सत्यमेव जयते

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 – 20260271MN0000222B89

क	फ़ाइल संख्या FILE NO.	S/49-338/CUS/AHD/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) :	AHD-CUSTM-000-APP-559-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.02.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order – In – Original No.: 150/AB/ADC/ICD-SACHIN/SRT/2024-25 dt. 19.08.2024/ 20.08.2024 passed by the Additional Commissioner, Customs, Surat.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	26.02.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Angel Art, FP-114-115, Plot No. 52, 3rd Floor, Jay Ind. Soc-1, Salujini Khatu, Anjana Road, Surat-395 002. Shri Bhimjibhai Meghjibhai Kariyavra, Proprietor of M/s Angel Art, 602, 6th Floor, Sky View, Near Aai Mata Road, Surat – 395 010.

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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 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 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 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/-.

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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 है, 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.	

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Order-In-Appeal

M/s Angel Art, FP-114-115, Plot No. 52, 3rd Floor, Jay Ind. Soc-1, Salujini Khatu, Anjana Road, Surat-395 002 (hereinafter referred to as "the Appellant") have filed the present appeal against the Order-In-Original No.: 150/AB/ADC/ICD-SACHIN/SRT/2024-25 dt. 19.08.2024/20.08.2024 (herein after referred to as "the impugned order") passed by the Additional Commissioner, Customs, Surat (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that the Appellant had imported Capital Goods machinery, i.e. 02 sets of Computerized Embroidery Machine under EPCG Licence No. 5230016520, dated 22.04.2015 by saving Customs Duty amount of Rs. 13,07,695/- (Actual Duty Utilization of Rs. 13,27,533/-) under the cover of the below mentioned Bills of Entry at Zero rate of duty by availing the benefit of exemption available under Notification No. 22/2013-Cus., dated 18.04.2013. The details of import are as per Table – I below:

TABLE – I

Sr. No.	Bill of Entry No. & date	Number of machinery cleared	Duty saved / available as per EPCG Licence (In Rs.)	Total Duty Foregone / Debited at the time of clearance (In Rs.)	Bank Guarantee Amount (In Rs.)
1	9090849 dated 30.04.2015	01	13,07,695/-	6,60,720/-	2,00,000/-
2	9625441 Dated 19.06.2015	01		6,66,813/-	
	Total	02	13,07,695/-	13,27,533/-	2,00,000/-

2.1 Against the said EPCG Licence No. 5230016520, dated 22.04.2015, the Appellant had executed a Bond dated 30.04.2015 before the Deputy/Assistant Commissioner of Customs, ICD – Sachin, Surat for an amount of Rs. 40,00,000/- backed by a Bank Guarantee No.: 4729ILG000915 dated 28.04.2015 for Rs. 2,00,000/- issued by the Punjab National Bank, Dumas Road Branch, Surat. They had undertaken to fulfilll the export obligation as specified in the Notification and the licence.

2.2 The said machinery, i.e., 02 sets of Computerized Embroidery Machine imported under the aforesaid EPCG Licence were installed at M/s Angel Art, FP-114-115, Plot No. 52, 3rd Floor, Jay Ind. Soc-1, Salujini Khatu, Anjana Road, Surat-395 002 as per the Installation Certificate dated 21.10.2015 issued by the Chartered Engineer, Dr. P.J.Gandhi , Surat, certifying the receipt of the goods imported and its installation.

2.3 As per the conditions of Notification No. 22/2013-Cus., dated 18.04.2013, the Appellant was required to fulfilll the export obligation on FOB basis equivalent to Six times the duty saved on the goods imported as specified on the Licence and Authorization, within a period of Six years from the date of issuance of EPCG Licence. In the instant case, the said EPCG Licence was issued to the Appellant on 22.04.2015 and accordingly, they were required to fulfilll export obligation by 21.04.2021, i.e., within a period of Six years from the date of issuance of Licence or Authorization and submit the Export Obligation Discharge Certificate (EODC) issued by the Regional DGFT Authority before the jurisdictional Customs authorities.

2.4 A letter F.No.: ICD-SACHIN/Misc./012022-23 dt. 13.01.2023 was issued to the Appellant requesting them to submit the copy of EODC or any extension issued by the Regional Authority, DGFT, Surat for fulfillment of export obligation. However, the Appellant had not responded to the above correspondence.

