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 - 20260771MN000000DD78

क	फ़ाइल संख्या FILE NO.	S/49-499&500/CUS/JMN/JULY/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) :	JMN-CUSTM-000-APP-23 to 24-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	10.07.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	12/Additional Commissioner/2024-25 dated 31.12.2024
च	अपील आदेश जारी करने की दिनांक ORDER-IN-APPEAL ISSUED ON:	10.07.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s ARV Import Export (OPC)Pvt. Ltd. 2. Shri Vikas Gosain, Managing Director, M/s ARV Import Export (OPC)Pvt. Ltd.

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
(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 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 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

1. Brief facts of the case

1.1 M/s. ARV Import Export OPC Pvt. Ltd. (IEC-AASCA5392E) (hereinafter referred to as Appellan tfor sake of brevity) having its registered office at 11/4 Shastri Park, Krishna Nagar Delhi 110051 has imported 284 Cartons of goods namely Plastic Spare Parts for toys having gross weight 4291500 KGs vide Bill of Lading No OOLU2701800097 dated 26.06 2022 through the vessel - MV OOCL LUXEMBOURG as per IGM No. 2317104 dated 19.07.2022. The said cargo is imported in the Container No. OOLU0345972 bearing Seal No. OOLHAK0906, which had arrived at CFS on 21.07.2022.

1.2 The cargo remained unclaimed for a period of more than 30 days. Consequently, the custodian, M/s Old CFS S3 Warehouse. Gujarat Pipavav Port Ltd, APM Terminal, Pipavav issued notices under Section 48 of the Customs Act, 1962 on 14.12.2022, 02.01.2023 & 20.01.2023 to the Appellant for clearance of the goods. However, the Appellant neither approached for clearance of the cargo nor complied with the notices issued to them.

1.3 It appeared that vide e-mail dated 31.01.2023, the SIIB Pipavav directed the Custodian i.e. M/s Old CFS S3 Warehouse Gujarat Pipavav Port Ltd., APM Terminal, Pipavav to move Container no COLU2701800097 (Long standing) to port CFS for examination. The examination of the cargo was conducted by the officers of SIIB, Customs (Prev.) Jamnagar, in presence of Independent Panchas and representative of concerned CFS i.e. Shri Sanjay Garg, on 31.01.2023. Thereafter, the said container was opened and it was found that the container was stuffed with cartons packed in plastic sacks On opening of the cartons one by one plastic dolls under CKD condition were found inside the same.

1.4 It appeared that as the goods were mis-declared, therefore, Panchnama dated 31.01.2023 was drawn in the presence of the independent panchas for the same In view of the above, it appeared that the said Appellant imported different type of plastic doll under CKD condition by way of mis-declaring the same as "Plastic Spare Parts for toys" so as concealing the actual identity of goods

1.5 As per the details of the examination proceedings conducted under the Panchnama dated 31.01.2023, prima facie, it appeared that, the items imported vide above mentioned container was plastic dolls under CKD condition, which had to be declared under CTH 9503, however, in Bill of Lading, Invoice & Import General Manifest the goods were mis-declared as "Plastic Spare Parts for toys with intention to evade duty of customs payable @ 70% on ad-valorem basis

Vishwajeet Singh

leviable thereupon on value of imported goods. The Import Policy for Toys is governed by BIS standards as specified in Policy Condition 2 of Chapter 95 Further, the Toys (Quality Control) Order, 2020 issued by DPIIT, mandated compulsory BIS Certification for safety of toys, and such goods shall bear the standard mark under a license from BIS. However, the above mentioned toys have been imported without the requisite standard mark under the mandatory BIS certification as applicable The details of IGM in respect of above container are as under.

