



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS(Appeals),अहमदाबाद AHMEDABAD,
चौधीमंज़िल 4th Floor, हडको बिल्डिंगHUDCO Building, ईश्वर भुवन रोड़ IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाषक्रमांक Tel. No. 079-26589281
DIN- 20260371MN000000BE61

क	फ़ाइलसंख्या FILE NO.	S/49-376/CUS/MUN/2024-25
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 की धारा 128कके अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-919-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	30.03.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Bill of Entry No. 6942904 dtd. 28.11.2024
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s Ksquare Metals Trading Pvt. Ltd., Khasra No. 81/186, Village Bakoli, Delhi-110036



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.
	खेत 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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षक 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
	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 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 Ksquare Metals Trading Pvt. Ltd., Khasra No. 81/186, Village Bakoli, Delhi-110036 (herein after referred to as the "Appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962, challenging the assessment in the Bill of Entry No. 6942904 dtd. 28.11.2024 filed at Customs, Mundra port.

2. Facts of the case, in brief, as per appeal memorandum, are that the Appellant is engaged in the import and trading of different types of Aluminium Foils. In the present case, the Appellant had filed Bill of Entry No 6942904 dated 28/11/2024 at Mundra Port, for clearance of goods declared as 'Aluminium Foil (Size 0.01 X 295) (10 Microns) classified under CTH 76071190, which was assessed on 29/11/2024, duty payment was made on 31/12/2024 and out of charge was given on 31/12/2024. The impugned Bill of Entry was assessed with imposition of Anti-Dumping Duty of Rs. 15,37,973.20 under Notification No. 51/2021-CUS (ADD) dated 16/09/2021 which was picked up by the system as the said imported goods are classified under 76071190. The said Notification dated 16/09/2021 imposes Anti-Dumping Duty on 'Aluminium Foil falling under chapter heading 7607 of the First Schedule to the Customs Tariff Act, 1975, originating in, or exported from China PR, Malaysia, Thailand and Indonesia. It is submitted by the Appellant that the imported goods of said description, do not attract Anti-Dumping Duty.

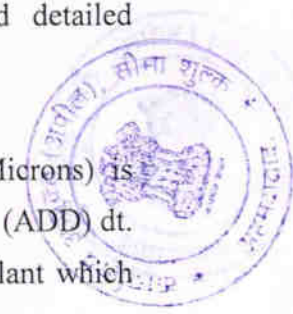
2.1 Aggrieved by the impugned assessment of the subject Bill of Entry No. 6942904 dated 28/11/2024, the Appellant has filed the present appeal on the grounds mentioned below.

SUBMISSIONS OF THE APPELLANT

3. The appellant has *inter-alia*, have raised various contentions and filed detailed submissions as given below in support their claims:

3.1 The said imported goods i.e. 'Aluminium Foil (Size 0.01 X 295)' (10 Microns) is excluded from the description of goods covered under Notification No. 51/2021-CUS. (ADD) dt. 16/09/2021, hence, ADD is not imposable and has been wrongly paid by the Appellant which deserves to be refunded.

3.2 It is submitted that the Appellant had imported goods declared as 'Aluminium Foil (Size 0.01 X 295) (10 Microns) classified under CTH 76071190 vide impugned Bill of Entry No. 6942904 dated 28/11/2024, wherein, it is evident from the import documents such as Commercial Invoice, packing List, Country of Origin Certificate and the Test Certificate, that the imported 'Aluminium Foil [Size (mm) 0.01 X 295]' is of 10 Microns and having Country of Origin in China.



(Handwritten signature)

In this regard, kind attention is drawn to Notification No. 51/2021-CUS.(ADD) dt. 16/09/2021 which stipulates as below:-

"Whereas in the matter of 'Aluminium Foil' (hereinafter referred to as the subject goods) falling under chapter heading 7607 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from China PR, Malaysia, Thailand and Indonesia (hereinafter referred to as the subject countries), and imported India, designated authority its final findings vide Notification number 6/21/2020-DGTR dated the 18th June, 2021 published in the Gazette of India, Extraordinary, Part I, Section 1 dated the 18th June, 2021 has come to the conclusion that the into the in and has recommended imposition of an anti-dumping duty on the imports of subject goods, originating in, or exported from the subject countries and imported into India, in order to remove injury to the domestic industry

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under Chapter heading of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8), of the said Table, namely -

Table

Sr. No.	Heading	Description	Country of origin	Country of Export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1	7607	Aluminium Foil 80 micron and below	China PR	Any country including China PR	Jiangsu Zhong Lamination Maternals Co., Ltd.	506.81	MT	USD
---	-do-	-do-	---	----	---	----	MT	USD

* "Aluminium Foil whether or not printed or backed with paper, paper board, plastics

or similar packing materials of a thickness of 80 micron and below (with permissible tolerances)" excluding the following:

- (i) *Aluminium foil of thickness ranging from 5.5 micron to 80 micron originating in China.*

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A bare perusal of the above reproduced Notification No. 51/2021-CUS. (ADD) dt. 16/09/2021, it is clear that the "Aluminium foil of thickness ranging from 5.5 micron to 80 micron originating in China" is excluded from the description of Product Under Consideration for imposition of ADD. Since, the subject imported goods ie. 'Aluminium Foil is of Size (mm) 0.01 X 295 (10 Microns) as per the Test Certificate and as also mentioned in Commercial Invoice packing List, and having Country of Origin in China as per the Country of Origin Certificate, hence, ADD is not imposable on the subject imported goods vide impugned Bill of Entry No. 6942904 dated 28/11/2024 and thus, has been wrongly paid by the Appellant

3.4 The subject goods i.e. 'Aluminium Foil (Size 0.01 X 295) (10 Microns) have been imported by the Appellant vide several recent Bills of Entry, which have been assessed and cleared without imposition of ADD.

3.5 It is submitted that the Appellant is a regular importer of the subject goods ie Aluminium Foil (Size 0.01 X 295)' (10 Microns) and had recently imported the same goods vide several recent Bills of Entry No. 6899824 dated 26/11/2024, 6943025 dated 28/11/2024, 7251572 dated 08/08/2023, 7080584 dated 06/12/2024 and 6942903 dated 28/11/2024 filed at the same port i.e. Mundra Port, whereas all the Bills of Entry have been assessed and cleared without imposition of Anti-Dumping duty .

3.6 In view of the above, it is submitted that Anti-Dumping duty is not imposable on the subject imported goods since, 'Aluminium Foil is of Size (mm) 0.01 X 295 (10 Microns) is excluded from the description of Product Under Consideration for imposition of ADD

3.7 The ADD paid by the Appellant deserves to be refunded since, ADD is not imposable on the subject imported goods, hence, the department cannot retain the amount paid in excess by the Appellant. It is a settled law as provided under Article 265 of the Constitution of India that no tax shall be levied or collected except by authority of law and no State has right to receive or retain taxes or money realized from citizens without authority of law as held by Hon'ble Punjab & Haryana High Court in case of Idea Cellular Ltd. Vs. Union Of India [2016 (42) S.T.R. 823 (P & H)] following various decision of Hon'ble Supreme Court as below:

- Bharat Sanchar Nigam Ltd v Union of India 2006 (2) S.T.R. 161 (S.C.);
 Idea Mobile Communication Ltd. Commissioner 2011 (23) S.T.R. 433 (S.C.);
 Salonah Tea Company Ltd. v Superintendent of Taxes 1988 (33) E.L.T. 249 (S.C.).
 State of Uttar Pradesh v Union of India 2004 (170) E.L.T. 385 (S.C.):

U.P Pollution Control Board v Kanoria Industrial Ltd 2001 (128) E.LT 3 (S.C.).

3.8 In view of the above submissions, it is requested that the impugned assessment of subject Bill of Entry No. 6942904 dated 28/11/2024 may be set aside and the subject Bill of Entry may be ordered to be re-assessed without Anti-Dumping duty

PERSONAL HEARING

4. Shri Prachit Mahajan, Advocate attended Personal Hearing on 18.12.2025 in virtual mode on behalf of the appellant. He reiterated the submissions made at the time of filing of appeal. During the hearing, he submitted that the imported goods i.e. Aluminium Foil (Size 0.01 X 295) (10 Microns) is excluded from the description of goods covered under Notification No. 51/2021-CUS.(ADD) dt. 16/09/2021, hence, ADD is not imposable and has been wrongly paid by the Appellant which deserves to be refunded. He further submitted that the subject goods i.e. Aluminium Foil (Size 0.01 X 295)' (10 Microns) have been imported by the Appellant vide several recent Bills of Entry, which have been assessed and cleared without imposition of ADD

DISCUSSION AND FINDINGS

5. I have carefully gone through the case records, impugned Bills of Entry, the defense put forth by the Appellant in their appeal, arguments advanced during the course of the personal hearing.

5.1 Before going into the merits of the case, I find that the appeal has not been filed within the stipulated period of 60 days as per Section 128 of the Customs Act, 1962. The said section provides for a period of sixty days for filing an appeal, with a further condonable period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed on 26.02.2025 whereas the date of assessment of impugned Bill of Entry is 29.11.2024. Thus there is an actual delay of 29 days and not 26 days as submitted in the application which is beyond the stipulated 60 days period, but within the condonable 30 days period. The Appellant has attributed the reason that the concerned Director of Appellant, Mr. Himanshu Kothari, who is the main person handling the operations of the Appellant firm was out of country for one and a half month during the month of December, 2024 and January, 2025 and thereafter, has been extensively travelling to northeastern states of India for Business purposes. While parties are expected to exercise due diligence, minor delays attributable to administrative oversights, especially when the appellant acts promptly upon discovering the issue, are generally condoned by appellate authorities to ensure that justice is not denied on mere technicalities. Considering the explanation provided, which indicates no deliberate inaction or gross negligence, I find that the Appellant has shown "sufficient cause" for the delay. Therefore, the miscellaneous application for condonation of delay is allowed in the interest of natural justice.

AC



5.2 I find that the present appeal has been filed against self-assessment of Bill of Entry disputing the ADD imposed on the goods imported vide the impugned Bill of Entry. It is observed that the Hon'ble Supreme Court in case of ITC Ltd Vs CCE Kolkata [2019 (368) ELT216] has held that any person aggrieved by any order which would include self-assessment, has to get the order modified under Section 128 or under relevant provisions of the Customs Act, 1962. Hence, the appeal preferred by the appellant against self-assessment in the impugned Bill of Entry is maintainable as per the judgment of the Supreme Court in ITC case supra.

5.3 It is further observed that no speaking order by the proper officer in the matter is available. Hence, I find that entire facts are not available on records to verify the claims made by the appellant. Copy of appeal memorandum was also sent to the jurisdictional officer for comments. However, no response have been received from the jurisdictional office. Therefore, I find that remitting the case to the proper officer for passing speaking order 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 officer under Section 17(5) of the Customs Act, 1962 by following the principles of natural justice. 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.



A. Gupta

(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

Date:30.03.2026

F.No. S/49-376/CUS/MUN/2024-25

250 to 251

By Speed Post/E-Mail

To,

- (i) M/s Ksquare Metals Trading Pvt. Ltd.,
Khasra No. 81/186, Village Bakoli,
Delhi-110036
- (ii) Sh. Prachit Mahajan (Advocate)
139, 2nd Floor, Sector- 31,
Faridabad-121003.
(Email: prachit.mahajan9@gmail.com,)



Copy to :-

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