2.5 As, no reply was received from the Appellant, a letter F.No.: ICD-Sachin/DGFT/07/2020-21 dated 27.02.2023 was written to the Foreign Trade Development Officer, DGFT, Surat requesting to inform whether the EODC had been issued or any extension granted to the Appellant or any documents showing the fulfillment of the export obligation have been received by their office against the aforesaid EPCG Licence. The Assistant Director, DGFT, Surat, in response, vide letter F.No.: EPCG/MIS/2020-21 dt. 28.02.2023 informed that the appellant had not submitted any documents to their office against the said license.

2.6 In view of the above, it appeared that the Appellant had failed to fulfilll the export obligation as specified in the Licence and did not comply with the mandatory condition of the Notification No. 22/2013-Cus., dated 18.04.2013, the condition of EPCG Licence and also the conditions of the Bond executed and furnished by them. The Appellant neither produced the EODC issued by the DGFT, Surat nor could produce any documents showing extension granted to them for fulfillment of export obligation. Therefore, the Appellant was liable to pay Customs Duty not paid (i.e. saved) by them amounting to Rs. 13,27,533/- at the time of import / clearance along with interest at the applicable rate, in terms of conditions of the said Notification read with condition of the Bond executed by them read with Section 143 of the Customs Act, 1962. Further, said

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the Bank Guarantee issued by the Punjab National Bank, Dumas Road Branch, Surat and furnished by them against the aforesaid EPCG Licence appeared liable to be encashed and deposited in the Government Exchequer.

2.7 Accordingly, a Show Cause Notice under F.No.: VIII/6-127/ICD-Sachin/2015-16 dated 29.04.2024 was issued to the Appellant, proposing as to why:

i. The benefit of Zero rate of duty for EPCG Scheme under the said Notification on the imported Computerized Embroidery Machine imported in the name of the appellant should not be denied;
ii. Customs Duty amounting to Rs. 13,27,533/- being the duty foregone at the time of import under EPCG Licence should not be demanded and recovered from them along with interest in terms of the said Notification as amended, read with the conditions of Bond executed and furnished by them in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the said Bond. Further, why the said Bank Guarantee of Rs. 2,00,000/- backed against the Bond, should not be appropriated and adjusted towards the duty liability as mentioned above;
iii. The imported Capital goods should not be held liable for confiscation under Section 111 (o) of the Customs Act, 1962 read with the conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with said Customs Notification as amended from time to time;
iv. Penalty should not be imposed on the appellant under Section 112 (a) of the Customs Act, 1962;
v. Penalty should not be imposed on the director of the appellant firm under Section 117 of the Customs Act, 1962;

2.8 The Adjudicating Authority, vide the impugned order, has passed order as detailed below:

i. He disallowed the benefit of zero rate of duty for EPCG Scheme under the said Notification for subject import of said goods vide subject Bills of Entry;
ii. He confirmed the demand of Customs Duty amounting to Rs. 13,27,533/- being the duty foregone at the time of import of Capital Goods under EPCG Licence in terms of the said Notification as amended, read with the conditions of Bond executed along with interest and ordered the same to be recovered in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the above mentioned Bond;

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iii. He ordered to appropriate the amount of Rs. 2,00,000/- by encashment of the said Bank Guarantee issued by the Punjab National Bank, Dumas Road Branch, Surat submitted by the Appellant and ordered to adjust the said amount against the duty liability confirmed at (ii) above;

iv. He ordered for confiscation of the subject imported Capital goods imported by the Appellant under Section 111 (o) of the Customs Act, 1962 read with the conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with the said Customs Notification. However, he gave an option to redeem the said goods on payment of redemption fine of Rs. 14,17,365/- under Section 125 (i) of the Customs Act, 1962;

v. He imposed penalty of Rs. 1,32,753/- upon the Appellant under Section 112 (a) of the Customs Act, 1962;

vi. He imposed penalty of Rs. 1,00,000/- upon the Appellant under Section 117 of the Customs Act, 1962;

3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal on 19.03.2025. The Appellant have, inter-alia, raised various contentions and filed detailed submissions as given below in support of their claims:

- *That the impugned ex parte order in original not signed by the adjudicating additional Commissioner is an invalid document and is therefore required to be quashed and set aside. Reliance is placed on the following judicial precedents: –*

  Apple International Versus CC-2000 SCC Online CEGAT 987

  Richimen Silks Ltd Versus CC-2000 (10) TMI 320-CEGAT, Chennai

  A1. Attestation of the impugned ex parte are original is an invalid document and therefore the impugned order in original is required to be quashed and set aside. Reliance is placed on the citations mentioned under Ground A above.

- *The impugned ex parte order in original should not have been issued at all as it is contrary to the **CBEC Circular No. 16/2017-Cus., dated 2-5-2017** directing field formations like the respondent to issue only letter in such cases and specifically directed not to issue show cause notices at all.*

- *That appellant firm has already fulfilled the export obligations and is in the process of applying for EODC/bond waiver to the Joint DGFT, Surat due to which the impugned OIO is required to be quashed and set aside with the consequential relief.*

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- *The Appellant prays for setting aside the unsigned impugned Order in Original dated 19.08.2024 (attested copy received on 27.02.2025) passed by the Respondent Additional Commissioner of Customs, Surat as issued in violation of principles of natural justice, issued in violation of extant CBEC circular, based on presumptions and assumptions, perfunctory, contrary to facts and law, lacking in judicial discipline, illegal and therefore non-est with consequential relief of quashing the impugned OIO;*
- *The impugned unsigned OIO was received by the Appellant **in September 2024** by post. Since no appeal will lie against unsigned order in original passed ex parte, appellant applied for and got the attested copy of the impugned order in original on 27.02.2025 from the superintendent of Customs, ICD-Sachin, Surat. The limitation period of 60 days will start running only from 27.02.2025 on which date appellant got the attested copy of the unsigned order. And therefore this appeal filed within 60 days from 27.02.2025 has been filed within time.*

3.1 The appellant , vide letter dt. 22.12.2025 submitted that in addition to the contentions of the appeal memo, they have submitted during virtual hearing that the impugned OIO contains hand written DIN number and the same is not in accordance with law and CBIC circulars , therefore, the impugned OIO is ab initio illegal and is required to be quashed and set aside.

4. Personal hearing in the matter was held on 18.12.2025 in virtual mode. Shri S Suriyanarayanam, Advocate, appeared for hearing on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum.

5. Before proceeding to examine the merits of the case, it is observed from Form CA-1, the appeal memorandum and grounds of appeal dated 17.03.2025 that the appellant has stated at page no.11 that the impugned unsigned OIO was received by them in the month of September 2024 by post. The appellant has contended that an unsigned order is invalid in law and, therefore, they requested to department to have an attested/signed copy, which was received by them on 27.02.2025. The appellant has accordingly taken 27.02.2025 as the date of communication of the impugned order and filed the present appeal on 19.03.2025. As per their contention, the appeal has been filed within 60 days from 27.02.2025 and is therefore within the prescribed period of limitation.

