



सत्यमेव ज्ञात

सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

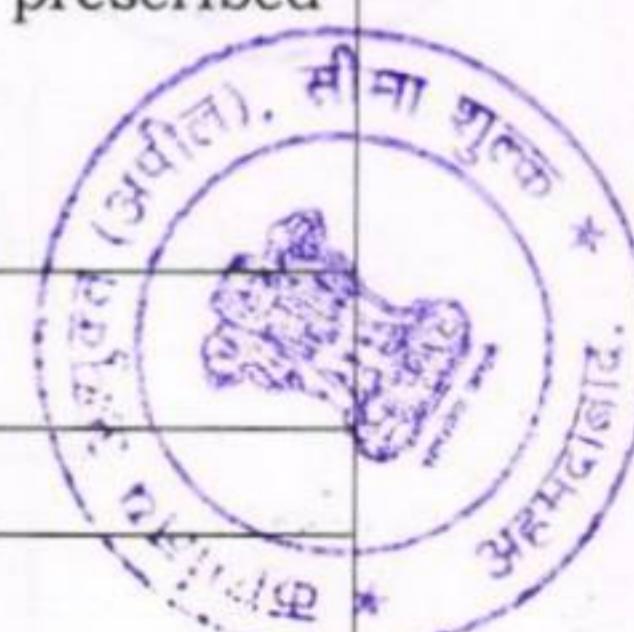
चौथी मंजिल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20251071MN000000AD2C

क	फ़ाइल संख्या FILE NO.	S/49-89/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-388-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.10.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक *ARISING OUT OF ORDER-IN- ORIGINAL NO.	Bill of Entry no. 4192734 dated 26.06.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Kosol Energie Pvt. Ltd., Survey No. 415/B, Opp. Super Gas, NH Bavla-Bagodara Highway, Bhayla 382220



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 (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
(ब)	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, जब्की 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 :				
	<table border="0"> <tr> <td style="vertical-align: top;">सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td style="vertical-align: top;">दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd 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	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
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.	<p>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-</p> <p>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 -</p> <p>(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.</p> <p>(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;</p> <p>(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</p> <p>(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 ;</p> <p>(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.</p> <p>(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</p> <p>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 ।</p> <p>(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.</p>				
6.	<p>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.</p> <p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



ORDER-IN-APPEAL

Appeal has been filed by M/s Kosol Energie Pvt. Ltd., Survey No. 415/B, Opp. Super Gas, NH Bavla-Bagodara Highway, Bhayla 382220, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the assessment of Bill of Entry no. 4192734 dated 26.06.2024 (hereinafter referred to as 'the impugned order') by the Proper Officer, Customs, Mundra.

2. Facts of the case, in brief, are that the Appellant had filed a Bill of Entry no. 4192734 dated 26.06.2024, wherein they were charged interest of Rs.1,26,445/- upon assessment along with the duty.

SUBMISSIONS OF THE APPELLANT:

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 they are having Warehouse under Moow Scheme License No. PWL/MWR/KEPL/AMD/70/2023 dt. 03.10.2023 under Sec.58 & 65 of Customs Act. The appellant have cleared imported materials under ex-bond Bill of Entry No. 4192734 dt.26.06.2024, wherein while submission of relevant data at ICEGATE portal reference of Warehouse U/sec. 65 was made, but on generation of Bill of Entry data it is noticed that reference of Sec.65 is missed and duty plus interest is assessed.

3.2 The material was to be supplied to buyers on urgent basis and weekend took place, hence to honour the assessment payment was arranged. While DTA clearance is arranged from warehouse registered under Moow scheme U/sec.65 only customs duty is payable, interest is not leviable on such clearance. On account of systems technical issue the interest is levied and since goods were to be delivered in time, the payment for Rs. 2233868.00 (Duty Rs.2107423.00 + interest Rs.126445.00) was arranged. The interest paid Rs. 126445.00 become refundable for which appeal submitted for consideration.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 17.06.2025, 26.06.2025, 09.07.2025 & 09.09.2025, following the principles of natural justice however, no-one appeared for the hearing.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records and the grounds of appeal. Section 128 of the Customs Act, 1962, stipulates that no more than three adjournments may be granted in any proceedings. The Appellant was has been granted 4 opportunities for personal hearing and also been explicitly cautioned that failure to appear or attend the Personal Hearing will be construed as a waiver of their right to be heard in person, and the matter would be decided based on the evidence available on record. Since the Appellant failed to avail the final opportunities for hearing, I am proceeding to decide the case based on the merits derived from the documents and submissions available on record, in accordance with the law. The core issue to be addressed is the legality of the interest levy and the absence of a formal, speaking order by the adjudicating authority.

