



सीमा शुल्क (अपील) आयुक्त का कार्यालय,

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

चौथी मंज़िल 4th Floor, हुडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाष क्रमांक Tel. No. 079-26589281

DIN- 20251171MN0000610992

क	फ़ाइल संख्या FILE NO.	S/49-342/CUS/AHD/2015-16
ख	अपील आदेश संख्या ORDER-IN-APPEAL No. (सीमा शुल्क अधिनियम, 1962 की धारा 128 के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-305-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	03.11.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Assessment in respect of Bill of Entry No.: KASEZ-ZYDUSINFRASTRUCTURE-DTAS-00000035 dated 25.05.2011 . OIA: AHD-CUSTM-000-APP-072-16-17 dt. 16.01.2017 read with Final Order No.: A/11617/2023 dt. 25.07.2023 passed by the CESTAT , Ahmedabad Bench
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	03.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Intas Pharmaceuticals Limited, Plot No. 5,6 & 7, PHARMA SEZ, Village-Matoda, Taluka-Sanand, Ahmedabad – 380 009.



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 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.
	लिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज 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 शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1,000/- (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.1,000/- (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 अपीलियाधिकरण, 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.	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 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, पाँच हजार 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 हजार 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

The CESTAT, Ahmedabad Regional Bench passed Final Order No.: A/11617/2023 dt. 25.07.2023 in the matter of Customs Appeal No.: 10813/2017-DB filed by M/s. Intas Pharmaceuticals Limited, Plot No. 5,6 & 7, PHARMA SEZ, Village-Matoda, Taluka-Sanand, Ahmedabad – 380 009 (herein after referred as the appellant) against the OIA No.: AHD-CUSTM-000-APP-072-16-17 dated 16.01.2017 passed by the Commissioner(Appeals), Customs, Ahmedabad. The CESTAT, Ahmedabad (hereinafter referred to as the impugned OIA) set aside the said OIA and remanded the matter to the Commissioner (Appeals) to decide the case on merits. The CESTAT, Ahmedabad hold that self assessment order are appealable orders and therefore, the impugned order (OIA) set aside and matter is remanded to the Commissioner (Appeals) to decide the case on merit.

2. Brief facts of the case are that the appellant filed the Self Assessed Bill of Entry under Section 17(1) of the Customs Act, 1962 for home consumption (SEZ to DTA) No.: KASEZ - ZYDUSINFRASTRUCTURE-DTAS-00000035 dated 25.05.2011 (hereinafter referred to as the impugned Bill of Entry) for the clearances of the goods namely the Gemibine Injection 100 mg for 4791 vials and Gemibine Injection 200 mg. for 5991 vials. These goods were classified under CTH 3004 9049 of the Customs Tariff Act 1975 and availed the benefit of Exemption Notification No. : 21/2002-80A of BCD as amended and 04/2011 for claiming exemption for CVD. The appraiser of Customs, Pharma SEZ, Ahmedabad assessed the Bill of Entry filed by the appellant under Section 17 of the Customs Act, 1962. The appellant paid the Customs duty @5% and CVD @5% on both the goods respectively. The goods were cleared to M/s Intas Biopharmaceuticals Ltd., Village-Moraiya, Ahmedabad.

2.1 Being aggrieved by the impugned Bill of Entry, the appellant filed appeal with the then Commissioner (A) Customs, Ahmedabad inter alia on the following grounds:

- that they submitted the said bill of entry through online request ID No.: 261100284406, which appeared to be assessed at the rate of 5% Customs duty and CVD + EC and SHE by the Appraiser, Customs Pharmez SEZ. Ahmedabad after examining/ verifying the correctness of the rate of duty and notification, which resulted into excess payment of Customs duty and CVD, such act of the officer appears to be prejudiced and it also appeared that the software of the Customs is not updated: that such assessment is not proper




and just and therefore requested to issue suitable order of re-assessment or refund of duty paid in excess by the appellant may be issued; and

➤ that the Appraiser of Customs was required to assess the bill of entry considering the description of goods, Tariff Chapter Sub-heading No. Tariff rate of Customs duty with effective rate of duty under notification if any, value of goods and duty calculation and if it is in order, than allow the clearance, however, the discrepancies resulted in excess payment of duty of Rs. 14,08,48/-, thus the department has received excess duty payment, which is unlawful and required to be refunded to the appellant.

2.2 The Commissioner (Appeals), Customs, Ahmedabad vide Order-in-Appeal No. AHD-CUSTM-000-APP-072-16-17 dated 16.01.2017 rejected the appeal on the grounds that the self-assessed bill of entry cannot be considered as an order / decision of the officer and there cannot be any question of the importer being aggrieved against the officer and in view of this, the appeal does not satisfy the criteria laid down in section 128, thereby the appeal of the appellant is hereby rejected.

3. Aggrieved by this Order-in-Appeal, the appellant filed appeal with the CESTAT, Ahmedabad Regional Bench, who vide Final Order No.: A/11617/2023 dt. 25.07.2023 held that the self-assessment order are appealable orders. The CESTAT, Ahmedabad set aside the said OIA and remanded the matter to the Commissioner (Appeals) to decide the case on merits. The CESTAT, Ahmedabad hold that self assessment order are appealable orders and therefore, the impugned order (OIA) set aside and matter is remanded to the Commissioner (Appeals) to decide the case on merit.

4. In pursuance of directions of the CESTAT, Ahmedabad Bench personal hearing was granted to the appellant on 29.10.2025. Shri Willingdon Christian, advocate appeared on behalf of the appellant. He reiterated the submissions made at the time of filing appeal .

5. I have carefully examined paper, documents, OIA and final order issued by the CESTAT and the submissions made by the appellant during the course of the first adjudication process and personal hearing. On going through the material on record, I find that the main issue to be decided in the present appeal is whether the benefit of the Notifications, as claimed by the appellant in the appeal memorandum, can be extended



to the appellant even though it was not claimed at the time of the original assessment before the appraiser of appraiser of Customs, Pharma SEZ, Ahmedabad.

5.1 It is observed that in the present case, the appellant filed a Self Assessed Bill of Entry under Section 17(1) of the Customs Act, 1962 for home consumption (SEZ to DTA) bearing No. KASEZ-ZYDUSINFRASTRUCTURE-DTAS-00000035 dated 25.05.2011, for clearance of Gemcitabine Injection 100 mg (4791 vials) and Gemcitabine Injection 200 mg (5991 vials). The goods were filed under CTH 3004 9049 of the Customs Tariff Act, 1975, claiming the benefit of Exemption Notification No. 21/2002-Cus., dated 01.03.2002, as amended and 04/2011-C.E. dated 010.03.2011. The said Bill of Entry was assessed by the Appraisers of Customs, PHARMEZ, SEZ, Ahmedabad without any objection , observation etc. The appellant discharged Customs Duty @5% and CVD @5%, on both consignments also without any protest or any objection. The goods were thereafter cleared to M/s Intas Biopharmaceuticals Ltd., located at Village Moraiya, Ahmedabad.

5.2 Later on the appellant came to know that their products attract 2.5% of Basic Customs Duty instead of 5% on account of Notification no. 21/2011-Cus dated 01.03.2011 which amends the basic Exemption Notification No. 21/2002-Cus., dated 01.03.2002, thereby made excess payment of Customs duty of Rs. 1,01,383/- . Similarly, they also claimed that their products completely exempted from payment of CVD vide notification no. 04/2006-C.Ex. dt. 01.03.2006 (Sr.No., 47(A)) , thereby their above products wrongly assessed @5 % instead of Nil rate of duty and thereby they made excess payment of CVD (Counter vailing duty) of Rs. 14,08,489/-.

5.3 Being aggrieved by the assessment of the Bill of Entry for DTA No.: 00000035 dated 25.05.2011, the appellant filed appeal with the Commissioner(A) Customs Ahmedabad who vide OIA No.: AHD-CUSTM-000-APP-072-16-17 dated 16.01.2017 rejected the appeals on the grounds that the self assessed B/E cannot be considered as an order / decision of the officer and the appeal doesnot satisfy the criteria laid down in Section 128 of the Customs Act, 1962.

5.4 Being aggrieved by OIA No.: AHD-CUSTM-000-APP-072-16-17 dated 16.01.2017, the appellant filed appeal with the CESTAT, Ahmedabad Bench, who vide Final Order No.: A/11617/2023 dt. 25.07.2023 set aside the said OIA and remanded the matter to the Commissioner (Appeals) to decide the case on merits. The CESTAT, Ahmedabad hold that self assessment order are appealable orders and therefore, the




impugned order (OIA) was set aside and matter was remanded to the Commissioner (Appeals) to decide the case on merit. Hence, this appeal.

5.5 I have carefully examined the appeal memorandum and the documents placed on record, and I find that the appellant had initially filed the Bill of Entry for assessment and clearance of the said goods by claiming the benefit of concessional rate of 5% Basic Customs Duty (BCD) under Basic Exemption Notification No. 21/2002-Cus., dated 01.03.2002. Later on, the appellant claimed that the said products attracts 2.5% of BCD instead of 5% due to amendment in basic notification through Notification No.: 21/2011-Cus dt. 01.03.2011.

Further, the appellant has submitted that the said goods were assessed and cleared on payment of Countervailing Duty (CVD) at the rate of 5% by availing the benefit of Notification No. 04/2011-C.E., dated 01.03.2011. Subsequently, the appellant contended that the said goods are wholly exempted from payment of CVD in terms of Notification No. 04/2006-C.E., dated 01.03.2006 (Sr. No. 47A).

After due verification of the documents and detailed examination of the submissions made by the appellant, I find that the appellant has correctly claimed the benefit of concessional rate of Basic Customs Duty (BCD) @ 2.5% under Notification No. 21/2011-Cus., dated 01.03.2011 and exemption from payment of Countervailing Duty (CVD) @ Nil under Notification No. 04/2006-C.E., dated 01.03.2006 (Sr. No. 47A).

6. In the above matter, it is on records that the appellant filed Self Assessed Bill of Entry for the clearances of the goods from the SEZ to the DTA area under Self assessment procedure under Section 17(1) of the Customs Act, 1962. Under the Self-Assessment procedure, the Govt. places the full responsibility on the importer to file correct Bill of Entry before the Customs Officer. Under the self-assessment regime, the importer is liable to correctly determine and declare the classification, quantity, valuation, rate of duty, and applicability of any exemptions or notifications, and to discharge all customs duties and other charges accordingly. The law places the importer under a duty to ensure completeness and accuracy of the declaration, maintain all supporting documents.

6.1 It is observed that the appellant filed Bill of Entry for DTA clearance No. KASEZ-ZYDUSINFRASTRUCTURE-DTAS-00000035 dated 25.05.2011 before the Appraisers, Customs, Pharmez SEZ, Ahmedabad, under the provisions of the Customs Act 1962. Based on this self-assessed Bill of Entry filed by the appellant, the Customs



Appraiser carried out the assessment of the goods and allowed their clearance from the SEZ. Therefor, the appellant's claim that the assessment of the Bill of Entry by the Appraisers was prejudicial, improper, or unjust, is incorrect and contrary to the facts on record. It is the responsibility of the appellant to file the correct and complete Bill of entry with respect to the classification, valuation, description of the goods, claiming exemption notifications.

6.2 It is further observed that the appellant had made claim that they made excess payment of Customs duty and CVD to the tune of Rs. 14,08,489/- due to wrong applicability of Customs and Central Excise duty rate. The appellant requested for issuance of suitable order of re-assessment or refund of duty. It is on record that the appellant himself filed the said goods under CTH 3004 9049 of the Customs Tariff Act, 1975 and claimed the benefit of Exemption Notification No. 21/2002-Cus., dated 01.03.2002, as amended and 04/2011-C.E. dated 010.03.2011. On the basis of this declaration, the said Bill of Entry was assessed by the Appraisers of Customs, PHARMEZ, SEZ, Ahmedabad and duty was paid without any objection or protest and subsequently goods were cleared from the SEZ to the DTA area.

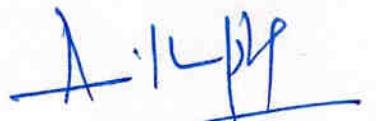
6.3 With regard to the appellant's request for re-assessment of the goods, it is observed that the appellant should have filed an application for re-assessment under Section 17 of the Customs Act, 1962 before the Proper Officer. The power to assess or re-assess the goods lies with the Proper Officer in terms of Section 17 of the Customs Act, 1962. Further, with regard to the appellant's request for refund of duty paid in excess or wrongly paid in the matter, the appellant should have filed a refund claim under Section 27 of the Customs Act, 1962 before the Assistant/Deputy Commissioner of Customs after making amendment in the Bill of Entry by the proper officer under section 17 of the Customs Act, 1962.

7. In view of the foregoing discussions and findings, and in pursuance of the directions of the Hon'ble CESTAT, Ahmedabad Bench, the matter is hereby remanded to the adjudicating authority for re-assessment of the impugned Bill of Entry relating to DTA clearance, after following the principles of natural justice and observing all applicable legal provisions of the Customs Act, 1962 and the rules made thereunder. The adjudicating authority shall thereafter pass a speaking and reasoned order and allow consequential relief(s), if any, admissible to the appellant in accordance with law.




8. Accordingly, the appeal filed by the Appellant is allowed by way of remand to the adjudicating authority.




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

F. No. S/49-342/CUS/AHD/2015-16

Date: 03.11.2025

By Speed Post.

M/s. Intas Pharmaceuticals Limited,
Plot No. 5,6 & 7,
PHARMA SEZ,
Village-Matoda, Taluka-Sanand,
Ahmedabad – 380 009.
(Sreeram_kaza@intaspharma.com)

Copy to:

1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad.
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2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
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