सीमाशुल्क(अपील) आयुक्तकाकार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS),अहमदाबाद AHMEDABAD,
चौथी मंज़िल 4th Floor, हडकोभवनHUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाषक्रमांक Tel. No. 079-26589281
DIN – 20261071MN00001AE85E

क	फ़ाइलसंख्या FILE NO.	S/49-77/CUS/KDL/2024-25
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	KDL-CUS-000-APP-60-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.10.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	KDL/ADJ/DC/158/RD/2024-25 dated 12.11.2024 passed by the Deputy Commissioner of Customs, Customs House, Kandla.
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	26.10.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT AND RESPONDENT :	M/s HL Commodities LLP, Shed No. 241, Spl. CIB Type, Sector-3, GF & FF, Kandla Special Economic Zone, Gandhidham, Kutch

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

Brief facts of the case

1. M/s H.L. Commodities LLP (The Appellant,) is an SEZ unit situated at Shed No. 241, Spl. CIB Type, Sector-III, GF & FF, Kandla Special Economic Zone (KASEZ), Gandhidham, Kutch, holding a Letter of Approval (LoA) dated 28.11.2018 granted by the Development Commissioner, KASEZ to carry out manufacturing/trading operations, and had executed a Bond-cum-Legal Undertaking in Form-H.

2. Under Bill of Entry No. 1014949 dated 02.11.2021 the Appellant imported 8,000 kg (8 MT) of "Betel Nut Split 80–85%" (declared under CTH 08029000) and 8,050 kg (8.05 MT) of whole betel nut, duty-free from AM/s PT Sri Janya Agro, Indonesia, for use as raw material in the manufacture of tobacco products (gutkha/pan masala) for export.

3. Vide letters dated 08.06.2022 addressed to the Security Officer, KASEZ, the Appellant reported that theft of 2,000 kg (25 bags of 80 kg each) of split supari had occurred from its factory premises in a staggered manner on 29.05.2022, 31.05.2022 and 07.06.2022, detected on review of CCTV footage. FIR No. 11993007220495 dated 09.06.2022 was registered at Gandhidham 'B' Division Police Station under Sections 457 and 380 IPC.

4. The local police recovered 1,200 kg of the stolen supari from the accused (Muddamal Receipt Nos. 179/22, 180/22 and 218/22). By order dated 06.09.2022 (Letter No. 2552/22), the Hon'ble Civil Judge, Gandhidham directed the Police Inspector, B-Division, to hand over the recovered 1,200 kg to the Appellant's authorised representative, Shri Jitendra Rajkumar Morya; this was effected on 09.09.2022. KASEZ Customs Authority permitted re-entry of the recovered goods into the SEZ vide letter dated 21.10.2022.

5. On physical examination/weighment at re-entry into KASEZ on 22.10.2022, the quantity actually received was found to be only 1,060 kg, a shortfall of 140 kg against the 1,200 kg stated to have been recovered by the police. The net quantity remaining unaccounted for, after crediting the 1,060 kg returned, works out to 940 kg out of the 2,000 kg originally reported stolen.

6. By Judgment dated 05.09.2022 in Criminal Case No. 3723/2022, the Ld. Additional Chief Judicial Magistrate, Gandhidham acquitted the accused persons for want of proof of identity beyond reasonable doubt; the factual occurrence of theft itself was not disturbed. The Appellant states an appeal against the acquittal is pending, though the forum is not clearly specified in the record.

7. A Show Cause Notice bearing F.No. GEN/ADJ/DC/63/2024-Adjn-O/o-Commr-Cus-Kandla dated 21.05.2024 was issued proposing (a) re-classification of the goods from CTH 08029000 to CTH 08028020; (b) rejection/re-assessment of value; (c) confiscation of goods valued at Rs. 4,23,850/- under Section 111(d) & 111(o) of the Customs Act, 1962; (d) recovery of customs duty of Rs. 4,66,235/- under Section 28(1)(b) read with Sections 26 & 30 of the SEZ Act, 2005 and Rules 22, 25, 34, 47 & 48 of the SEZ Rules, 2006; (e) interest under Section 28AA; (f) penalty under Section 112; and (g) enforcement of the Bond-cum-Legal Undertaking.