5.1 The record indicates that the interest was levied through a system-generated assessment on the Bill of Entry. The Appellant states that the relief claimed is based on the Ex-bond B/E No. 4192734 dated 26.06.2024. This suggests that there is no formal, reasoned decision or O-I-O passed by a quasi-judicial officer on the specific issue of interest levy, which is the subject matter of the appeal.

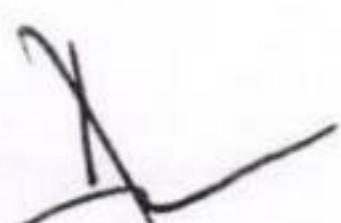
 It is a well-established principle of natural justice that any decision affecting the rights of a party, especially a financial liability, must be preceded by a speaking order passed by an adjudicating authority. A non-speaking, mechanical or system-generated assessment that leads to a levy of interest, especially when disputed with a specific legal contention like the one raised under the MOOWR scheme, cannot substitute a quasi-judicial order. The Appellant has specifically raised the issue of the missed reference to Section 65 due to a "systems technical issue", which requires factual verification and a reasoned finding by the Proper Officer.



5.3 The main legal contention raised by the Appellant is critical i.e whether interest is payable on deferred duty under the MOOWR scheme upon DTA clearance. Crucially, the scheme is explicitly designed to be a duty deferment scheme without interest liability. The duties are to be paid only when the resultant goods are being cleared for home consumption. The deferment is interest-free. Interest under the general warehousing provisions is payable only when goods remain in the warehouse beyond the permitted warehousing period. However, the benefit of MOOWR is an interest-free deferment without any time limitation for imported inputs used in manufacturing. Given the Appellant's claim that they are a MOOWR unit (License No. PWL/MWR/KEPL/AMD/70/2023), and the goods were cleared as Ex-bond goods, the levy of interest appears to be *prima facie* contrary to the intent and explicit provisions of the MOOWR scheme. The check-list itself mentions the Control Type Code as 'SEC65' and Control Location as 'SBI6R270' (the Warehouse Code), which strongly suggests the transaction was intended to be under the MOOWR scheme. However, since there is no formal order with a detailed examination of facts (e.g., whether the goods were inputs used in manufacture and cleared as resultant goods or imported goods cleared as such, and whether the specific B/E complied with all MOOWR and Section 68 conditions at the time of assessment) and a reasoned legal finding on the applicability of interest, I cannot definitively annul the assessment without prejudicing the revenue.

5.4 The appeal mechanism under Section 128A(3) of the Customs Act, 1962 grants the Commissioner (Appeals) the power to refer the matter back to the adjudicating authority with directions for fresh adjudication or decision in cases, *inter alia*, where an order or decision has been passed without following the principles of natural justice. An assessment of a Bill of Entry resulting in a levy of interest, without a proper speaking order addressing the Appellant's grounds (MOOWR scheme exemption from interest), constitutes a gross violation of the principles of natural justice. The absence of a speaking order on a disputed point of law, especially one contradicting a major incentive scheme (MOOWR), compels the Appellate Authority to remand the case.

5.5 I rely on the powers conferred under Section 128A(3)(b) of the Customs Act, 1962, to remand the case to the adjudicating authority for a fresh decision. The Proper Officer must examine the entire process, including the alleged "systems technical issue," the final assessment as per the B/E data, and



most importantly, the specific legal question of interest levy for DTA clearance from a MOOWR warehouse under Section 65. In light of the fundamental defect of non-adherence to the principles of natural justice due to the absence of a speaking order on the disputed levy of interest, the entire matter deserves to be remanded to the original adjudicating authority.

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

(i) The matter is hereby remanded back to the Adjudicating Authority for a fresh adjudication and a reasoned, speaking order after conducting the necessary inquiries and affording a reasonable opportunity of personal hearing to the Appellant.

7. The appeal filed by M/s Kosol Energie Pvt. Ltd. is hereby allowed by way of remand.



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

F. No. S/49-89/CUS/MUN/2024-25

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Date: 30.10.2025

By Speed post/E-Mail

To,

M/s Kosol Energie Pvt. Ltd.,
Survey No. 415/B, Opp. Super Gas,
NH Bavla-Bagodara Highway, Bhayla- 382220

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Deputy/Assistant Commissioner of Customs, Custom House, Mundra.
4. Guard File.

सत्यापित/ATTESTED

अधिकारी/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD