



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंजिल 4th Floor, हड्डो भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
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DIN - 20251071MN0000010026

क	फ़ाइल संख्या FILE NO.	S/49-134/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-377-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	27.10.2025
ड	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Letter F.No. CUS/RFD/OTH/480/2024- REF, dated 16.08.2024 issued by the Assistant Commissioner (Refund), Customs, Mundra
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	27.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Arcelor Mittal Projects India Pvt Ltd., Unit 202A Dosti Pinnacle, Plot No. E7, Road No. 22, Wagle Industrial Estate, Thane West, Maharashtra-400604



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/- (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 मंजिल, 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)	(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 रुपए.	
(a)	(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)	(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 हजार रुपए	
(b)	(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)	(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 रुपए.	
(c)	(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)	(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)	(d) An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-	
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or	
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

ORDER-IN-APPEAL

The present appeal has been filed by M/s. Arcelor Mittal Projects India Pvt Ltd, Unit 202A Dosti Pinnacle, Plot No. E7, Road No. 22, Wagle Industrial Estate, Thane West, Maharashtra-400604 (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the decision conveyed vide letter F.No. CUS/RFD/OTH/480/2024-REF dated 16.08.2024 (hereinafter referred to as 'the impugned order') issued by the Assistant Commissioner (Refund), Customs, Mundra.

2. Facts of the case, in brief, are that earlier M/s. Arcelor Mittal Distribution Solutions India Pvt Ltd , A-403, Delphi, Hiranandani Gardens, Powai, Mumbai-400076 had filed a refund claim for Rs.97,86,949/- under the provisions of section 27 of the Customs Act, 1962 read with Notification No.102/2007-Cus. dated 14.09.2007 as amended, vide their letter dated NIL and received to department on 27.08.2012 through Speed Post. After scrutiny the original refund claim alongwith its enclosures were returned for complying certain deficiencies and to submit in proper form vide office letter dtd 29.08.2012. The relevant details are as below:-

S. No.	BE No. & Date	Challan No. & Date	4% SAD Paid	4% SAD Claimed
01	4409841/19-08-11	2001815019/26.08.11	1,56 00,881/-	86,64,971/-
02	4407720/19.08.11	2001812414/25.08.11	6,98,766/-	6,96,702/-
03	4488029/29.08.11	2001876045/29.08.11	4,25,275/-	4,25,275/-
			Total	97,86,948/-

2.1 Further the appellant submitted the claim on 12.04.2013 for these three Bills of Entry but the amount of claim was revised to Rs. 1,15,23,184/-. The details are as under :-



S. No.	BE No. & Date	Challan No. & Date	4% SAD Paid	4% SAD Claimed
01	4409841/19.08.11	2001815019/26.08.11	1,56 00,881/-	1,04,01,206/-
02	4407720/19.08.11	2001812414/25.08.11	6,98,766/-	6,96,702/-
03	4488029/29.08.11	2001876045/29.08.11	4,25,275/-	4,25,275/-
			Total	
				1,15,23,183/-

On scrutiny it was found that the refund claim was time barred in respect to Bill of Entry No. 4407720 dtd. 19.08.2011 and Bill of Entry No. 4409841 dtd. 19.08.2011 under Section 27 of Customs Act, 1962 , read with Notification No. 102/2007-Cus., dtd. 14.09.2007.

2.2 The appellant had claimed the refund of 4% SAD paid by them as per provision of sub-section 5 of section 3 of the Customs Tariff Act 1975, at the time of Importation/clearance of goods namely "NON ALLOY HR UNPICKLED (STEEL COILS), TIN PLATE SHEET" vide various Bills of Entry.

2.3 Consequently, the then Adjudicating Authority sanctioned the refund of Rs.4,25,275/- to the Appellant and rejected the refund of amount Rs.1,10,97,908/-, vide the OIO no. MP&SEZ/303/MK/DC/REF/14-15 dated 20.05.2014. Being aggrieved by the Order-in-Original dated 20.05.2014, the Appellant preferred an appeal before the Commissioner (Appeals), Ahmedabad whereby the Commissioner (Appeals) dismissed the appeal on the ground that the refund claim is time barred in terms of Section 27 of the Customs Act, 1962 vide Order-in-Appeal dated 25.11.2014.

2.4 Being aggrieved by the Order passed by the Commissioner (Appeals), the Appellant filed an appeal before the Hon'ble CESTAT Ahmedabad. The Hon'ble Tribunal vide Final Order No. A/11307/2023 dated 21.06.2023 observed that in terms of the General Clauses Act, 1987 read with the decision of the Hon'ble Bombay High Court in the case of Skoda Auto Volkswagen India Pvt. Ltd v. CC, 2021(50) GSTL 67 (Bom.), both the refund claims filed by the Appeal (for Bill of Entry No(s). 4409841 dated 19.08.2011 and 4407720 dated 19.08.2011) were filed within the stipulated time period of one year. Consequently, the Hon'ble Tribunal held that the refund claims were not time barred. The said order was accepted by the Department on 12.10.2023.

