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.
दूरभाष क्रमांक Tel. No. 079-26589281
DIN-20251071MN000049784E

क	फ़ाइल संख्या FILE NO.	F.No. S/49-422/CUS/AHD/2023-24
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-292-25-26**
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	27.10.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	O.I.O. No. 25/DC/ICD/IMP/REF/2023 dated 22.12.2023 passed by the Deputy Commissioner of Customs, ICD-Khodiyar.
	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. Nildhara FMCG, 41, Panchvati Bunglows, Near Ganeshkunj, New Ranip, Ahmedabad – 382340. (email: info@nildhara.com)

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 (यथासंशोधित) में निर्धारित फीस जोअन्य रसीद,फीस,दण्ड,जब्तीऔर विविध मदों के शीर्षके अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र),जैसा भी मामला हो,से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां. यदि शुल्क,मांगा गया ब्याज,लगाया गया दंड की राशिऔर 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 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**

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	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 अपीलियअधिकरण, 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 हैं,या दंड के10 % 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. Nildhara FMCG, 41, Panchvati Bunglows, Near Ganeshkunj, New Ranip, Ahmedabad – 382340 (hereinafter referred to as 'the appellant') has filed the present appeal against Order-In-Original No. 25/DC/ICD/IMP/REF/2023 dated 22.12.2023 (hereinafter referred to as 'the impugned order') passed by the Deputy Commissioner of Customs, ICD-Khodiyar (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant had filed a claim for refund of 4% Additional Duty of Customs, leviable under the erstwhile provisions of Section 3(5) of the Customs Tariff Act, 1975. The said 4% Additional Duty was popularly known as 4% Special CVD or 4% Special Additional Duty ('4% SAD') and it was leviable on imported goods to counter-balance the Sales Tax or VAT, which was leviable prior to 01.07.2017, i.e. prior to introduction of GST. Further, refund of the said 4% Additional Duty was available under the provisions of Notification No. 102/2007-Cus dated 14.09.2007, as amended by Notification No. 93/2008-Cus dated 01.08.2008, subject to conditions prescribed therein. Some of the important conditions were that the imported goods should have been sold on payment of appropriate Sales Tax / VAT; and in the sales invoices, it should have been mentioned that no credit of the said 4% Additional Duty would be admissible.

3. The appellant had filed a refund claim of 4% Additional Duty amounting to Rs.63,012/- on 07.09.2017 with the office of the adjudicating authority. The said refund claim was initially rejected vide Order-In-Original No. 43/DC/ICD/IMP/REF/2018 dated 11.01.2018. Being aggrieved, the appellant had filed an appeal with this office, which was allowed. Vide Order-In-Appeal No. AHD-CUSTM-000-APP-202-18-19 dated 21.01.2019, the O.I.O. dated 11.01.2018 had been set aside and the appeal was allowed with consequential relief, as per law.

4. The appellant had taken up the matter with the adjudicating authority vide email/letter dated 28.09.2020, 28.01.2022 and 06.09.2023. After scrutiny of refund claim, the adjudicating authority has observed that the claimant has found to have complied with all the conditions of Notification No. 102/2007-Cus dated 14.09.2007 and so, the exemption granted vide the said Notification is admissible to them (Para 15 of the impugned order refers). Vide the impugned order dated 22.12.2023, a refund of Rs.63,012/- has been sanctioned to the appellant.

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5. Being aggrieved against non-payment of interest on delayed refund, M/s. Nildhara FMCG has filed the present appeal. The appellant has inter alia contended that the impugned order is passed in clear defiance of the order passed by the Ld. Appellate Tribunal in the case of Gian Casting Ltd Vs. Commissioner of Central Excise, Chandigarh reported in 2001 (131) ELT 380 (Tri. Del), wherein the Ld. Tribunal has held that when an assessee takes a plea and try to explain their stand, the adjudicating authority is required to consider the stand taken by the assessee and give a finding in respect of such stand. In the present case, though a specific plea qua the interest on the refund was made, there is no finding given and therefore, the impugned order is illegal.

6. The appellant further submitted that the Adjudicating Authority could not ignore the law laid down by the Hon'ble Apex Court in the case of UOI Vs. Hamdard (Waqf) Laboratories reported in 2016 (333) ELT 193 (S.C.), whereby it is held that interest on delayed refund is payable under Section 11BB of Central Excise Act, 1944 on expiry of three months from the date of receipt of application from such date till the date of refund of duty. The Hon'ble Apex Court has considered the fact that the Board has issued a circular qua the queries to be raised within 48 hrs from the date of application, and if the delay has occurred thereafter, interest on the same is required to be paid. Further, the adjudicating authority did not discuss any reasons for not sanctioning the interest amount and also not sanctioned the same.

