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-20260871MN0000612975

क	फ़ाइल संख्या FILE NO.	CAPPL/COM/CUSP/1136/2023-APPEAL
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)	JMN-CUSTM-000-APP-44-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	04.08.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	30/DC-KKK/REF/GPPL/23-24, dated 18.05.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	04.08.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Ultratech Cement Pvt. Ltd., JPO Koavya, Tal – Rajula, Amreli - 365541.

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)	बेगेज़ 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 दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड़ 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 सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं**	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	**सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-**	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.**	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए**	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.**	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में 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

Brief facts of the case

1.1 The present Appeal has been filed by M/s. Ultratech Cement Pvt. Ltd., JPO Koavya, Tal – Rajula, Amreli - 365541 (hereinafter referred to as 'the Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order – In- Original No. 30/DC-KKK/REF/GPPL/23-24 (hereinafter referred to as 'the impugned Order'), dated 18.05.2023, passed by Deputy Commissioner, Custom House, Pipavav, Jamnagar.

1.2. Facts of the case, in brief, are that the Appellant filed a claim for interest amounting to ₹2,04,69,989 under Section 27A of the Customs Act, 1962, on a refund previously sanctioned without interest. The refund claim was based on Order-in-Original No. 22/DC-KKK/GPPL/REF/2022-23 dated 20.01.2023, passed by the Deputy Commissioner of Customs, Pipavav.

1.3 The refund pertained to imports of coal made by the claimant during 1999–2007 through 164 Bills of Entry, all of which were provisionally assessed due to pending original documents and chemical test reports. The claimant had deposited Coal Cess and Education Cess under protest. Though the Bills of Entry were later finalized, no Final Assessment Orders were issued at the time. Subsequently, Show Cause Notices were issued for differential duty under Section 28 of the Customs Act, 1962, which were adjudicated and dropped. Refund claims made earlier were rejected on the grounds that the finalized assessments did not indicate any excess payment, and no appeals had been filed against the said final assessments. The matter escalated to the Commissioner (Appeals) and then to the CESTAT, the Tribunal remanded the case back to the adjudicating authority for issuance of Final Assessment Orders.

1.4 Accordingly, Final Assessment Order No. 06/FAO/GPPL/2022-23 dated 20.12.2022 was issued, leading to sanction of refund without interest. Following this, the claimant filed an application dated 20.02.2023 seeking interest on the delayed refund. The said refund application was rejected by the Deputy Commissioner, Custom House, Pipavav, Jamnagar vide impugned Order dated 18.05.2023.

1.5. Being aggrieved by the impugned Order, the Appellant has filed the present appeal and mainly contended as under:

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2. Grounds of Appeal

- **THE IMPUGNED ORDER DATED 18.05.2023 IS INVALID AND UNSUSTAINABLE IN LAW BEING A NON-SPEAKING AND NON-REASONED ORDER.**

2.1 The impugned order dated 18.08.2023 is passed without appreciating the factual and legal position in the proper perspective without examining the relevant documents submitted by them. The Appellant further submitted that the Ld. Assistant Commissioner has not dealt with the submissions made by them and the judgements cited in support of such submissions while passing the impugned orders. The Ld. Assistant Commissioner has arrived at the finding in a rather cursory, casual, and cryptic manner and without judiciously dealing with the contentions made by them.

2.2 The Appellant further submitted that the Ld. Assistant Commissioner has not provided any reasoning as to how they are not eligible for the interest on refund of education and coal cess. The Appellant placed reliance on the decision of Hon'ble High Court of Karnataka in Columbia Asia Hospitals Pvt. Ltd. v. Union of India- 2019 (368) E.L.T. 417 (Kar.) and on the decision of Hon'ble High Court of Karnataka in Commissioner of C. Ex., Bengaluru-I v. GTS Alloys Pvt. Ltd.- 2016 (331) E.L.T. 178 (Kar.).