8. The Deputy Commissioner of Customs, Custom House, Kandla, by Order-in-Original No. KDL/ADJ/DC/158/RD/2024-25 dated 12.11.2024 ("impugned order"), confirmed the proposals in the Show Cause Notice: re-classified the goods under CTH 08028020, re-assessed the value by applying the tariff value in force on the date of removal, held the goods (valued at Rs. 4,23,850/-) liable to confiscation under Sections 111(d) and 111(o) with an option of redemption fine of Rs. 50,000/- under Section 125, confirmed Customs duty of Rs. 4,66,235/- under Section 28(1)(b) with interest under Section 28AA, imposed a penalty of Rs. 46,000/- under Section 112(a)(ii), and ordered enforcement of the Bond-cum-Legal Undertaking.

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9. Aggrieved by the impugned order, the Appellant filed the present appeal, along with a pre-deposit of Rs. 34,968/- (being 7.5% of the duty demanded) in terms of Section 129E of the Customs Act, 1962 on the following grounds.

9.1 Classification: The Appellant submits that the goods were correctly classifiable under CTH 08029000 as declared, that the re-classification to CTH 08028020 was made without following the General Rules for Interpretation, and that, in any event, since the stolen goods were never available for physical examination, any exercise of re-classification is speculative and impermissible. The burden of proving mis-classification lies on the Department, and reliance is placed on CCE v. Vicco Laboratories, 2005 (179) ELT 17 (SC).

9.2 Valuation: The Appellant submits that the declared/assessable value of Rs. 4,23,850/- ought to have been accepted, that rejection of this value without following the sequential procedure under Rules 4 to 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is impermissible, and that the demand of Rs. 4,66,235/- itself, exceeding the value of the goods, is arithmetically and legally unsustainable. Reliance is placed on Eicher Tractors Ltd. v. CC, Mumbai, (2000) 122 ELT 321 (SC) and CC, Vishakhapatnam v. Aggarwal Industries Ltd., (2011) 272 ELT 641 (SC). The Appellant also attributes the 140 kg gap between the quantity recovered by the police (1,200 kg) and the quantity actually received (1,060 kg) to natural moisture loss while the goods were in police custody.

9.3 Sustainability of the duty demand under Section 28: The Appellant submits that Section 28 is a machinery provision requiring proof of collusion, wilful mis-statement or suppression, that a mere shortage caused by an established third-party theft cannot be equated to clandestine removal, and that no positive evidence of diversion to the domestic market has been produced. Reliance is placed on Oudh Sugar Mills Ltd. v. Union of India, 1978 (2) ELT (J172) (SC) and Sushil Kumar Kayan v. Assistant Collector of Customs, 1993 (68) ELT 537. The Appellant further submits that, since the theft is an event beyond its control, the duty ought to be remitted under Section 23 of the Customs Act, 1962.

9.4 Confiscation and penalty: The Appellant submits that Section 111(d) requires import contrary to a statutory prohibition, which is neither alleged nor established, and that Section 111(o) requires a knowing or intentional breach of a condition of exemption, which is equally absent in a case of documented night-time burglary. In the absence of mens rea, no penalty under Section 112 is sustainable. Reliance is placed on B.G. Dhatu Udyog Ltd. v. CCE, Delhi-III, 2003 (158) ELT 624 (Tri.-Del.).

9.5 The Appellant also relies on the acquittal of the accused persons by the Ld. Additional Chief Judicial Magistrate, Gandhidham, by judgment dated 05.09.2022 in Criminal Case No. 3723/2022, and states that an appeal against the acquittal is pending.

9.6 The Appellant has prayed that the impugned order be set aside, or, in the alternative, that the matter be remanded for de novo determination of value and duty.

10. Personal Hearing

Personal hearing in the matter was held on 11.06.2026. Ms. Pragya Agarwal, Advocate, appeared on behalf of the Appellant, reiterated the grounds taken in the appeal, and thereafter filed detailed writtensubmissions dated 17.07.2026 elaborating the above grounds.

11. Discussion and Findings

11.1 I find that the impugned order is dated 12.11.2024 and was communicated to the Appellant on the same date. The appeal was received in this office on 10.01.2025, i.e., within the period of sixty days prescribed under Section 128 of the Customs Act, 1962. The appeal is, therefore, filed in time.

