



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  
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दूरभाष क्रमांक Tel. No. 079-26589281

DIN -20251171MN0000770325

क	फ़ाइल संख्या FILE NO.	S/49-142/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-429-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	28.11.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Order-in-Original no. MCH/ADC/MK/72/2024-25 dated 13.06.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	28.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Jindal Foods, D-2, Vinoba Kunj, Sector-09, Rohini, Delhi-110085





1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods 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 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 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु.1000/- (रुपए 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 :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td><td><b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b></td></tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td><td>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td></tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>				
दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> 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 हजार 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 हजार 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 हजार 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**

Appeal has been filed by M/s. Jindal Foods, D-2, Vinoba Kunj, Sector-09, Rohini, Delhi-110085, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/MK/72/2024-25 dated 13.06.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Customs, Customs, Mundra.

2. Facts of the case, in brief, are that the Appellant, has filed a Shipping Bill No. 7301655 dated 27.01.2023 through their CHA M/s S R S CARGO INTERNATIONAL for export of goods declared as "Indian Parboiled Rice" classified under CTH 10063010. As per Board Instruction No. 29/2022-Customs dated 28.10.2022, representative sample was drawn and sent to CRCL Kandla vide Test Memo and the cargo has been allowed for export on provisional basis on submission of Test Bond submitted by the Exporter which was accepted by the Deputy Commissioner (Export), Customs House, Mundra. Respective Test Report was received against the Test Memo wherein it was mentioned that "Based on the physical appearance, forms and analytical findings, it appears to be "Para-boiled Rice (non- basmati) (27.3% broken)", against the declared export cargo in the Shipping Bill as "Indian Parboiled Rice". The details of Shipping Bills and their corresponding Test Report are as under:

Sr No	Shipping Bill No. & Date	Net Weight	Test Report no. & Date	FOB Declared in SB (Rs)	Summary of Test result
1	7301655 dated 27.01.2023	1500 Mts	9082 dated 31.01.2023	45051952	Parboiled Rice (non-basmati) (27.3% broken)

2.1 A copy of the said Test Report was provided to the Appellant, viz., M/s Jindal Foods for their information with a specific request to submit their submission within 10 days of the communication as to why the proceedings should not be initiated under Customs Act, 1962 as the instant case was seen falling under the purview of Mis-declaration of the Export cargo.





2.2 With reference to above mentioned shipping bill, the Appellant had classified the same goods as "Indian Parboiled Rice" classified under CTH 10063010 but pursuant to the outcome of the Test Result, the consignment of the exported goods is found to be "Parboiled Rice (non-basmati) (27.3% broken)". As per Customs Tariff, Broken Rice is classifiable under CTH 10064000 and therefore the goods already exported 'is required "to be classified' under CTH 10064000 and to be confiscated being Prohibited Goods as per Notification No. 31/2015- 2020-Customs dated 08.09.2022 issued by the Board. It is also pertinent to mention that goods are also found to be other than Parboiled which concludes to be a mis-declaration as well.

2.3 Whereas, the Appellant under the Customs Bond had bind themselves to the effect that in the event of failure of cargo in the Test Report, the Exporter will pay the duty along with interest, fine and/or penalty, if any imposed for contravention of the Customs Act, 1962 and other allied Acts. And on the basis of Customs Bond submitted by the Appellant, the goods were allowed for ultimate export provisionally. Subsequently the Test Reports confirmed the export goods were "Parboiled Rice (non-basmati) (27.3% broken)". Accordingly, Shipping Bill mentioned in the Table above needed to be assessed finally on the basis of Test Report. On the basis of Test Report, the goods needed to be re-classified under CTH 10064000. Consequently, the Appellant was liable for penal action.

2.4 The Appellant appeared to have failed to declare the correct classification of the export cargo in the Shipping Bill. It appeared that the appellant had resorted to mis-classification and mis-declaration of the export cargo in order to evade payment of export duty/cess leviable on the export cargo. Thus, the Appellant has contravened the provisions of the Section 50 of the Customs Act, 1962. The acts of omission and commission made by the Appellant rendered the export cargo liable for confiscation under Section 113(i) and 1113(d) of the Customs Act, 1962. On account of export goods liable for confiscation, the Appellant has made themselves liable for penal action under Section 114 (i) & 114 (ii) of the Customs Act, 1962. On account of contravention of the provisions of Section 50 of the Customs Act, 1962, the Appellant has made themselves liable for penal action under Section 117 of the Customs Act, 1962.