- **THE DEPARTMENT IS OBLIGED TO MAKE GOOD THE LOSS SUFFERED BY THE ASSESSEE, ON ACCOUNT OF THE DEPARTMENT HOLDING ONTO THEIR MONEY FROM THE DATE OF PAYMENT OF DEPOSIT**

2.3 The Appellant further submitted that they are entitled to receive interest, in respect of the refund sanctioned to them. This is to compensate them for the loss suffered by them, as they were unjustly deprived of use of their own money for more than 20 years. Thus, it is only reasonable and justifiable that they be granted interest on the delayed refund given to them. In support of the above claim, they placed reliance on the following case laws

- Jai Bhagwati Impex Pvt. Ltd. v. Union of India reported at 2009 (234) E.L.T. 45 (Bom.). Kuil Fireworks Industries v. Collector of Central Excise reported at 1997 (95) ELT 3 (SC). Priyanka Overseas Pvt. Ltd. v. Union of India [1991 (51) ELT 185 (SC)]
- Caprihans India Ltd. v. CCE reported in 2001 (129) ELT 162
- Sprint RPG India Ltd. v. CCE reported in 2002 (140) E.L.T. 73
- Sandvik Asia Ltd. Vs. CIT - 1, Pune reported in 2006 (196) ELT 257 (SC)
- Unichem Laboratories v. CCE reported in 2002 (145) ELT 502

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- UOI V. Tata Chemicals ltd. 2014 TIOL 27 SC IT

2.4 The Appellant further submitted that they are entitled to interest for wrongful deprivation and the government cannot enrich itself at the cost of the others. They are entitled for the compensation for wrongful deprivation. In support of the above submission, they placed the reliance on following case laws:

- D.J. Works v. Deputy Commissioner of Income-tax-(1992) 195 ITR 227 (Guj.),
- Sandvik Asia Ltd. v. Commissioner of Income-tax, Pune (2006) 280 ITR 643 (SC) = 2006 (196) E.LT. 257 (S.C.) = 2007 (8) S.T.R. 193 (S.C.)
- Surinder Singh v. Union of India - 2006 (204) E.LT. 534 (Del.),
- Commissioner of Central Excise v. M/s. Rajalakshmi Textile Processors (P) Ltd. - 2008 (221) E.L.T. 38 (Mad.).
- Hello Minerals Water (P) Ltd. v. Union of India 2004 (174) E.L.T. 422 (All.),
- Hindustan Coco Cola Beverages Pvt. Ltd. V. Union of India 2015 (324) ELT 299 Guj.,

2.5 The Appellant further contended that the department has completely ignored the fact that they are entitled to interest for wrongful deprivation caused by the department for an extended period, and that even in the absence of statutory provision for interest, they are entitled to interest on principles of compensation for wrongful loss caused to them and they should be compensated for the period for which the funds were with the Customs Department, for almost two decades.

- **WITHOUT PREJUDICE TO ABOVE, THE AMOUNT PAID BY THE ASSESEES SHOULD BE TREATED AS PRE-DEPOSIT AS THE DEMAND FOR THE SAME WAS DROPPED IN THE ADJUDICATION ORDER PASSED IN FAVOUR OF THE ASSESEES**

2.6 The Appellant further submitted that the demand for differential payment of Coal Cess and Education Cess on the imported goods was raised by the department during the period of investigation and by the issuance of Show Cause Notice on various dates. However, through respective adjudication orders, the demand was dropped stating that the Appellant is not liable to pay Coal Cess and Education Cess on the imported goods. Therefore, the amount paid by them was not in the nature of duty, thereby to be treated as nothing but a deposit. In lieu of the same, the department is duty 'bound to pay the amounts with interest. They further placed reliance on the following case laws in this regard:

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- Toyota Kirloskar Auto Parts Pvt. Ltd. v. Commr. Of Cus., Bangalore reported in 2009 (24) E.L.T. 124 (Tri.- Bang.).
- Parle Agro Pvt. Ltd. v. Commissioner of Central Excise, Noida reported in 2018 (360) E.L.T. 1005 (Tri.-All.),

2.7 The Appellant further submitted that they have been deprived by the department. They have deposited tax, as per the instructions of the department, however they were under belief that, they had strong case on merits. Even though, under the pressure of the department they have deposited tax along with the interest and penalty, under protest They further stated that, they were depressed by the department conflict. They also submitted that, since the demand is paid by them under pressure of the department, the they are eligible for the interest on the refund of the demand paid from the date of deposit.

2.8 In reference to the above submissions, the Appellant placed reliance on the decision in case of National Organic Chemical Industries Ltd. V. Union of India 2009 (16) STR 107 (Bom.), wherein the petitioners were allowed for the refund of payment along with the interest on the same.

