



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 – 20260171MN0000999BD6

क	फ़ाइल संख्या FILE NO.	S/49-123/CUS/MUN/23-24
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-663-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	27.01.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Shipping Bill No.: 1927639 dt. 22.06.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	27.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Baramati Agro Ltd., At Post Pimpali, Taluka-Baramati, Dist.-Pune, 413102, Maharastra. mail@baramatiagro.com

1 यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.

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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)	बैगज 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 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 मंज़िल, 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)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए .
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा) 129 ए (के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र) -क (रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील - : अथवा) ख (अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.



Order-In-Appeal

M/s. Baramati Agro Ltd., At Post Pimpali, Taluka-Baramati, Dist.-Pune, 413102, Maharashtra (hereinafter referred to as 'the Appellant') have filed the present appeal challenging the assessment of Shipping Bill No.: 1927639 dt. 22.06.2023 (hereinafter referred to as 'the impugned SB ') assessed & passed by the Proper Officer of the Customs, Mundra SEZ Port, Mundra, Gujarat (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the Appellant filed Shipping Bill No. 1927639 dated 22.06.2023 for export of 520 MT of goods, namely Indian White Rice, classifiable under CTH 1006 3090, to the foreign buyer M/s Barmati Agro Singapore PTE Ltd. The declared FOB value of the export goods in the said Shipping Bill was Rs. 1,94,24,589/-, which attracted export cess @20%. Accordingly, export cess amounting to Rs. 38,84,918/- was paid by the Appellant vide Challan No. 9999128557 dated 22.06.2023. As per the impugned SB, examination of the goods and LEO was granted on 23.06.2023.

2.1 The appellant contended that while calculating the export cess, the appellant mistakenly failed to exclude the export cess @20% already included in the declared value of the goods. Consequently, export cess was again levied and paid on the said 20% cess component, resulting in double payment of export cess on the same portion of value. Due to this, the Appellant paid excess export cess amounting to Rs. 6,47,486/- which is an excess payment and is therefore liable to be refunded.

2.2 The appellant filed the present appeal against the assessed Shipping Bill No.: 1927639 dt. 22.06.2023 ('the impugned SB') for getting refund of excess Customs Cess with a request to re-assesse the impugned SB.



3. Being aggrieved with the impugned SB assessed and passed by the Adjudicating Authority, the Appellant have filed the present appeal. They have filed detailed submissions vide their appeal memorandum dt. 14.09.2023 same are mentioned below:

- *That the Appellant would like to submit that in the matter under it is a case of excess payment of export cess and appellant further submit that though the said*

foreign customer is a related party, yet, it was ensured that the export price, so arrived covers the cost of goods + Overheads and the reasonable margin of profit as well.

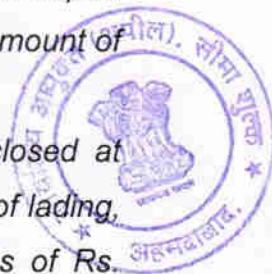
- That the Appellant would like to mention that in terms of Rule 3 (2) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 the transaction value needs to be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price and as per the details given below the value which needs to be taken in to consideration is the value, covers the cost of goods, profit margin.
- That and in terms of Section 14 (1) of the Customs act, 1962 clause (1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf Thus, as per said provisions the Customs cess is payable on the FOB price.
- That the appellants submit that export price was determined for export said goods from India for delivery at the time and place of exportation, which was done in the following manner :

- (i) Price including margin (FOB Value) -Rs. 1,94,24,589/-.
- (ii) Export Cess payable - Rs. 32,37,432/-.
- (iii) Cost of freight and insurance - Rs. 48,99,061/-.

That the agreement/contract entered the price was inclusive of all the 3 elements and we had reduced only cost of fright and insurance and due to oversight, we had not reduced the export cess, which stands considered in the inclusive price, which resulted in payment of 20% customs cess, on element of export cess already considered.