1.6 It appeared that the items mentioned in the IGM filed by M/s OOCL India Pvt. Ltd. had been mis-declared, hence on reasonable belief that goods imported vide above mentioned Bill of Lading were liable to be confiscated under Section 111(d) & 111(m) of Customs Act 1962, the above mentioned goods were seized on 31.01.2023 as per the provisions of Section 110 of Customs Act, 1962

1.7 Accordingly, show cause notice no. ADC-10/2023-24 dated 05.01.2024 was issued to the Appellants as to why

1) The import consignment i.e. "Plastic dolls under CKD Condition" valued Rs.40,30,824/-(Rupees forty lakhs thirty thousand eight hundred twenty four only), should not be confiscated under Section 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1952, as. amended.

ii) Penalty should not be imposed on them under Section 112(a)(l) of the Customs Act, as amended.

(iii) Penalty should not be imposed on Shri Vikas Gosain, MD of M/s ARV Import Export OPC Pvt. Ltd., under Section 114AA of the Customs Act, 1962 as amended.

1.8 The Show cause notice dated 05.01.2024 was adjudicated vide Order-In-Original No. 12/Additional Commissioner/2024-25 dated 31.12.2024 wherein the Adjudicating Authority passed ordered for absolute confiscation of import consignment i.e. "Plastic dolls under CKD Condition" valued Rs.40,30,824/-(Rupees forty lakhs thirty thousand eight hundred twenty four only), should not be confiscated under Section 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1952, as. amended. The Adjudicating Authority imposed penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) on M/s ARV Import Export (OPC) Pvt. Ltd. under Section 112(a) (i) of the Customs Act, 1962 and also imposed penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) on Shri Vikas Gosain, Managing Director of M/s ARV Import Export (OPC) Pvt. Ltd. under Section 114 AA of the Customs Act, 1962

1.9 Being aggrieved with the OIO M/s ARV Import Export (OPC) Pvt. Ltd. and Shri Vikas Gosain, Managing Director of M/s ARV Import Export (OPC) Pvt. Ltd preferred the present appeals.

2. SUBMISSIONS OF THE APPELLANT:

2.1 The Appellant and Shri Vikas Gosain challenged Order-In-Original No. 12/Additional Commissioner/2024-25 dated 31.12.2024 on following ground.

2.2 The Appellant submitted that the show cause notice is time barred and its extension was not informed to the appellants. Extension beyond a period of 6 months ought to have been informed to the appellants and an opportunity to be heard to be called for was mandatory. The violation is in contravention of natural principal of justice.

2.3 The Appellant submitted that they had challenged the show cause notice on the ground that it had to be issued within 6 months from the date of seizure i.e. 31.07.2023, however, the first action in the matter has been taken up by Investigating Authority by way of recording of statement of Shri Kuldip on 08.06.2023 (i.e. after five months). As per the letter dated 31.07 2023 (when the show cause notice ought to have been issued), it was informed to us that the Hon'ble Commissioner of Customs (P), Jamnagar has extended the time limit for issuance of the show cause notice up to 31.01.2024 As per the said letter, the investigating authority made a request dated 21.07.2023 for extension of time for issuance of notice for the period of 6 months on the grounds mentioned therein. However, the grounds under which the extension was sought is not made available to us nor is it mentioned in the letter. The officers had sufficient time to investigate, the consignment is also not very huge or complicated, it can be verified with the naked eye itself no test appears to have been conducted, so there is no apparent reason for delay as enumerated above, the investigating authority itself took more than 5 months just to initiate the investigation there is no evidence on record to support that they were unavoidable reasons due to which they could not move further, hence there cannot be any valid reason for extension of time limit in absence of the same, they respectfully seek to know the reasons for extension of time limit, if no justification is provided to us we reserve our right to challenge the notice as being hit by limitation of time and further the goods ought to have been returned.

2.4. The Appellant further submitted that as per para 2 of the Show Cause Notice, it is alleged that the cargo remained unclaimed for a period of more than 30 days and that the custodian viz. M/s Old CFS S3 Warehouse Gujarat Pipavav Port Ltd., issued notices to them under section 48 of the Customs Act, 1962 on various dates for clearance of goods and that they had neither approached them for clearance of the cargo nor complied the notice. In this connection, it is submitted that they have never received such notice from the said custodian.