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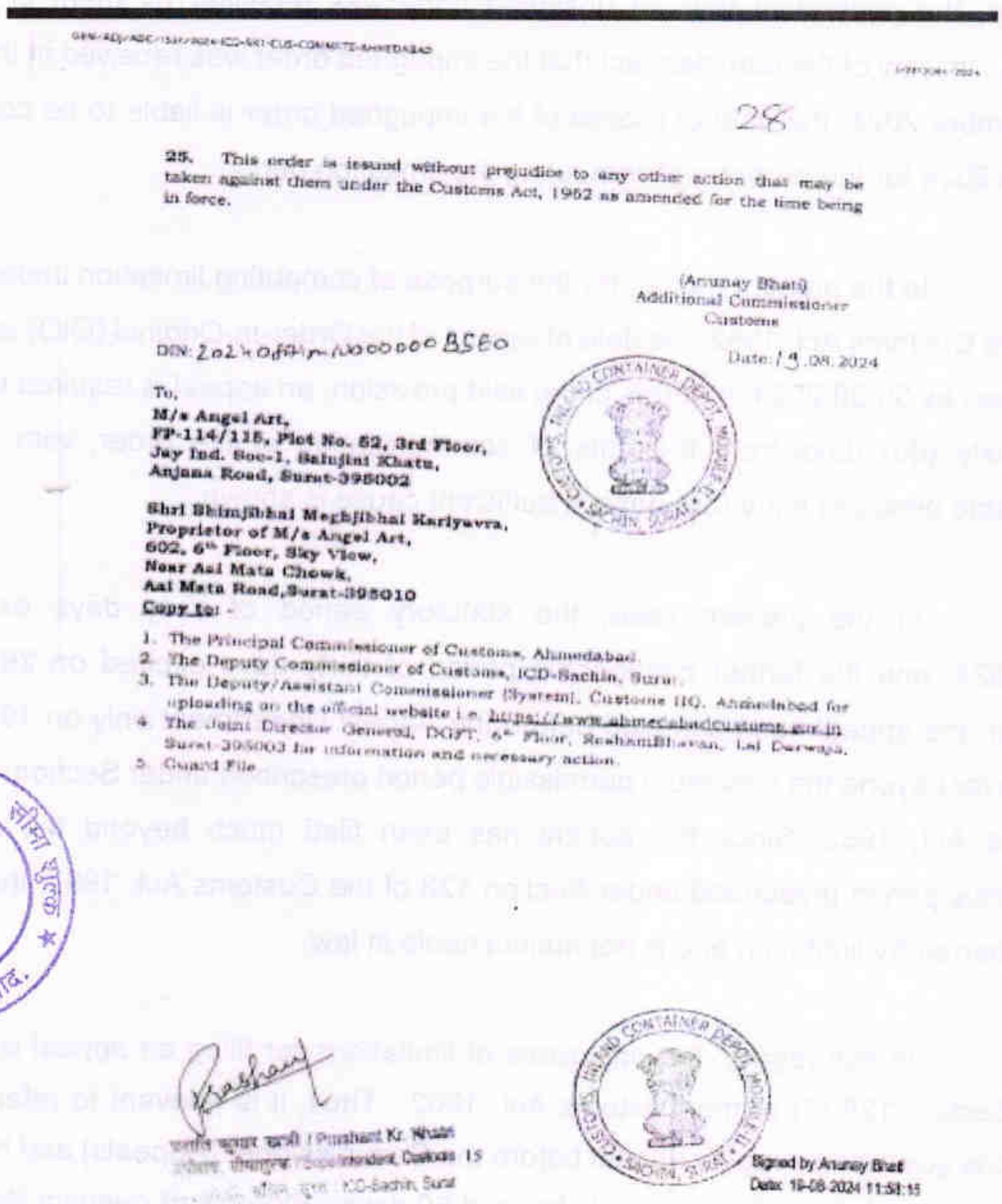
5.2 The contention of the appellant regarding the receipt of an unsigned copy of the impugned order is wrong and incorrect. The adjudicating authority, after careful examination and consideration of the material facts available on record and after following the principles of natural justice, passed a reasoned and lawful order. The adjudicating authority has duly affixed his digital signature at the bottom of the impugned order. A screenshot of the last page of the impugned order is put below, which clearly contains the digital signature of the adjudicating authority at the bottom of the order.



28

25. This order is issued without prejudice to any other action that may be taken against them under the Customs Act, 1962 as amended for the time being in force.

(Anunay Bhati)
Additional Commissioner
Customs

DIN: 20240864MN000000B5E0

Date: 19.08.2024

To,
M/s Angel Art,
FP-114/115, Plot No. 52, 3rd Floor,
Jay Ind. Soc-1, Balujini Khatu,
Anjana Road, Surat-395002

Shri Bhimjibhai Meghjibhai Kariyavra,
Proprietor of M/s Angel Art,
602, 6th Floor, Sky View,
Near Aai Mata Chowk,
Aai Mata Road, Surat-395010

Copy to: -

1. The Principal Commissioner of Customs, Ahmedabad.
2. The Deputy Commissioner of Customs, ICD-Sachin, Surat.
3. The Deputy/Assistant Commissioner (System), Customs HQ, Ahmedabad for uploading on the official website i.e. https://www.ahmedabadcustoms.gov.in
4. The Joint Director General, DGFT, 6th Floor, ReshamBhavan, Lal Darwaja, Surat-395003 for information and necessary action.
5. Guard File

Prashant Kr. Bhati
Superintendent, Customs
ICD-Sachin, Surat

Signed by Anunay Bhati
Date: 19-08-2024 11:58:15

From the above, it is found that the impugned order clearly and visibly bears the digital signature of the adjudicating authority as-Signed by Anunay Bhati Date: 19-08-

2024 11:58:15.. Therefore, the contention of the appellant that the impugned order was unsigned is factually incorrect, untenable, and liable to be rejected.

5.3 The appellant's contention regarding the relevant date for filing of the appeal, i.e., 27.02.2025 (the date on which the allegedly attested/signed copy was received), is not correct and is contrary to law. The appellant has himself admitted and confirmed that a copy of the impugned order was received by them in the month of September 2024. Further, as discussed above, it is confirmed fact that the impugned order is not unsigned and clearly bears the digital signature of the adjudicating authority. Therefore, the contention that an unsigned copy was received by them is factually incorrect. In view of the admitted fact that the impugned order was received in the month of September 2024, the date of receipt of the impugned order is liable to be considered as 30.09.2024 for the purpose of computing the limitation period.