2.5 In light of the CESTAT Order dated 21.06.2023, the Appellant filed a letter dated 01.08.2023 to the Department seeking refund allowed by the Hon'ble Tribunal. Thereafter, the Show Cause Notice bearing F. No. CUS/RFD/OTH/531/2023-REF/5288 dated 31.10.2023, proposing to reject the refund claim of Rs. 17,36,235/- which was enhanced by the Appellant at the time of re-submitting the refund claim on the ground that the same is time barred with a delay of 229 days was issued to the appellant. Consequently, the Adjudicating Authority, vide Order-in-Original No. MCH/18/AC/KRP/REF/2024-25 dated 23.04.2024 sanctioned refund of Rs. 1,10,64,022/- in terms of Notification No. 102/2007-Cus. dated 14.09.2007 as amended by Notification No. 93/2008-Cus. dated 01.08.2008 read with Section 27 of the Customs Act, 1962. However, the adjudicating authority did not grant interest on the refund sanctioned to the Appellant. In view of the above, the Appellant approached the Department vide letter dated 24.05.2024 received on 29.05.2024 requesting to grant refund of interest amounting to Rs. 71,56,755/- on the refund of SAD granted vide Order dated 23.04.2024. Consequently, the Adjudicating authority vide letter dtd. 16.08.2024 informed the Appellant that the Hon'ble CESTAT, Ahmedabad in the Order dated 21.06.2023 has not held that the Appellant is entitled to the claim of refund and therefore, the refund claim is not acceptable. The adjudicating authority vide aforesaid letter dtd. 16.08.2024 also returned the refund application filed by the Appellant along with all the documents.

SUBMISSIONS OF THE APPELLANT:

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

3.1 The appellant has submitted that the Impugned Order is a non-speaking order and is passed in violation of the principles of natural justice. Thus, the Impugned Order becomes liable to be set aside. The Appellant submits that the Impugned Order is a non-speaking order and, on this ground, alone, the Impugned Order becomes liable to be set aside. The Appellant submits that the Adjudicating Authority has passed the Impugned Order without considering any of the submissions made by the Appellants. No proper reason whatsoever has been given by the Adjudicating Authority in the Impugned Order as to how the submissions or evidence brought on record are not applicable to the facts of the present case. The Adjudicating Authority has mechanically passed the Order

rejecting the claim of the Appellant on the ground that the Hon'ble CESTAT, Ahmedabad has nowhere held that the Appellant is entitled to the interest on the refund of SAD. However, the Adjudicating Authority has failed to consider the fact that the Hon'ble Ahmedabad Tribunal had to decide the matter on the limited issue of whether the refund claim of SAD was within the limitation period or not. Therefore, it was imperative on the Adjudicating Authority to apply his mind to the facts of the case and decide the case in light of the laws in force. However, the Adjudicating Authority has failed to do the same and has passed the Impugned in gross violation of principles of natural justice.

3.2 In the case of Cyril Lasardo (Dead) v. Juliana Maria Lasardo, 2004 (7) SCC 431 at Para 11, 12, the Hon'ble Apex Court has held as under:

“11. Reasons introduce clarity in an order. On plainest reading and consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amendable to further avenue of challenge. The absence of reasons has rendered the High Court's judgement not sustainable.

12. Even in respect of administrative orders Lord Denning. M.R. in Breen v. Amalgamated Engg. Union observed: (All ER p. 1154h) "The giving of reasons is one of the fundamentals of good administration." In Alexander Machinery (Dudley) Ltd. v Crabtree it was observed: "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi judicial performance."



3.3 Similar views were expressed in the decision of the Hon'ble Supreme Court in the case of Asst. Commissioner, Commercial Tax Department v. Shukla & Brothers, 2010 (254) ELT 6 (SC) wherein the Court observed as under:

"9..... in our view, it would neither be permissible nor possible to state as a principle of law, that while exercising power of judicial review on administrative action and more particularly judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard. Secondly, the concerned authority should provide a fair and transparent procedure and Lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order. This has never been uniformly applied by courts in India and abroad."

(Emphasis supplied)

3.4 In the case of Essen Dyechem vs. State of Gujarat, Special Civil Application No. 16023 of 2019, while quashing and setting the order impugned therein, the Hon'ble Gujarat High Court has observed that a non-speaking order, without recording any finding or reasoning cannot be sustained. Thus, in view of the above submissions, the Appellants submit that the Impugned Order is non-speaking and has been passed in gross violation of principles of equity, fair play and natural justice. Therefore, the Impugned Order is liable to be quashed and set aside on this ground alone.