- **WITHOUT PREJUDICE TO ABOVE, INTEREST SHOULD BE GRANTED FROM THE DATE IMMEDIATELY AFTER EXPIRY OF THREE MONTHS FROM THE FIRST REFUND APPLICATION DATED 13-12-2007.**

2.9 The Appellant further submitted that they had filed the first refund application for the amount deposited as Coal Cess and Education Cess on 13-12-2007. However, the refund applications were rejected on the ground that the finalization of Bill of Entry did not provide details or mentioned about any excess payment paid. However, subsequently refund was sanctioned to them after it was held that Coal Cess is not applicable on the imported goods. Thereafter, they filed for another refund application.

2.10 The Appellant further submitted that they are entitled to interest on refund of the same under Section 27A of the Customs Act, from the date immediately after expiry of three months from the date of receipt of the first refund application filed on 13-12-2007. Section 27 of the Customs Act provides for refund of customs duty. Section 27A of the Customs Act provides for interest on such refund if the same is granted after three months from the date of receipt of refund application. Section 27A of the Customs Act provides that if any duty ordered to be refunded under Section 27 (2) of the Customs Act is not refunded to the Appellant within 3 months from the date of receipt of the application made under Section 27(1), the applicant shall be entitled for interest on the delayed refund

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amount. In other words, where the applicant has filed an application for refund under Section 27 (1) of the Customs Act and such duty has not been refunded to the applicant within 3 months from the date of receipt of the application, interest clock starts ticking immediately from the next day and the applicant shall be entitled for interest on the delayed refund amount sanctioned under Section 27 (2) of the Customs Act, 1962 from the date immediately after the expiry of such three months.

2.11 In this context the Appellant placed reliance on the decision of CCE, Indore vs. M/s N.H.K. Springs Limited 2016 (338) E.L.T. 317 (Tri. - Del.) and on the decision of Ranbaxy Laboratories Vs Union of India, 2011 (273) ELT3(S.C.), which dealt with Section 11B and Section 11BB of the Central Excise Act, 1944, which are identically worded as Section 27 and 27A of the Customs Act, 1962.

- **WITHOUT PREJUDICE TO ABOVE, APPELLANT IS ENTITLED FOR INTEREST AFTER 3 MONTHS FROM DATE OF FINALISATION OF BILL OF ENTRY WHICH WAS NOT COMMUNICATED TO THE APPELLANT.**

2.12 The Appellant contested that they had filed the provisional bill of entry for the imported goods under Section 17 during 1999 to 2007. These Bills of Entry were finalized by the department on or before 28.03.2007 (as mentioned in Annexure-2). However, no final assessment order was passed under Section 18 of the Customs Act, 1944 upon finalization of these Bills of Entry. The Asst. Commissioner, GPPL, Pipavav vide Order Nos. 927-928-929-930-932-933-934/Assistant Commissioner/GPPL/2007 dated 29.10.2007 dropped the demand and allowed for the refund of the amount deposited by the Appellant. The Asst. Commissioner, GPPL, Pipavav for passing this order placed reliance on the Circular issued by Central Board of Excise & Customs, New Delhi vide F. No. 572/05/2005-LC dated 16.07.2007 as per which, the alleged Coal Cess is not leviable on import of coal and instructed concerned to finalise the provisional assessment accordingly.

2.13 In pursuance to the aforesaid order, the Appellant preferred refund of Coal Cess deposited vide Refund Application dated 13.12.2007 which was rejected by Assistant Commissioner, GPPL, Pipavav vide its order dated 31.07.2008 stating that subject BOE were finally assessed and were not challenged by the Appellant. The Appellant emphasized that the Department was duty bound to provide such final assessment order and provide it to them as per statutory provisions. However, no such order was passed or communicated to them and thus, department defaulted by failing to provide such order. Taking note of this default on the Department's end, the CESTAT (Appeals) via order dated 30-04-2019 had

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remitted the matter back to adjudicating authority to provide a final assessment order within the stipulated period of time. In furtherance of this, the adjudicating authority passed a final assessment order dated 20.12.2022 wherein they held that coal cess was not leviable on the imported goods and the Appellants were eligible to refund.