7. Further, the Hon'ble Apex Court in the case of Ranbaxy Laboratories Ltd Vs. UOI reported in 2012 (27) STR 193 (S.C.) has already held that interest on delayed refund is payable under Section 11BB of the Central Excise Act, 1944 on the expiring of a period of three months from the date of receipt of an application under Section 11B ibid and not from the date of order of refund or appellate order allowing such refund; that Explanation to the proviso to Section 11BB ibid introduces a deeming fiction that where an order for refund is not made by Asst. Commr./Dy. Commr., but by Appellate Authority, such appellate order shall be deemed to be an order under section 11B(2) ibid; that this explanation does not postpone the date from which interest becomes payable to under Section 11BB ibid.

8. The appellant further submitted that there is no dispute that the provision of Section 11BB of the Central Excise Act, 1944, is pari materia to the provision of the Customs Act, 1962. Hence, the law laid down by the Hon'ble Apex Court would certainly be applicable to the facts of the present case.



Admission of Appeal:

9. As the appeal has been filed against non-sanction of interest on delayed refund, pre-deposit for filing of appeal as prescribed under Section 129E of the Customs Act, 1962, does not require. In the Appeal Memorandum, the Date of communication of the impugned order dated 22.12.2023 has been shown as "22.12.2023". Whereas, the present appeal has been filed on 24.01.2024. As the appeal has been filed within normal period of 60 days from the date of receipt of impugned order, as stipulated under Section 128(1) of the Customs Act, 1962, it has been admitted and being taken up for disposal on merits.

Personal Hearing:

10. Opportunities for Personal Hearing through video conference were granted to the appellant on 07.05.2025, 17.06.2025 and 26.06.2025. Vide email dated 16.07.2025, the appellant has submitted that they want to appear in person (i.e. physical mode) for Personal Hearing. In order to follow the principles of natural justice, the Personal Hearing in this matter was held on 14.10.2025, which was attended by Shri. Anil Panchal, authorised person of M/s. Nildhara FMCG. He reiterated the submissions made at the time of filing appeal.

Findings:

11. I have carefully gone through the facts of the case and written as well as oral submissions made by or on behalf of the appellant M/s. Nildhara FMCG. The issue, which is to be decided in the present appeal, is whether interest is payable on delayed sanction of refund of 4% Additional Duty of Customs under the provisions of Notification No. 102/2007-Cus dated 14.09.2007.

12. One set of the appeal memorandum has been sent to the Deputy Commissioner of Customs, ICD-Khodiyar, vide this office letter F.No. S/49-422/CUS/AHD/2023-24/4099 dated 18.03.2024 for comments on this appeal. However, no reply thereof has been received. So, I proceed to the decide the appeal on the basis of documents submitted by the appellant.

13. It is undisputed fact that the appellant had initially submitted refund claim on 07.09.2017, but it was rejected by the adjudicating authority vide Order-In-Original dated 11.01.2018. Subsequently, on being allowing appeal by this office vide Order-In-Appeal dated 21.01.2019, the refund claim has been sanctioned vide impugned Order-In-Original dated 22.12.2023, but no interest towards delayed refund has been granted under the provisions of Section 27A of the Customs Act, 1962. As per the provisions of Section 27A, if

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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 for the time being fixed by Central Government by Notification, on such duty 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.

14. Further, in the case of RANBAXY LABORATORIES LTD. Versus UNION OF INDIA reported as 2012 (27) S.T.R. 193 (S.C.) [21-10-2011], Hon'ble Supreme Court has held that Interest on delayed refund is payable under Section 11BB of Central Excise Act, 1944 on the expiring of period of three months from the date of receipt of application under Section 11B(1) ibid and not from the date of Appellate Order allowing such refund. As the provisions of Section 27A of the Customs Act, 1962 and Section 11BB of the Central Excise Act, 1944, as prevailed during relevant time, were similarly worded, the aforesaid Judgment of Hon'ble Supreme Court in the case of Ranbaxy Laboratories Ltd. (supra) is squarely applicable to cases of Customs refund also.