Vishwajeet Singh

They have further submitted that as per Para 4 of the Show Cause Notice, the goods were imported vide Bill of lading and were liable to be seized In this regard, they have to submit that the goods are imported through Bill of Entry and not through Bill of Lading and therefore the allegations are misplaced. They had never filed any Bill of Entry and therefore there cannot be any allegation of mis declaration.

2.5 The Appellant further submitted that as per Para 5 of the Show Cause Notice, Shri Taker Kuldp Bhupatrai, in his statement dated 06.06. 2023, the Assistant Manager of M/s OOCL (India) Pvt. Ltd. who is the agent of the vessel has categorically stated, while responding to the Question No. 3, that the documents/details of the consignment are provided by the forwarder/agent of the shipper/exporter or directly by the shipper/exporter to them and then IGM was filed after receiving confirmation of details from the Forwarder/Shipper. This clearly proves that they did not have any role even at the stage of filing of IGM. Further, they have submitted that as per Para 6 of Show Cause Notice, summons were issued to them on various dates, however, they had responded to the summons and had sought extension of time, as Shri Vikas Gosain was not well and could not travel.

2.6. The Appellant further submitted that as per Para 9 of the Show Cause Notice, one of the contentions is that Shri Vikas Gosain deliberately avoided to attend, in this regard, it to submit that there was no mala fide intention not to attend to the summons, it was a genuine case of ill health.

2.7. The Appellant further submitted that they had placed a purchase order for the import of "Plastic Spare Parts" vide Bill of Lading No. OOLU2701800097 dated 21 July, 2022 and which was lying in Port, since 21.07.2022. However, they were apprehensive that the goods sent to then were not what they had ordered, and therefore, they were under of coordinating from the exporter to understand and to take appropriate action. In fact, they were honest enough not to file Bill of Entry till the facts were known to them and thereby mis-declare anything to the government. Thus, the allegation of mis-declaring the goods is not justified. Further, the Panchnama also is not beyond doubt since the last para of the said Panchnama dated 31.01.202 mentions the name of Shri Tony John and what was his role is not known.

2.8 The Appellant further submitted that as per para 10 of the show cause notice, the goods were imported vide Bill of lading and they have never filed Bill of entry. The Bill of Lading is not a document for import and therefore, the allegation of

Vishwajeetsingh

importing or making an attempt to import is not backed by any evidence. making an attempt to import is not hacked by evidence.

2.9 The Appellant further submitted that in respect of Para 11 of the Show Cause Notice, that they have not declared anything so where is the question of mis-declaration and also they have not submitted any documents to the department where is the question of providing the falsified documents, which are alleged in the Para 11 of the Show Cause Notice. Further, the allegations are not backed by any irrefutable evidences and liable to be quashed. Shri Vikas Gosain has been wrongly alleged to be liable for penalty under Section 112(a)(i) & 114AA of the Customs Act, 1962.

2.10 The Appellant further submitted that in respect of Para 12 of the Show Cause Notice, that they have imported goods vide Bill of Lading No. OOLU2701800097 dated 26.06.2022 and IGM No.2317104 dated 19.07.2022, liable for confiscation under section 111(d),111(l), 111(l) and 111(m) of the Customs Act, 1962, that they have rendered themselves liable for penalty under section 112(a)(i) of the Customs Act, 1962, by causing the import of goods covered under bill of Lading No. OOLU2701800097 dated 26.06. 2022 and IGM No. 2317104 dated 19.07.2022 contrary to prohibition imposed by or under this act or import policy condition no.2 land that they have wrongly rendered themselves liable for penalty under section 114AA of the Customs Act, 1962.

2.11. The Appellant further submitted that the allegation made in the instant Show Cause Notice are not tenable as they have never filed any Bill of Entry, so there is no ground of mis-declaration on their part. The allegation of importing a consignment against an alleged Bill of Lading is not legal as a Bill of Lading is not the document against which import is made.