2.14 The Appellant further submitted that they should have received this assessment order allowing the refund for coal cess when the department had finalized the bill of entry on 29.10.2007.

PERSONAL HEARING:

3. A personal hearing was granted to the Appellant in adherence to the principles of natural justice, during which Miss Raksha Bhandari, Advocate, appeared on behalf of the Appellant on 02.07.2026 through virtual mode i.e. video conferencing. During the course of the hearing, the representative reiterated the submissions made in the Appeal Memorandum.

DISCUSSION AND FINDINGS:

4.1 I find that the date of the impugned order is 18.05.2023 and the Appellant filed appeal on 12.07.2023 therefore, the appeal is filed well within the time period of 60 days prescribed under the provisions of Section 128 of the Customs Act, 1962.

4.2. I find that in the present case the is regarding the dispute of interest on refund therefore, the statutory requirement of pre-deposit of 7.5% of duty demanded as prescribed under Section 129E of the Customs Act, 1962 is not required.

4.3. The Customs House, Pipavav was requested for submission of comments of the appeal filed by the Appellant vide letter 27.07.202 but no comments have been received by this office till date therefore, I am taking up the issue for decision based on the facts of the case and documentary evidence available on record.

4.4 The present appeal has been carefully examined along with the grounds of appeal, the impugned Order and other relevant documentary evidence. The main issue for determination in the present appeal is:

4.4.1 whether the Appellant is entitled to Interest on Refund amount sanctioned vide order dated 20.01.2023 from the date of filling of first refund application

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dated 17.12.2007 under section 27A of the Customs Act, 1962 in facts and circumstances of the present case or otherwise.

4.5 The Appellant has strongly contended that they are entitled to interest on the delayed refund from the expiry of three months of their first refund application dated 13.12.2007, or alternatively, from the date of finalization of the Bills of Entry. They further contend that the amount should be treated as a "deposit" rather than duty, thereby entitling them to interest as compensation for wrongful deprivation. To examine the legality of the Appellant's claim, it is imperative to refer to the statutory framework governing the payment of interest on delayed refunds under the Customs Act, 1962. Section 27A of the Act reads as follows:

"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, ... 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..."

4.6 The plain reading of Section 27A makes it clear that the liability of the Department to pay interest arises only if the refund is not granted within three months from the date of receipt of a valid application under Section 27(1).

4.7 Applying the law to the factual matrix of the present case. I find that the imports were provisionally assessed between 1999 and 2007.The Appellant filed a refund application on 13.12.2007, however, the refund application was rejected by the Adjudicating Authority because the Bills of Entry were no finally assessed. It is a well-settled legal proposition, as laid down by the Hon'ble Supreme Court in the landmark cases of Priya Blue Industries Ltd. V/s Commissioner of Customs and Collector of Central Excise, Kanpur v. Flock (India) Pvt. Ltd., that a refund claim is not maintainable unless the assessment order is modified in favor of the assessee. The Apex Court in the aforesaid judgement has held as under

"The words "in pursuance of an Order of Assessment" only indicate the party/person who can make a claim for refund. In other words, they enable a person who has paid duty in pursuance of an Order of Assessment to claim refund. These words do not lead to the conclusion that without the Order of Assessment having been modified in Appeal or reviewed a claim for refund can be maintained."

Thus, on the basis of the above, I find that the 2007 refund application was legally premature and not maintainable because the condition precedent a Final Assessment Order establishing the excess payment did not exist at that time. Further I also opine that the rightful claim to refund crystallized only when the Final Assessment Order No. 06/FAO/GPPL/2022-23 was passed on 20.12.2022, pursuant to the directions of the Hon'ble CESTAT. The refund was sanctioned to the Appellant after the Final Assessment Order 20.01.2023 was issued in the matter.

4.8 I further observe that since the refund was sanctioned and paid within exactly one month of the Final Assessment Order (20.12.2022 to 20.01.2023), the statutory timeline of three months prescribed under Section 27A was not breached. Therefore, the question of the interest under Section 27A does not arise.