2.5 In view of the above, a Show Cause Notice was issued to the Appellant as to why:

- (i) the classification of the goods declared by the Appellant under Shipping Bills tabulated above should not be rejected and re-classified under CTH 10064000;
- (ii) the goods covered under Shipping Bill tabulated above should not be confiscated under Section 113 (d) and 113(i) of the Customs Act, 1962;
- (iii) the penalty under Section 114 (i) and (ii) of the Customs Act, 1962 should not be imposed upon the Appellant;
- (iv) the penalty under Section 117 of the Customs Act, 1962 should not be imposed upon the Appellant.

2.6 Consequently, the Adjudicating Authority passed the order as under:

- (i) She ordered to reject the classification of the exported goods under CTH 10063010, as declared by the appellant and ordered to re-classify the same under CTH- 10064000 for Shipping Bill No. 7301655 dated 27.01.2023;
- (ii) She ordered for confiscation of the goods having FOB value of Rs. 4,50,51,952/- covered under Shipping Bill No. 7301655 dated 27.01.2023 under Section 113 (d) & 113(i) of the Customs Act, 1962. However, as the goods had already been exported under Bond, he imposed Redemption Fine of Rs 46,00,000/- (Rupees Forty Six Lakhs only):
- (iii) She imposed Penalty of Rs 23,00,000/- (Rupees Twenty Three lakhs only) covered under Shipping Bill No. 7301655 dated 27.01.2023 under Section 114 (i) of the Customs Act, 1962;
- (iv) She refrained from imposing penalty under section 114(ii) & 117 of the Customs Act, 1962.






**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

3.1 The appellant has submitted that the impugned order is contrary to Board's Circular No. 30/2017-Cus dated 18.07.2017, wherein, it is categorically provided for re-test when such a request is made within ten days of communication of the test result. In this case, it is a matter of record that the request was made within the time limit set out by Board and hence, Adjudicating Authority could not have ignored the request and adjudicated the case without taking the same into consideration. Therefore, on this ground, the appellant submitted that the impugned order is liable to be quashed and set aside, being contrary to Board's Circular which is binding upon the department.

3.2 The appellant submitted that Adjudicating Authority has not cited any evidence to show that appellant stood to make any monetary gain by supposedly exporting rice comprising of 27.30% broken so as to justify imposition of redemption fine of Rs. 46,00,000/- and penalty of Rs. 23,00,000/- under Section 114 (i) of Customs Act, 1962. The appellant has submitted that the Adjudicating Authority has not cited any evidence of mens rea on the part of appellant and hence, imposition of penalty under Section 114 (i) of Customs Act, 1962 is not justified.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 15.10.2025, following the principles of natural justice wherein Shri Vikas Mehta, Consultant appeared for the hearing and re-iterated the submissions made at the time of filing the appeal. He also filed additional submissions vide Email dtd. 28.10.2025 as under :-

4.1 The appellant had filed Shipping Bill No. 7301655 dated 27.01.2023 for export of 1500 MT of goods declared as "Indian Parboiled Rice" and correctly classified the same under CTH 1006 3010.

4.2 CRCL, Kandla, vide Test Report No. 9082 dated 31.01.2023 reported that



goods appears to be "Parboiled Rice (non-basmati) (27.3% broken) as duly stated as "Summary of Test Result" in the table given in para 3 of the show cause notice.

4.2.1 As such, there is no dispute over the fact that goods exported by us were parboiled rice.

4.2.2 As such, there is no mis-declaration of goods.

4.3 However, it was alleged in the show cause notice that:

*" 5. With reference to above mentioned shipping bill, the Exporter has classified the same goods as "Indian Parboiled Rice" classified under CTH 10063010 but pursuant to the outcome of the Test Result, the consignment of the exported goods is found to be "Parboiled Rice (non-basmati) (27.3% broken)". As per Customs Tariff, Broken Rice is classifiable under CTH 10064000 and therefore the goods already exported is required to be classified under CTH 10064000 and to be confiscated being Prohibited Goods as per Notification No. 31/2015-2020-Customs dated 08.09.2022 issued by the Board. It is also pertinent to mention that goods are also found to be other than Parboiled which concludes to be a mis-declaration as well..."*

4.3.1 Thus, there is a contradiction between "Summary of Test Result" given in the table contained in para 3 of the show cause notice and allegation contained in para supra stating that goods are other than Parboiled. On this ground, the notice as well as impugned order is not tenable in the eyes of law.

4.4 Further, the impugned order has taken umbrage at percentage of broken grains allegedly reported in the test result.

4.5 The following sequence would make it amply clear that as such, prohibition contained in Notification No. 31/2015-2020 dated 08.09.2022 is not applicable to the facts and circumstances where the notice would admit that goods exported were Parboiled Rice.

