



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

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

चौथीमंजिल 4th Floor, हड्डो बिल्डिंग HUDCO Building, ईश्वर भुवन रोड IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN- 20250671MN0000999F55

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| क | फ़ाइलसंख्या FILE NO. | S/49-147/CUS/MUN/2023-24 |
| ख | अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 की धारा 128के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962): | MUN-CUSTM-000-APP-090-25-26 |
| ग | पारितकर्ता PASSED BY | SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD |
| घ | दिनांक DATE | 18.06.2025 |
| ड | उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO. | Bill of Entry No.8157687 dated 05.10.2023 |
| च | अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON: | 18.06.2025 |
| छ | अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT: | M/s. Bhavnagar Exim Pvt. Ltd., Block No. 59, Paiki-2 / Paiki-1, Village Mamsa, Taluka Ghogha, Bhavnagar- 364001 |
| 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 : | |

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| (क) | बैगेज़ 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. | <p>पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिस के अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :</p> <p>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 :</p> <p>(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.</p> <p>(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.</p> <p>(ख) सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो</p> <p>(ब) 4 copies of the Order-in-Original, in addition to relevant documents, if any</p> <p>(ग) पुनरीक्षण के लिए आवेदन की 4 प्रतियां</p> <p>(c) 4 copies of the Application for Revision.</p> <p>(घ) पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शोषक 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 व्याज, 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/-</p> <p>(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/-.</p> | | | | |
| 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 : | | | | |
| | <table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table> | सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench | दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 2nd Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016 |
| सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench | | | | |
| दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 2nd Floor, BahumaliBhavan, 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. | | | | |

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| (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 रुपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच 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 रुपए 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

M/s. Bhavnagar Exim Pvt. Ltd., Block No. 59, Paiki-2/ Paiki-1, Village Mamsa, Taluka Ghogha, Bhavnagar- 364001 (herein after referred to as the "appellant") have the present appeal in terms of Section 128 of the Customs Act, 1962, challenging the assessment made in the Bill of Entry No. 8157687 dated 05.10.2023 (herein after referred to as the "impugned BOE") by the officer of the Faceless Assessment Group (herein after referred to as the "assessing officer").

2. Facts of the case, in brief, as per appeal memorandum, are that the appellant, had imported "M.S Defective Seamless Pipes" falling under HSN 73049000 vide Bill of Entry No. 8157687 dated 05.10.2023 on self-assessment basis. Further, the said BOE was assigned for Faceless Assessment wherein Faceless Assessment Group (hereinafter referred to as "FAG") during the course of assessment raised a query that "Declared Value Appears To Be Low As Per Lme/Dgov Valuation Guidelines/Contemporary Imports, Why Should Not Value Enhance As Per Contemporaneous Data, Please Explain. Pls Declare Nature And Composition Of Goods Via Valid Test Report. Pls Upload Bis Certificate /Noc From Technical Committee Of Ministry Of Steel" to which the appellant had submitted (e-Sanchit) an earlier copy of Bill of Entry No. 7026534 dated 24.07.2023, which was imported through same supplier of the same country having almost same quantity and price.

2.1 However, the FAG while assessing the impugned BOE rejected the value declared by the appellant during self assessment and enhanced the value and duty thereon as follows:

| | Actual Value as per Appellant | Enhanced Value |
|---|-------------------------------|----------------|
| Unit Price (USD) | 450.00 | 750.00 |
| Quantity in M.T. | 41.895 | 41.895 |
| Total Value (INR) (Exchange Rate @ Rs. 84.05) | 1584573.638 | 2640956.063 |
| Insurance (1.125% of value) | 17826.45342 | 29710.7557 |
| Total Assessable value (Rs.) | 1602400.091 | 2670666.818 |
| Basic Custom Duty @ 10% | 160240.009 | 267066.682 |
| Social Welfare Charges @ 10% | 16024.0009 | 26706.6682 |
| IGST @18% | 320159.538 | 533599.23 |
| Total Duty/ IGST Payable (Rs.) | 496423.548 | 827372.58 |
| Diference (Disputed Duty) (Rs.) | | 330949 |

Further, the appellant had paid the duties and taxes on enhanced value under protest at the material time as per letter dated 12.10.2023 and out of charge of the goods was allowed on 13.10.2023.