2.12 The Appellant further submitted that there is no irrefutable evidence on record, which proves that they had committed any act or omission which would render such goods liable for confiscation under section 111 or abets the doing or omission. No attempt has been made by them to import the goods in contravention to the act They have not even filed the Bill of Entry in this case Allegation proves nothing by itself. Allegation to merit consideration must be supported by evidence

2.13.In view of the above, in nutshell, the Appellant submitted that the proposal raised in the show cause notice for confiscation of Goods under various sub-sections of Section 111 and imposition of penalties under various sections is legally not sustainable. Therefore, liable to be dropped in the interest of justice

Vishwajeet Singh

2.14 The Appellant further submitted that the personal hearing was attended by a representative of the appellants and requested for lenient view in the matter of penalty. Further, submitted that penalties on the both the Company and director was unwarranted and uncalled for as the Company is managed/run by the Managing Director only it has been held in the departmental proceeding and otherwise that there was no need to impose penalty on both. Further, submitted that that the Id. Addl. Commissioner vide impugned order dated 31.12.2024 imposed penalty of Rs. 10 lac on M/s. ARV Import Export under section 112(a)(i) of Customs Act, 1962 and further imposed penalty of Rs. 10 lac on Mr. Vikash Gosian under section 114AA of The Customs Act, 1962 without considering and appreciating the defense replies, submissions during personal hearing and documents and evidence on record. Otherwise also the penalties on a few middle type of importer are very high considering the nature and value of the goods. Hence being aggrieved from the impugned order the appellants file the appeals of company and its Managing Director and prays that the order passed by the Addl. Commissioner of Customs may please be set aside and/or modified as your Honor deem fit in the facts and circumstances of the case as above and under mentioned grounds of appeal.

2.15 The Appellant further submitted that the order passed by the authority is contrary to the facts and in violation of the provisions of the adjudication proceedings to be conducted under the Customs act, 1962 and rules made there under. Further, the order passed by the Additional Commissioner is based on presumptions, assumptions and surmises and facts which are neither on the file nor narrated by the appellants. Further, there was no fraudulent import by the appellants as alleged in the impugned order, nor the import was in contravention of the provisions of the customs act, 1962.

2.16 The Appellant further submitted that SCN was based on the false and baseless evidence and the Show Cause Notice cannot be based on the presumptions and suspicions. The Appellant will file judgement of the Hon'ble many time held that the confiscations of the goods and imposition the penalties cannot be sustained on the frivolous grounds suspicions. Further, the import was as per norms of the trade, valuation and there is no violation of the provisions of the Customs Act, 1962. Further, the legal provisions referred in the SCN and impugned order are not applicable in the case of M/s. ARV Import Export(OPC) Pvt. Ltd and Vikas Gosian.

2.17. The Appellant further submitted that the impugned order has been passed in violation of principles of natural justice, since the appellants were not supplied the documents, which were relevant document relied upon in initiating the

Vishwajeet Singh

adjudication proceedings by way of issuing the impugned Show Cause Notice, because of which the Appellant was not in a position to represent his case effectively. Therefore, on this ground alone, the impugned order is liable to be set aside. Further, the procedure as adopted by the ld. Adjudicating authority in re-determining the value of goods in question is not in terms of the law of land. Therefore, on these grounds also, the impugned order is liable to be set aside.

2.18. The Appellant further submitted that the order has been passed in violation the principles of the natural justice as neither the proper opportunity of filing the replies nor the reasonable opportunity being heard were afforded. Further, in the facts and circumstances of the matter there is no reason for absolute confiscation of the goods, Although, at this stage, appellants are not praying/ claiming the release of the goods nor claiming for re-export of the goods. Appellate are only contesting the imposition of the penalties which are exorbitant and unwarranted in as much as the value of the goods assessed on the higher side is about Rs. 40,30,824. For these values of the goods the penalties imposed 10 lacs on the firm and separate penalty of Rs. 10 lac on its director is unwarranted and uncalled for.