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11.2 I find that the duty demanded in the impugned order is Rs. 4,66,235/-, and the Appellant has made a pre-deposit of Rs. 34,968/-, being 7.5% of the duty demanded, in terms of Section 129E of the Customs Act, 1962. The statutory requirement of pre-deposit stands satisfied, and the appeal is maintainable.

11.3 I have carefully gone through the impugned order, the grounds of appeal, and the written submissions filed by the Appellant. The following issues arise for determination: (i) whether the goods are correctly classifiable under CTH 08028020 as held in the impugned order; (ii) whether the value adopted in the impugned order for computing duty is correct; (iii) whether Customs duty of Rs. 4,66,235/- is recoverable from the Appellant under Section 28 of the Customs Act, 1962 read with the SEZ Act, 2005 and Rules; and (iv) whether the goods are liable to confiscation under Section 111, and the Appellant liable to penalty under Section 112, of the Customs Act, 1962.

11.4 Classification: I find that this question does not, in fact, remain in dispute. In its own reply before the adjudicating authority, as recorded at Ground XV of the Appellant's submissions (reproduced at paragraph 22 of the impugned order and again at paragraph 11(XV) of the Appellant's own appeal memorandum), the Appellant stated in terms that betel nut, whole and split, is covered under Customs Tariff Items 08028010 and 08028020, that classification under CTH 08028020 "appears to be sustainable", and that the declaration under CTH 08029000 was "a bonafide mistake" on its part. An admitted fact requires no further proof, and a party cannot, without explanation, take a position in appeal directly contrary to what it admitted before the adjudicating authority. The burden on the Department, referred to in CCE v. Vicco Laboratories, stands discharged by the Appellant's own admission. I find no infirmity in the re-classification of the goods under CTH 08028020, and this ground fails.

11.5 Valuation: I find that the impugned order has not disturbed the original transaction value of Rs. 4,23,850/- declared for the goods; that value continues to be used for the purpose of valuing the goods for confiscation under Section 111. What the impugned order has done differently is to compute the Customs duty payable on the quantity not accounted for by applying the tariff value fixed by the Government for Areca Nuts/Betel Nuts (USD 5477 per Metric Tonne) under Notification Nos. 41/2022-Customs (NT) dated 13.05.2022 and 46/2022-Customs (NT) dated 31.05.2022, which were in force during the period of the theft. This is a distinct valuation exercise, undertaken because the goods were never cleared into the DTA in the ordinary course but are deemed to have been so cleared on account of the SEZ unit's failure to account for them; it is not a case of rejecting a declared transaction value for assessment of an import in the ordinary sense, and the sequential procedure under Rules 4 to 9 of the Customs Valuation Rules, 2007, relied upon by the Appellant, has no application to this exercise. Eicher Tractors and Aggarwal Industries, both concerned with rejection of declared import value, are accordingly distinguishable.

11.6 I also find no substance in the submission that the duty demand of Rs. 4,66,235/- is arithmetically absurd merely because it exceeds the original transaction value of Rs. 4,23,850/-. The duty has been computed, not on the full 2,000 kg originally stolen, but on the net quantity of about 940 kg that was never returned to the Appellant (2,000 kg stolen, less 1,060 kg actually received back), using the tariff value referred to above, which was considerably higher than the 2021 invoice price, together with the duty rate applicable to betel nuts, a commodity that has for some years attracted a high rate of duty precisely to guard against under-valuation. Once the correct basis of computation is appreciated, there is nothing unusual in the resulting duty figure, and this ground also fails.

11.7 I have also considered the Appellant's submission that the 140 kg gap between the quantity recorded as recovered by the police (1,200 kg) and the quantity actually weighed on return to the SEZ (1,060 kg) represents natural moisture loss. I find, as also noted in the impugned order, that the Appellant took delivery of the goods from the police without independent weighment, never lodged any complaint or informed the Hon'ble Civil Court of this shortfall, and has placed no

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material of any kind – such as a report on the moisture-retention characteristics of betel nut – in support of the moisture-loss explanation. The explanation remains a bare assertion. In any event, whether the 140 kg was lost to moisture, mishandling, or otherwise, it remains a quantity of duty-free imported goods that was not utilised in the Appellant's authorised operations and was not accounted for; the consequences under Rule 25 of the SEZ Rules, 2006 follow regardless of the precise reason for the shortfall.