4.5.1 On 08.09.2022, Notification No. 31/2015-2020-Cus was issued making export of broken rice falling under CTH 1006 4000 "Prohibited"

4.5.2 On 28.09.2022, DGFT issued Trade Notice No. 17/2022-23) clarifying that:





*"3. Considering the hardships faced by the trade community and in order to facilitated exports, it is clarified that wherever difficulty is being faced, the limit of tolerance of "Broken rice" in consignments of Rice for export may be allowed in terms of "The Rice Grading and Marketing Rules, 1939."*

(Underline Supplied)

4.5.3 On 04.10.2022, DGFT issued Trade Notice No. 18/2022-23 clarifying that:

*"Accordingly, in supersession of Trade Notice No. 17/2022-23 dated 28.09.2022, it is clarified in respect of normal rice that "Rice (5% and 25%) is already exempted as it is not broken rice but normal rice with permissible limits of broken rice as per standards. However, it will carry 20% duty as per notification."*

(Underline Supplied)

4.5.4 On the basis of above, it is submitted that Trade Notice No. 17/2022-23 dated 28.09.2022 would have no bearing on the goods covered by Shipping Bill No. 7301655 dated 27.01.2023, as the said Trade Notice was superseded by Trade Notice No. 18/2022-23 dated 04.10.2022.

4.5.5 In contradistinction to Trade Notice No. 17/2022-23 dated 28.09.2022 which use the term "rice", the superseding Trade Notice No. 18/2022-23 dated 04.10.2022 would use the term "normal rice"

4.5.6 Consequently, the prohibition imposed by Notification No. 31/2015-2020-Customs dated 08.09.2022 regarding export of broken rice would apply to export of "normal rice" which contain broken rice in excess of permissible limits, and not parboiled rice.

4.6 It is not the case of department that parboiled rice is normal rice,

4.6.1 As a matter of fact, it may be duly appreciated and verified from the material available on internet as well as from trade that normal rice undergoes a special pre-cooking process where it is partially boiled while still in the husk, which results in a different texture and higher nutrient content compared to





normal rice.

4.6.2 The key points about parboiled rice are:

- (i) Processing: Parboiled rice is partially boiled in its husk before milling, which pushes nutrients from the bran into the grain.
- (ii) Nutritional value: Compared to normal rice, parboiled rice retains more vitamins and minerals like thiamine, niacin and iron.
- (iii) Texture: Parboiled rice tends to be firmer and less sticky than normal rice.

4.6.3 Thus, Parboiled rice and normal rice are distinct commodities.

4.6.4 Consequently, the prohibition is directed against normal rice containing excessive broken rice and not parboiled rice notwithstanding some percentage of broken rice is observed in the same.

4.7 Without prejudice to above, it is submitted that it is not the case of department that broken rice found in the consignment were not parboiled.

4.8 Inasmuch as the entire consignment, including broken, was found to be parboiled (and not normal rice), there is no justification in invoking prohibition in terms of Notification No. 31/2015-2020-Customs dated 08.09.2022 against the goods under consideration, particularly, in light of clarification contained in Trade Notice No. 18/2022-23 dated 04.10.2022 stating that the goods envisaged in the prohibitory notification is normal rice (and not parboiled rice).

4.9 In view of above, it is prayed to appreciate that goods exported by the appellant are in order and neither prohibited for export nor mis-declared or mis-classified in the shipping bill in any respect.

#### **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 Section 128 of the Customs Act, 1962, provides for a period of sixty days for filing an appeal, with a further grace period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed with a delay of 30 days beyond the initial sixty-day period, but within the extended thirty-day period. The Appellant has attributed the delay to the change in Advocate/Counsel and the subsequent effort required to trace and consolidate the case records, including the test reports, which caused administrative difficulties. While parties are expected to exercise due diligence, minor delays attributable to administrative oversights, especially when the appellant acts promptly upon discovering the issue, are generally condoned by appellate authorities to ensure that justice is not denied on mere technicalities. Considering the explanation provided, which indicates no deliberate inaction or gross negligence, I find that the Appellant has shown "sufficient cause" for the delay. Therefore, the miscellaneous application for condonation of delay is allowed in the interest of natural justice.