- That the appellant would like to reiterate that "transaction value" means the value of export of goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962) and the price mentioned at Serial No. (i) is indeed the correct value on which export cess ought to have been paid by us. Infact the method adopted as given at Para 4 is also in conformity with the provisions of Computed value method as per Rule 5 of said Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

- That the only clerical error committed is that while filing the shipping bill for export of said goods, though they aware of the fact that export cess has also been included in the value as per contract awarded by the Customer, the said export cess ought to have been deducted in the shipping bill in other deductions", in which case, appellant would have correctly paid the export cess of customs on only the basic value excluding said export cess and Cost of freight and insurance and the same would not have resulted in excess payment of customs cess.
- That the appellant would like to mention that it is indeed an arithmetical error in computation of value having known to us that such value as per agreement indeed includes export cess, which ought to have been deducted while filing the shipping bill.
- That the appellant have also got a declaration from the Customer that the value charged includes customs cess payable on export and it is the basis by which said total value stands determined and that export cess being a levy which cannot be borne by the seller, as it will affect the very business to earn margin determined, the said Customer has accepted to load the export cess and thus their contract/agreement value includes export cess suffered at the hands of exporter Le M/s Baramati Agro Private Limited .
- That while calculating the said export cess involved of 20%, instead of applying the rate as per Serial No. (1) referred above, appellant paid the export cess on entire value which means apart from paying export cess of 20% on value indicated at Serial No. (1) above, appellant once again paid the customs cess on export cess, resulting in excess payment of customs cess of 20% on the said amount of export cess mentioned at Serial No. (ii) above.
- That the statement indicating the computation of refund is also enclosed at Annexure-A And all the copies of shipping bills, export invoices and bill of lading, contract copies and the working of excess payment of customs cess of Rs. 6,24,914/- is also enclosed, which also gives all references such as Shipping bill, export invoice, etc., and we also would like to mention that appellant will not claim any other export benefits of the said excess payment of customs cess, with any other forum, in any manner.
- That the appellant prays that the shipping bills referred to in the appeal paper books as part of details attached to the appeal may please asked to be reassessed by the Customs authorities so that refund of excess payment of customs cess of Rs. 6,47,486/- with interest thereon is refund to the appellant which is genuinely due to the appellants.



4. Personal hearing in the matter was afforded to the appellant on 18.06.2025.

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Shri S. Narayanan, Advocate, appeared for hearing on behalf of the Appellant through virtual mode. He reiterated the submissions made at the time of filing of appeal. He submitted additional submission on 18.06.2025, same are produced herein below:

- That during virtual hearing held on 18.6.2025, while the appellants relied on facts and on the aspect of law as urged in grounds of appeal, to justify that it is only clerical computational error made, which resulted in payment of excess customs duty and the same was demonstrated by learned advocate by explaining the following documents, mailed, before the said virtual hearing, by pleading for allowing the appeal and the said refund sought for in appeal –
- (i) Cost accountant certificate in support of excess payment of Customs Export duty of Rs. 6,47,486/- and that the same has been booked as refund receivable from the department and not expensed out.
 - (ii) Letter dt. 18.06.2025 - Working in support of said excess payment of export customs duty.
 - (iii) Declaration from foreign customer M/s BASPL that the said excess payment of Customs duty of Rs. 6,47,486/-has not been paid by them to the appellant,
 - (iv) Specimen Copies of purchase invoices of suppliers M/s Rathi & M/s Mangalam.

5. Before going into the merits of the case, I find that the impugned SB No. 1927639 dt. 22.06.2023 has been assessed on 22.06.2023 and the date of filing Appeal shown as 20.09.2023. Therefore, it is observed that the present appeal have not been filed within the statutory time limit of 60 days as prescribed under Section 128(1) of the Customs Act, 1962, there is a delay of 30 days in filing the present appeal. The appellant, vide letter dated 14.09.2023, requested the authority to condone the delay in filing the appeal and explained the reasons for the late submission. In light of the provisions of law and considering the submissions of the Appellant to condone the delay in filing appeal and also considering the fact that the appeal has been filed within a further period of 30 days, I allow the condonation of delay in filing the appeal, taking a lenient view in the interest of justice in the present appeal.