11.8 Recoverability of duty under Section 28: Rule 25 of the SEZ Rules, 2006 provides that where an SEZ unit does not utilise duty-free goods for authorised operations, or is unable to account for them, it shall refund the exemption availed, without prejudice to any other action. This is a statutory consequence attached to non-utilisation or non-accountal as such, and does not require the Department to separately establish collusion, wilful mis-statement, suppression, or clandestine diversion. The fact that the goods were stolen by unknown third parties does not, by itself, absolve the Appellant of its obligation to account for duty-free goods entrusted to it; the SEZ scheme casts that responsibility squarely on the unit, and the Appellant's own security lapses – the theft over three occasions going unnoticed for over a week, and the unexplained shortfall on return of the recovered goods – bear on whether that responsibility was discharged.

11.9 I do not find merit in the plea for remission under Section 23 of the Customs Act, 1962. Section 23(1) applies, by its own terms, only where imported goods are lost "before clearance for home consumption". In the present case, the goods were cleared into the SEZ under bond in 2021, and the theft occurred more than six months later, while the goods were lying warehoused in the Appellant's own factory. This is a post-clearance loss, to which Section 23(1) has no application on its plain language.

11.10 Confiscation and penalty: I find that Section 111(o) of the Customs Act, 1962, which applies to exempted goods dealt with in breach of a condition of exemption, is squarely attracted on the facts found above – the goods were not utilised in authorised operations and were not properly accounted for, in breach of the conditions of the Letter of Approval and the Bond-cum-Legal Undertaking in Form-H. As regards Section 111(d), which ordinarily applies to goods imported contrary to a statutory prohibition, the Appellant's submission that betel nut is not a prohibited item carries some force; however, since confiscation is independently and adequately sustained under Section 111(o), it is not necessary to further examine the applicability of Section 111(d) to sustain the impugned order, and the redemption fine of Rs. 50,000/- imposed under Section 125 in lieu of confiscation does not call for interference. The penalty of Rs. 46,000/- under Section 112(a)(ii), following from this confiscation liability and the Appellant's failure to safeguard and account for duty-free goods, is also sustainable.

11.11 The acquittal of the accused persons in Criminal Case No. 3723/2022, and the appeal stated to be pending against that acquittal, do not affect the outcome of this appeal. The trial court's acquittal was for failure to establish the identity of the culprits beyond reasonable doubt; it did not disturb the finding that a theft did in fact occur, and the Department has not disputed that a theft occurred. The Appellant's liability in the present proceedings does not depend on establishing who committed the theft; it flows from the SEZ unit's own obligation to utilise and account for duty-free goods, which obligation remains regardless of the outcome of the criminal proceedings. No purpose would be served by awaiting the result of any further appeal in the criminal matter, particulars of which, in any event, have not been placed on record.

11.12 For the same reason, I do not find any ground to remand the matter for a fresh determination. The relevant facts, the fact and quantum of theft, the quantity recovered, the quantity actually received back, and the classification of the goods are on record and are not genuinely in dispute; a remand would serve no purpose.

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Order

12. In view of the above, I find no infirmity in Order-in-Original No. KDL/ADJ/DC/158/RD/2024-25 dated 12.11.2024. The appeal filed by M/s HL Commodities LLP is rejected, and the impugned order is upheld.

Vishwajeet Singh 26.10.2026.

(Vishwajeet Singh)
Commissioner (Appeals), Customs, Ahmedabad

F. No. S/49-77/CUS/KDL/2024-25
Date: 26.10.2026

By Registered Post A.D.

M/s HL Commodities LLP, Shed No. 241, Spl. CIB Type, Sector-3, GF & FF, Kandla Special Economic Zone, Gandhidham, Kutch.

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1. The Chief Commissioner, Customs, Ahmedabad
2. The Commissioner, Customs, Kandla
3. The Development Commissioner, KASEZ, Gandhidham.
4. The Deputy Commissioner, Customs, KASEZ, Gandhidham.
5.. The Assistant Commissioner, SIIB, Custom House, Kandla.
6. Guard File.