le Exparts, Ahmedabad.
(email: teamadvocate@mosonleexparts.org)
5. Guard File.