3.5 The Appellant is entitled to refund of interest from the expiry of three months from the date of refund application in terms of Section 27A of the Customs Act, 1962. It is submitted that the order sanctioning refund to the Appellant was passed after more than 10 years of filing of the refund claims (both original and revised). The Appellant is entitled to refund of interest from the expiry of three months from the date of refund application, i.e., three months from 12.04.2013 which is 11.07.2013. It is submitted that the interest on delayed refunds ought to have been calculated from the expiry of three months from the date of application in terms of Section 27A of the Customs Act, 1962. Relevant portion of the provision is extracted below for ease of reference-

"SECTION 27A. Interest on delayed refunds. 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, not below five per cent and not exceeding thirty per cent per annum as is for the time being fixed by the Central Government by Notification in the Official Gazette, 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."

3.6 The above provision under Section 27A of the Customs Act, 1962 duly indicates that the interest on delayed refund is liable to be paid from the date immediately after expiry of three months from the date of receipt of such application till the date of refund of such duty. Reliance in this regard is placed on the decision of Hon'ble Apex Court in the case of Ranbaxy Laboratories Ltd. v. Union of India, 2011 (273) E.L.T. 3 (S.C.), wherein with respect to refund under Central Excise Act, 1944, the Court held that refund of interest is to be granted from expiry of three months from date of receipt of application. Relevant portion of the decision is extracted below for ease of reference-

"15. In view of the above analysis, our answer to the question formulated in para (1) supra is that the liability of the revenue to pay interest under Section 11BB of the Act commences from the date of expiry of three months from the date of receipt of application for refund under Section 11B(1) of the Act and not on the expiry of the said period from the date on which order of refund is made."

(Emphasis Supplied)

3.7 Reliance in this regard is also placed on the decision of Commissioner of Customs, Ludhiana v. Oswal Wollen Mills Ltd, 2023 (385) E.L.T. 733 (Tri.-Chan.), wherein relying upon the decision of Ranbaxy Laboratories (Supra), refund of interest was sanctioned from expiry of three months from the date of receipt of application. Reliance in this regard is also placed on the decision of Suchi Fasteners Pvt. Ltd. v. Commr. of C. EX. & ST., Vadodara-I, 2021 (378) E.L.T. 329 (Tri.-Ahmd.), wherein on refund of SAD and interest thereon was granted to the Assessee by Hon'ble CESTAT, Ahmedabad in terms of Section 27 and Section 27A of the Customs Act, 1962. Relevant portion of the decision is extracted below for ease of reference-

"10. There is no dispute that SAD refund of Rs. 54,733/- was filed on 11-10-2010 and BCD refund claim of Rs. 2,79,924/-was filed on 12-11-2011. It is settled law that after filling Application for Refund, if refund is delayed by three months, claimant also becomes eligible to get interest after three months from the date of filling refund application. This is provided in Section 27A of the Customs Act, 1962. Accordingly, appellant is eligible for interest u/s 27A of Customs Act, 1962 read with the decisions in case of *New Kamal v. UOI-2020 (372) E.L.T. 571 (Guj.)* which has allowed interest @6%. Appellant is eligible for "interest" in terms of Section 27A of Customs Act, 1962 in terms of following decisions :-

- *Commr. of Cus. v. L.G. Electronics India Pvt. Ltd. - 2019 (370) E.L.T. 441 (Tri. - All.).*
- *Ranbaxy Laboratories Ltd. v. UOI - 2011 (273) E.L.T. 3 (S.C.), which is followed in many other reported decisions under Section 27A of Customs Act, 1962."*

(Emphasis Supplied)

3.8 Further, the Appellant places reliance on the decision of Hon'ble High Court of Gujarat in the case of *New Kamal v. Union of India, 2020 (372) E.L.T. 571 (Guj.)* wherein the Hon'ble High Court on the issue pertaining to interest on delayed refund of SAD, directed the Department to refund interest @6% per annum from date of expiry of three months from date of receipt of application in terms of Section 27A of the Customs Act, 1962. Further, in the case of *Commr. of Cus., C. Ex. & S.T., Noida v. L.G. Electronics India Pvt. Ltd. 2019 (370) E.L.T. 441 (Tri.-All.)*, in the case pertaining to delayed refund of SAD and applicability of interest, held that expiry of three months ought to be calculated from date of filing of the initial refund application for considering entitlement to interest for delayed refund under Section 27A of the Customs Act, 1962. Relevant portion of the decision is extracted below for ease of reference-

"10. After appreciating the submissions made by both the sides we find that the issue before the original adjudicating authority was claim of refund of SAD which stands denied by him. As such there was no occasion for the original adjudicating authority to deal with interest aspect. Further Commissioner (Appeals) though had allowed the refund claims, but rejected the interest amount by one line observations reproduced above. There was no discussion or observations by Commissioner (Appeals) as regards

interest claimed by the assessee. As such we are of the view that the matter should be remanded to original adjudicating authority for deciding the appellant's claim of interest, in the light of the declaration of law by the Hon'ble Delhi High Court and followed by the Tribunal in the above referred cases. Accordingly he would decide the interest liability of the Revenue by referring to the above decisions as also by referring to the facts of the case. We would like to observe here that the appellant's entitlement to interest would be considered by treating the original date of filing of refund as the relevant date in terms of the provisions of Section 27A of the Customs Act."