5.4 In the present matter, for the purpose of computing limitation under Section 128 of the Customs Act, 1962, the date of receipt of the Order-in-Original (OIO) is required to be taken as 30.09.2024. In terms of the said provision, an appeal is required to be filed within sixty (60) days from the date of communication of the order, with a further condonable period of thirty (30) days, if sufficient cause is shown.

In the present case, the statutory period of sixty days expired on 29.11.2024, and the further condonable period of thirty days expired on 29.12.2024. However, the appeal has been filed before the Appeal Department only on 19.03.2025, which is far beyond the maximum permissible period prescribed under Section 128 of the Customs Act, 1962. Since the appeal has been filed much beyond the maximum permissible period prescribed under Section 128 of the Customs Act, 1962, the same is clearly barred by limitation and is not maintainable in law.

5.5 In this regard, the provisions of limitations for filing an appeal is specified under Section 128 (1) of the Customs Act, 1962. Thus, it is relevant to refer the legal provisions governing filing an appeal before the Commissioner (Appeals) and his powers to condone the delay in filing appeals beyond 60 days. Extracts of relevant Section 128 of the Customs Act, 1962 are reproduced below for ease of reference:

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SECTION 128. Appeals to [Commissioner (Appeals)]. — (1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a [Principal Commissioner of Customs or Commissioner of Customs] may appeal to the [Commissioner (Appeals)] [within sixty days] from the date of the communication to him of such decision or order.

[Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]

5.6 Section 128 of the Customs Act, 1962 makes it clear that the appeal has to be filed within 60 days from the date of communication of order. Further, 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.

5.7 It will also be relevant to refer to the judgment of Hon'ble Supreme Court in case of Singh Enterprises – [2008 (221) E.L.T. 163 (S.C.)], wherein the Hon'ble Apex Court had, 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 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 relevant para is reproduced below:

> *"**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."

5.8 The above view was reiterated by the Hon'ble Supreme Court in Amchong Tea Estate [2010 (257) E.L.T. 3 (S.C.)]. Further, the Hon'ble High Court of Gujarat in case of Ramesh Vasantbhai Bhojani – [2017 (357) E.L.T. 63 (Guj.)] and Hon'ble Tribunal Bangalore in the case of Shri Abdul Gafoor Vs Commissioner of Customs (Appeals) [2024-TIOL-565-CESTAT-BANG] have taken a similar view while dealing with Section 128 of the Customs Act, 1962.

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

5.10 In light of the above situation, facts and observations, it is found that the appeal has been filed after the expiry of ninety (90) days from the date of receipt of the impugned order by the appellant. As per Section 128 of the Customs Act, 1962, the appellate authority is empowered to condone delay only up to the prescribed extended period, and no further. Since the appeal has been filed beyond the maximum period permissible under the said provision, the delay is not condonable in law. Accordingly, the appeal is held to be time-barred.

5.11 The appellant, during virtual hearing has contended and submitted vide letter dt. 22.12.2025 that the impugned order contains the hand written DIN which is not accordance with law and CBIC circulars on the subject. However, on perusal of DIN related circulars it is no where found that the DIN cannot be written by hand, the only requirement is that every official communication to the trade must bear the DIN. In this

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case, the DIN is rightly and legally mentioned and written. Therefore, contention of the appellant is incorrect.

6. In view of the discussion made above, the appeal filed by the Appellant , is hereby rejected , on the grounds of limitation without going into the merits of the case.

(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-338/CUS/AHD/24-25

Date: 26.02.2026

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

Through Speed Post:

M/s Angel Art,
FP-114-115, Plot No. 52,
3rd Floor, Jay Ind. Soc-1,
Salujini Khatu, Anjana Road,
Surat-395 002.

कार्यालय आयुक्त (अपील), सीमा शुल्क
अहमदाबाद

Shri Bhimjibhai Meghjibhai Kariyavra,
Proprietor of M/s Angel Art,
602, 6th Floor, Sky View,
Near Aai Mata Road,
Surat – 395 010.

Copy to:

1.The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)

2.The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in).

3. The Additional Commissioner of Customs, ICD – Sachin, Surat. (Email: adjcus-surat@gov.in / cus-ahmd-adj@gov.in)

4.The Deputy Commissioner, Customs, ICD – Sachin, Surat. (icd-sachin@gov.in).

5. Shri S Suriyanarayanan, Advocate on behalf of M/s Angel Embroidery, Surat. ((suri6law@yahoo.in,surilawyer@hotmail.com, suri6law@gmail.com, suri6law@yahoo.in)

6. Guard File.