15. As regards interest on refund of 4% Additional Duty of Customs (known as 4% SAD) payable under Notification No. 102/2007-Customs dated 14.09.2007, the Board vide Circular No. 6/2008-Cus dated 28.04.2008 has clarified as under:

> *"4.3 With the extension of time limit and the requirement to file claims on a monthly basis, Board feels that the number of refund claims should be manageable for disposal within the normal period of three months. Further, in the absence of specific provision for payment of interest being made applicable under the said notification, the payment of interest does not arise for these claims. However, Board directs that the field formations shall ensure disposal of all such refund claims under the said notification within the normal period not exceeding three months from the date of receipt."*

16. However, I find that the above-mentioned Para 4.3 of the Circular, so far it restricts claim of interest, has been stuck down by Hon'ble High Court of Madras vide Order dated 21.01.2013 in W.P. No. 959 of 2013 in the case of M/s. KSJ Metal Impex (P) Ltd. Vs. Under Secretary (Cus.), M.F. (D.R.) reported as 2013 (294) E.L.T. 211 (Mad.). Extracts from the said Order are as under:

> *"12. When Section 27 of the Customs Act, 1962 provides for refund of duty and Section 27A of the Customs Act, 1962 provides for interest on delayed refunds, the authority cannot override the said provisions by a circular and deny the right which is granted by the provisions of the Customs Act, 1962 and Customs Tariff Act, 1975. Therefore,*

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paragraph 4.3 of the Circular No. 6/2008-Customs, dated 28-4-2008 is contrary to the statute and becomes totally inappropriate. When the circular is contrary to the provisions of the Customs Act, 1962 and Customs Tariff Act, 1975, it has to be struck down as bad.

13. For the foregoing reasons, the writ petition is allowed and paragraph 4.3 of the Circular No. 6/2008-Customs, dated 28-4-2008 insofar as it seeks to restrict or obliterate the claim of interest on belated refunds granted in terms of Notification No. 102/2007-Customs, dated 14-9-2007 is quashed and the pending refund application of the petitioner shall be considered by the respondents in the light of Sections 27 and 27A of the Customs Act, 1962. No costs. Consequently, M.P. No. 1 of 2013 is closed."

17. Similarly, in the case of PRINCIPAL COMMISSIONER OF CUSTOMS Versus RISO INDIA PVT. LTD. [2016 (333) E.L.T. 33 (Del.)], Hon'ble High Court of Delhi has observed and held that the Department was not justified in denying interest to the Respondent on the delayed refund of SAD by resorting the Para 4.3 of the CBEC's Circular No. 6/2008. It has been further held that Circular No. 6/2008 to the extent that it seeks to deny a successful applicant for refund of SAD, in terms of Notification No. 102/2007, interest on such refund in terms of Section 27A of the Act, is inconsistent with and ***ultra vires*** Section 27A of the Act.

18. Further, in the case of MICROMAX INFORMATICS LTD. Versus UNION OF INDIA, reported as 2018 (361) E.L.T. 968 (Del.) [16-01-2018], Hon'ble High of Delhi has observed and held as under:

"20. We respectfully agree with the reasoning given in KSJ Metal Impex (P) Ltd. (supra), which is in consonance with the reasoning given by this Court in Riso India Pvt. Ltd. (supra).

21. The result would be that paragraph 4.3 of the Circular No. 06/2008-Cus., dated 28th April, 2008 has to be struck down. The said circular does not correctly interpret provisions of Section 27A of the Customs Act to deny claim for payment of interest. Accordingly, it is held that interest would be payable in terms of Section 27A of the Customs Act on refund of SAD payable in terms of Notification No. 102/2007."

19. In view of the above Judgments of higher forums, I agree with the contention of the appellant that they are entitled to get interest on delayed refund of 4% Additional Duty of Customs from the date starting after three months from the date of initial submission of refund claim, till the date of payment of refund. Accordingly, I hold that the appellant is entitled to get interest under the provisions of Section 27A for the period from 07.12.2017 to 22.12.2023.

20. In view of the above discussion, I allow the appeal and pass the following order:

Order

I order to sanction interest under the provisions of Section 27A of the Customs Act, 1962, for the period from 07.12.2017 to 22.12.2023 on the refund of 4% Additional Duty of Customs of Rs. 63,012/- as sanctioned by the impugned order No. 25/DC/ICD/IMP/REF/2023 dated 22.12.2023. The order towards sanction of interest should be passed and communicated to the appellant by the adjudicating authority, i.e. the Deputy/Assistant Commissioner of Customs, ICD-Khodiyar, within 90 days from the date of receipt of this order.



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

F.No. S/49-422/CUS/AHD/2023-24 Date: 27.10.2025

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

To
M/s. Nildhara FMCG,
41, Panchvati Bunglows, Near Ganeshkunj,
New Ranip, Ahmedabad – 382340.
(email: info@nildhara.com)

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 Deputy/Assistant Commissioner of Customs, ICD-Khodiyar.
(email: icdkhd-ahd@gov.in)

4. Guard File.

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