4.9 Further w.r.t. the Appellant's contention that the amount should be treated as a "pre-deposit" or that interest must be paid as "compensation for wrongful deprivation" based on principles of equity: As a statutory appellate authority created under the Customs Act, 1962, my powers are strictly circumscribed by the statute. I am bound by the four corners of the Act and cannot invoke extra-statutory principles of equity or compensation to award interest where the statute does not permit it. The Hon'ble Supreme Court in Union of India v. Orient Enterprises [1998 (99) E.L.T. 193 (S.C.)] categorically held that the authorities functioning under the Customs Act cannot grant interest on equitable grounds unless there is a specific statutory provision mandating it. Section 27A is the sole repository for the grant of interest on refunds, and its conditions remain unsatisfied in this case.

4.10 I have examined the various case laws relied upon by the Appellant. The decisions pertaining to the grant of interest on delayed refunds are fact-specific and predominantly deal with situations where the Department delayed the refund beyond three months after the claim was legally maintainable or after an appellate order had attained finality. In the present case, there was no legally maintainable refund until the Final Assessment Order was passed on 20.12.2022, and the refund was promptly disbursed within 30 days thereafter. Hence, the cited case laws do not assist the Appellant's case.

4.11. Further, I also find that the Appellant has cited the judgment of Hon'ble Apex Court in the matter of M/s Ranbaxy Laboratories vs. UOI 2011 (273) ELT3

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(SC) which dealt with Section 11B and Section 11BB of the Central Excise Act, 1944, which are pari materia with Section 27 and 27A of the Customs Act, 1962. The relevant portion of the aforementioned order is re-produced below for ready reference.

It is manifest from the afore-extracted provisions that Section 11BB of the Act comes into play only after an order for refund has been made under Section 11B of the Act. Section 11BB of the Act lays down that in case any duty paid is found refundable and if the duty is not refunded within a period of three months from the date of receipt of the application to be submitted under sub-section (1) of Section 11B of the Act, then the applicant shall be paid interest at such rate, as may be fixed by the Central Government, on expiry of a period of three months from the date of receipt of the application. The Explanation appearing below Proviso to Section 11BB introduces a deeming fiction that where the order for refund of duty is not made by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise but by an Appellate Authority or the Court, then for the purpose of this Section the order made by such higher Appellate Authority or by the Court shall be deemed to be an order made under sub-section (2) of Section 11B of the Act. It is clear that the Explanation has nothing to do with the postponement of the date from which interest becomes payable under Section 11BB of the Act. Manifestly, interest under Section 11BB of the Act becomes payable, if on an expiry of a period of three months from the date of receipt of the application for refund, the amount claimed is still not refunded. Thus, the only interpretation of Section 11BB that can be arrived at is that interest under the said Section becomes payable on the expiry of a period of three months from the date of receipt of the application under Sub-section (1) of Section 11B of the Act and that the said Explanation does not have any bearing or connection with the date from which interest under Section 11BB of the Act becomes payable.

4.12. Thus, on plain reading of the above, it can be seen that the judgment of the Apex Court deals with interest consequential to order of an Appellate Authority. In the present case the matter was decided vide FAO No. 06/FAO/GPPL/2022-23 dated 20.12.2022 and the is no order of any Appellate Authority involved in the case. Thus, the Appellant has wrongly cited the above judgement and I find that the same is not applicable in the present case.

4.13. In view of the above findings, I conclude that the Adjudicating Authority has correctly and legally rejected the Appellant's claim for interest. The impugned Order suffers from no legal infirmity.

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5. For the reasons discussed above, I find no merit in the appeal filed by M/s. Ultratech Cement Pvt. Ltd. The Appeal is hereby rejected, and the Impugned Order-in-Original No. 30/DC-KKK/REF/GPPL/23-24 dated 18.05.2023 is upheld.

सत्यापित/ATTESTED
अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.

Vishwajeet Singh
04.08.2026.

(Vishwajeet Singh)
Commissioner (Appeals),
Customs, Ahmedabad
Date: ~~.07.2025~~

F. No. CAPPL/COM/CUSAP/1136/2023-Appeal

By Registered post A.D/E-Mail

To,

M/s. Ultratech Cement Pvt. LTd.
J.P.O, Kovaya, Taluka-Rajula
District-Amreli-365541.

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Commissioner, Customs(Prev), Jamnagar
3. The Deputy /Assistant Commissioner of Customs, GPPL, Custom House, Pipavav
4. Guard File.