(Emphasis Supplied)

3.9 In view of the aforementioned decisions, the Appellant has submitted that they are eligible for interest on delayed refund of SAD from expiry of three months from the date of receipt of application of refund claim filed on 12.03.2014. The Impugned Order is, therefore, liable to be set aside.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 03.07.2025, following the principles of natural justice wherein Ms Raksha Bhandari, Advocate appeared for the hearing and she re-iterated the submission made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

 I have carefully gone through the case records, impugned order passed by the Assistant Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that the following issue need to be addressed:

- (i) Whether the letter rejecting the claim for interest under Section 27A of the Customs Act, 1962, on the ground that the CESTAT Order did not explicitly sanction interest, is a reasoned and speaking order, legally tenable, or whether it warrants a remand for fresh adjudication in light of statutory provisions.

5.2 The function of a quasi-judicial authority, such as the Assistant Commissioner, demands a reasoned and speaking order. The Hon'ble Supreme Court of India has consistently held that the absence of reasons can render a judgment legally unsustainable, emphasizing that the order must indicate an application of mind to the controversy. In the present case, the Adjudicating Authority rejected the interest claim because the CESTAT Order sanctioning the principal refund was silent on the matter of interest. This reasoning fundamentally overlooks the statutory provisions regarding delayed refunds.

5.3 The principle of law regarding interest on delayed refund under the Customs Act is well-settled. Section 27A of the Customs Act, 1962, explicitly mandates: "If any duty ordered to be refunded... is not refunded within three months from the date of receipt of application... there shall be paid to that applicant interest...". This provision creates a statutory obligation on the revenue to pay interest if the refund is delayed beyond the prescribed three-month period, which is a compensatory right for the claimant. The interest accrues automatically 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". The Supreme Court, in the seminal case of Ranbaxy Laboratories Ltd. v. Union of India [2011 (273) E.L.T. 3 (S.C.)], has conclusively held that the liability to pay interest commences from the date of expiry of three months from the date of receipt of the application, and not from the date on which the refund order is made by the Adjudicating Authority or Appellate Authority.

5.4 The Adjudicating Authority, in the Impugned Order dated 16.08.2024, failed to apply the plain language of Section 27A of the Customs Act, 1962, and the binding ratio of the Apex Court as relied upon by the Appellant. The reliance on the mere silence of the CESTAT order for rejecting a statutory claim for interest constitutes a failure to discharge a quasi-judicial function through a reasoned analysis of the law. The matter of interest is to be determined not by whether the Appellate Authority explicitly ordered it, but by whether the statutory conditions of delay under Section 27A were met once the principal refund was found legally admissible. The failure to address the mandatory statutory provision renders the impugned order legally defective and non-speaking on the most crucial point of controversy. Therefore, judicial discipline and the principles of natural justice require that the matter be

remanded to the Adjudicating Authority for a fresh and speaking order, where the claim is decided strictly in light of Section 27A of the Customs Act, 1962.

5.5 This Appellate Authority is guided by the principle that non-speaking orders must be set aside and remanded for a fresh decision with proper application of law

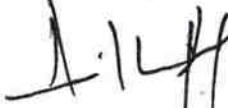
6. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

(i) The order of adjudicating authority vide letter F. No. CUS/RFD/OTH/480/2024-REF dated 16.08.2024 is set aside for being a non-speaking order on the claim of interest under Section 27A of the Customs Act, 1962.

(ii) The matter is remanded to the Assistant Commissioner (Refund), Custom House, Mundra (the Adjudicating Authority) to pass a fresh, comprehensive, and speaking order.

7. The appeal filed by M/s. Arcelor Mittal Projects India Pvt. Ltd. is hereby allowed by way of remand.




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

F. No. S/49-134/CUS/MUN/2024-25

Date: 27.10.2025

By Speed Post /E-Mail

To,

M/s. Arcelor Mittal Projects India Pvt. Ltd.,
Unit 202A Dosti Pinnacle, Plot No. E7,
Road No. 22, Wagle Industrial Estate,
Thane West, Maharashtra-400604

 सत्यापित/ATTESTED

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