5.2 The finding in the Order-in-Original that the Appellant was unresponsive and that the case proceeded ex parte is undisputed. The most significant aspect of the appeal is the Appellant's reliance on submissions that were not on record or not addressed by the Adjudicating Authority when the ex parte order was passed. The Appellant's grounds of appeal now rely fundamentally on two points that the Adjudicating Authority had no opportunity to consider i.e the legal consequence of the unaddressed re-test letter dated 01.03.2023 and the binding nature of CBIC Circular No. 30/2017-Cus.

5.3 The Appellant placed on record the letter dated 01.03.2023 requesting a re-test of the samples. The OIO confirms that the Appellant did not attend the scheduled hearings, implying that this request, or its legal consequence, was never vehemently pressed or brought to the Adjudicating Authority's active attention during adjudication. Crucially, the Appellant introduced CBIC Circular No. 30/2017-Cus dated 18.07.2017 for the first time at the appellate stage to argue that the denial of the re-test request was contrary to a binding departmental instruction. The Circular states that a request for re-test, if made within ten days from the receipt of the communication of the test results of the first test, "shall be made in writing". It further clarifies that re-testing is a trade facilitation measure that "should generally not be denied in the ordinary course", and any denial must be on "reasonable grounds to be recorded in writing". The Adjudicating Authority passed the order without the benefit of judicial consideration on the applicability of this Circular, and more importantly,





without recording a specific finding as to why the right to a re-test (which goes to the root of the classification finding) was effectively denied.

5.4 The power to remand is a necessary corrective mechanism available to the Appellate Authority to prevent a miscarriage of justice where the principles of natural justice or due process have been violated, or where the Adjudicating Authority lacked the opportunity to consider crucial evidence. When the Adjudicating Authority passes an ex parte order, and the Appellant later introduces new and material facts, the Appellate Authority should typically remand the matter. This allows the Adjudicating Authority, who is the fact-finding authority, to examine these new grounds and record findings, thereby upholding the principle that every person is entitled to a fair hearing of their full case and avoiding the burden of deciding a complex factual issue at the first appellate stage.

5.5 The entire finding on classification, confiscation, and penalty hinges on the validity of the test report showing 27.3% broken rice. Since the Appellant has raised a valid and substantial argument regarding the denial of the statutorily backed right to a re-test (under a binding CBIC Circular) as a new ground of appeal that was not properly addressed by the Adjudicating Authority, the interests of justice demand that the case be remanded for a comprehensive fresh adjudication on this procedural point. The Appellant's failure to furnish the reasons for re-test to the Adjudicating Authority during the original proceedings meant that the Adjudicating Authority was restricted to the evidence on file. However, the issue of non-compliance with the CBIC Circular No. 30/2017-Cus regarding re-test, which is a key legal obligation of the department, goes to the root of the matter, as the entire case revolves around the validity of the first test report.

5.6 The Hon'ble CESTAT and various High Courts have consistently held that where material submissions or evidence (including legal interpretations based on circulars) that could not be placed before the lower authority—especially in an ex parte scenario—are presented at the appellate stage, the most judicious course is to remand the matter for consideration of these submissions on their merit. This ensures that the matter is settled at the lowest level of adjudication based on a complete set of facts. The CBIC Circular No. 30/2017-Cus states that re-testing is a trade facilitation measure that "should generally not be denied" and requires reasonable grounds for denial to be recorded in writing. The Adjudicating Authority must now decide if the failure to respond to the re-test request violates this binding instruction. Since the Adjudicating






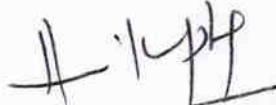
Authority adjudicated the matter ex parte and was deprived of the opportunity to consider the new facts (the letter dated 01.03.2023) and the legal implication of the binding Circular on the re-test issue, it is a fit case for remand to ensure a comprehensive and fair adjudication.

6. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- (i) The Miscellaneous Application for Condonation of Delay is allowed.
  - (ii) The Order-in-Original No. MCH/ADC/MK/72/2024-25 dated 13.06.2024 is set aside. The case is remanded back to the file of the Adjudicating Authority for fresh adjudication while considering all new facts and legal grounds.
7. The appeals filed by M/s. Jindal Foods is hereby allowed by way of remand.



સત્વાપેત/ATTESTED  
  
 અધીક્ષક/SUPERINTENDENT  
 સીમા ચુલક (અપીલસ), અહમદાવાદ.  
 CUSTOMS (APPEALS), AHMEDABAD

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

F. No. S/49-142/CUS/MUN/2024-25

Date: 28.11.2025

By Speed post A.D/E-Mail

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To,  
 M/s. Jindal Foods,  
 D-2, Vinoba Kunj, Sector-09,  
 Rohini, Delhi-110085

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.