3. Being aggrieved with the assessment of impugned BOE, the appellant has filed the present appeal and mainly contended the following:

- That the FAG has failed to comply with the mandatory procedure laid down under Para 5.4 of CBIC Instruction No. 09/2020-Customs dated 05.06.2020, which requires issuance of a **speaking order** and an opportunity of hearing to the importer in case of any variation from self-assessment. The reassessment order is, therefore, void ab initio and deserves to be quashed.
- No speaking order has been passed as required under Section 17(5) of the Customs Act, 1962. The reassessment has been carried out without assigning valid reasons or legal justification, violating the statutory mandate.
- That the declared transaction value has been arbitrarily rejected without following the procedure prescribed under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. No evidence has been brought on record to doubt the truth or accuracy of the declared value.
- That the FAG has not cited any contemporaneous import data of identical or similar goods to justify the enhancement in value. In fact, the appellant had submitted a comparable earlier Bill of Entry with the same supplier, same country of origin, and similar price, which was ignored without reason.
- That the enhancement from USD 450/MT to USD 750/MT is arbitrary and devoid of any evidentiary basis. No material has been shown to demonstrate that any additional consideration was paid by the appellant over and above the invoice value.
- That the enhanced duty was paid under protest, as the appellant was in urgent need of the goods. Therefore, this payment cannot be treated as acceptance of the reassessment.
- They have relied upon the following Judgments:

- *Amarjeet Enterprises v. CC (Import), Mumbai* – 2019 (370) ELT 1569 (Tri. - Mumbai)
- *Guru Rajendra Metalloys v. CC, Ahmedabad* – 2020 (374) ELT 617 (Tri. - Ahmd.)
- *Prasad Enterprises v. CC (Import), Mumbai* – 2014 (302) ELT 261 (Tri. - Mumbai)




PERSONAL HEARING

4. Shri Gulamabbas Masani, Director of the appellant company attended the personal hearing on 28.05.2025 in virtual mode on their behalf. He reiterated the submission made in the appeal memorandum.

DISCUSSION & FINDINGS

5. I have gone through the appeal memorandum filed by the appellant, records of the case and submissions made during personal hearing. The main contention in the appeal is that assessing officer had not issued any speaking order and without giving any opportunity of personal hearing, wrongly rejected the declared value. Therefore, the main issue to be decided is that the declared value rejected by the assessing officer in terms of Rule 12 of Customs Valuation Rules, 2007 and enhancing the declared value, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 Before going into the merits of the case, I find that as per CA-1 Form of the Appellant, the present appeal has been filed on 11.12.2023 against the impugned order dated 05.10.2023 received by the appellant on 13.10.2023, which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

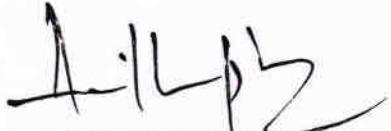
6.2 I find that the appeals have been filed against assessment of Bill of Entry. It is observed that the Hon'ble Supreme Court in case of ITC Ltd Vs CCE Kolkata [2019 (368) ELT216] has held that any person aggrieved by any order which would include self-assessment, has to get the order modified under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

6.3 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. Copies of appeal memorandum were also sent to the jurisdictional officer for comments. However, no response has been received from the jurisdictional office. Therefore, I find that remitting the case to the proper officer for passing speaking orders in each case becomes sine qua non to meet the ends of justice. Accordingly, the case is required to be remanded back, in terms of sub-section (3) of Section 128A of the Customs Act,

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

7. In view of the above discussion, I allow the appeal by way of remand to the proper officer for passing fresh order after examining the available facts, documents, submissions and after giving the sufficient opportunity to the appellant of being heard thus maintaining the principles of natural justice and legal provision.




 (AMIT GUPTA)
 Commissioner (Appeals)
 Customs, Ahmedabad

Date: 18.06.2025

F.No. S/49-147/CUS/MUN/2023-24
 1500

By Registered Post A.D / E-Mail.

To,
 M/s. Bhavnagar Exim Pvt. Ltd.,
 Block No. 59, Paiki 2/ Paiki-1,
 Village Mamsa, Taluka Ghogha,
 Bhavnagar, Gujarat

सत्यापित/ATTESTED

 अधीकारी/SUPERINTENDENT
 सीमा शुल्क (अधीकारी), अहमदाबाद
 CUSTOMS (APPEALS), AHMEDABAD

Copy to:-

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