2.19. That the appellants crave leave to add, alter and /or amend the abovementioned grounds during the course of personal hearing. On the basis of the above, the Appellants prayed to grant reliefs as:

(i) To set aside modify the impugned order 31.12.3024 passed received on 24.01.2025 by ld. Adjudicating Authority.

(ii) To pass such order or further order, as may be deemed fit and proper, under the facts and circumstances of the case, in favour of the appellant.

3. PERSONAL HEARING:

Opportunity of personal hearing was granted to the Appellants was granted on 15.01.2026, 11.02.2026, 24.02.2026, 12.03.2026, 21.05.2026 and 2.07.2026, but neither the Appellants nor their authorized representative appeared for personal hearing.

4. DISCUSSION AND FINDINGS:

4.1 On going through the documents, I find that the OIO was dispatched form Rampara, postal service near, Pipavav on 09.01.2025 and the same can be received in New Delhi not earlier than 02 days from the date of dispatch. Therefore, the date of receipt cannot be earlier than 11.01.2025. The Appellant filed appeal on 10.03.2025 which is well within the prescribed time period for filing appeal under Section 128 of the Customs Act, 1962.

Vishwajeet Singh

4.2. The Appellants viz M/s ARV Imports and Exports(OPC) Pvt.Ltd. and Shri Gosain, Managing Director of M/s ARV Imports and Exports (OPC) Pvt. Ltd. have failed to pay the mandatory 7.5 % amount of the disputed amount in impugned OIO. With respect to the requirement of mandatory pre-deposit for filing the appeal, it is observed that the Appellant has not paid the mandatory pre-deposit as required under Section 129E of the Customs Act, 1962. The Appellant was informed by this office vide letters-mail dated 29.06.2026 and 25.02.2026 to submit documentary evidencing of the prescribed pre-deposit @ 7.5% of the penalty amount. The Appellant was also clearly apprised that in the absence of such pre-deposit, the appeal would be liable for rejection for non-compliance with the provisions of Section 129E of the Customs Act, 1962. However, the Appellant has, till date, failed to submit any proof of payment of the mandatory pre-deposit as required under the said provision.

4.3 I find that compliance with the requirement of mandatory pre-deposit under Section 129E of the Customs Act, 1962 is a statutory condition precedent for the admission and consideration of an appeal. The said provision is couched in mandatory terms and does not confer any discretion upon the appellate authority to waive or relax the requirement of pre-deposit on any ground, including financial hardship. In the present case, despite being specifically advised, the Appellant has failed to produce any evidence of having made the prescribed pre-deposit. It is a settled legal position that non-compliance with the mandatory requirement of pre-deposit renders the appeal liable to be dismissed at the threshold, without going into the merits of the case. Accordingly, in view of the clear non-compliance with the provisions of Section 129E of the Customs Act, 1962, the present appeal is not maintainable and is liable to be rejected.

5. Therefore, without going into the merits of the case, the appeal filed by the Appellant viz. M/s ARV Imports and Exports(OPC) Pvt. Ltd. and Shri Vikas Gosain, Managing Director of M/s ARV Imports and Exports (OPC) Pvt. Ltd. is disallowed as being not admitted.

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

Vishwajeet Singh
10.07.2026

Commissioner (Appeals),
Customs, Ahmedabad
Date: 07.2026

F. No. S/49-499&500/CUS/JMN/JULY/2025-26

By Registered post A.D

1. M/s ARV Import Export (OPC)Pvt. Ltd., 11/4, Shastri Park, Krishna Nagar, Delhi-110051
2. Shri Vikas Gosain, Managing Director, M/s ARV Import Export (OPC)Pvt. Ltd. 11/4, Shastri Park, Krishna Nagar, Delhi-110051

Copy to,

1. The Chief Commissioner, of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in).
2. The Commissioner, Customs(Prev), Jamnagar.
3. The Additional/Joint Commissioner, Customs(Prev), Jamnagar.
4. Guard File.