5.1 I have carefully gone through the appeal memorandum as well as records of the case and the submissions made by the Appellant during the course of hearing. The issue for consideration in the present appeal is whether the Appellant has, in fact, paid excess Customs Cess @20% in respect of the impugned Shipping Bill and, if so, whether the claim for refund of such excess Customs Cess is legally admissible in the facts and circumstances of the case.

5.2 It is observed that the Appellant filed Shipping Bill No. 1927639 dated 22.06.2023 for export of 520 MT of Indian White Rice, classifiable under CTH 1006 3090, to the foreign buyer M/s Barmati Agro Singapore PTE Ltd. The FOB value of the goods declared in the Shipping Bill was Rs. 1,94,24,589/-. Since export cess @20% was applicable, the Appellant paid Export Cess of Rs. 38,84,918/- vide Challan No. 9999128557 dated 22.06.2023. The appellant submitted that while calculating the export cess, the export cess @20% already included in the declared value was not excluded by mistake. As a result, export cess was calculated and paid again on the cess portion, leading to double payment of export cess on the same value. Because of this error, the Appellant paid excess export cess of Rs. 6,47,486/-, which is not legally payable. The appellant has filed the present appeal against the impugned Shipping Bill seeking refund of the excess export cess and re-assessment of the impugned Shipping Bill.

5.3 It is further observed that the Appellant has produced various documents in support of its claim, including (i) a Cost Accountant's Certificate certifying excess payment of export customs duty amounting to Rs. 6,47,486/- and confirming that the said amount has been accounted for as refund receivable and not charged as an expense (ii) a letter dated 18.06.2025 containing detailed working in support of the excess payment of export customs duty (iii) a declaration from the foreign buyer, M/s BASPL, stating that the excess export duty of Rs. 6,47,486/- has not been recovered by the Appellant from them and (iv) specimen copies of purchase invoices of suppliers M/s Rathi and M/s Mangalam, (v) the contract with the foreign buyer and (vi) calculation sheets explaining the manner in which the excess payment arose. Since all the above documents have been produced by the appellant for the first time before the Commissioner (Appeals), the same require proper verification and examination by the proper officer who assessed and processed the Shipping Bill. Accordingly, the matter needs to be remanded for fresh examination of the documents and factual verification, and for passing a reasoned and speaking order after considering all the above facts, documents, and submissions in accordance with law.

5.4 In view of the above facts and circumstances, and in the interest of justice, I am of the considered view that the matter requires re-examination at the Proper Officer. I also find that no speaking order has been passed by the Proper officer under section 17 of the Customs Act, 1962. Therefore, I find that remitting the case to the proper officer for passing speaking order in the present case becomes sine qua non to meet the ends of justice. Accordingly, the case is required to be remanded back, in terms of sub-section (3) of Section 128A of the Customs Act, 1962, for passing speaking order by the proper



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officer under Section 17(5) of the Customs Act, 1962 by following the principles of natural justice. While passing the speaking order, the proper officer shall also consider the submissions made in present appeals on merits. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs – 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. – Del)] wherein it was held that Commissioner (Appeals) has power to remand the case under Section-35A(3) of the Central Excise Act, 1944 and Section-128A(3) of the Customs Act, 1962.

6. Accordingly, the appeal filed by the Appellant is allowed by way of remand. The matter is remanded to the proper officer with a direction to examine the Appellant's claim in its entirety, including all factual aspects, submissions, and documents placed on record, and to verify the calculation of assessable value and the alleged excess payment of export cess. The proper officer shall thereafter pass a reasoned and speaking order, strictly in accordance with the provisions of the Customs Act, 1962, after following the principles of natural justice and affording an opportunity of personal hearing to the Appellant.



(Handwritten Signature)

(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

F.No.: S/49-123/CUS/MUN/2023-24

Date:27.01.2026

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2. The Pr. Commissioner of Customs, Customs House, Mundra
3. The Deputy/Assistant Commissioner of Customs, Customs House, Mundra.
4. Guard File.