



सीमा शुल्क आयुक्त का कार्यालय,
नवीन सीमा शुल्क सदन, नया कंडला
OFFICE OF THE COMMISSIONER OF CUSTOMS,
NEW CUSTOM HOUSE, NEW KANDLA-370 210 (GUJARAT)
Phone No: 02836-271468/469, Fax No. : 02836-271467.

फा.सं./ F. No. S/6- 01/Ref/2018-19

आदेश की दिनांक / Date of Order: 17 / 07 / 2019

जारी करने की दिनांक/ Date of Issue: 17 / 07 / 2019

पारित कर्ता/ Passed by: - मुकेश चढ़ा / MUKESH CHADHA
सहायक आयुक्त/Assistant Commissioner,
सीमा शुल्क सदन, कंडला/ Customs House, Kandla.

आदेश में मूल सं/ ORDER-IN- ORIGINAL No.: KDL/AC/MC/ 86 /Ref/2019-20

1. जिसके लिये यह प्रतिलिपि जारी की जाती है उस व्यक्ति के उपयोग के लिए यह नि: शुल्क दी जाती है।
This copy is granted free of charge for the use of person to whom it is issued.
2. इस आदेश के विरुद्ध अपील सीमा शुल्क अधिनियम-1962 की धारा-128 के तहत उक्त अपील की प्रति के साथ, आयुक्त के कार्यालय 7 वीं मंजिल मृदुल टॉवर, टाइम्स ऑफ इंडिया बिल्डिंग के पास, आश्रम रोड, अहमदाबाद, गुजरात 380009 में इस आदेश के जारी होने की तिथि से साठ दिनों के भीतर दायर की जानी चाहिए।

An appeal against this order lies with the Commissioner(Appeals), having office at 7th floor, Mridal Tower, Near Times of India Building, Ashram Road, Ahmedabad, Gujarat – 380 009 in terms of section 128 of the Customs Act, 1962. It should be filed within sixty days from the date of communication of this order.

3. यह अपील सीमा शु नियमावली-1982 के नियम-3 के उपनियम-(2) में निर्दिष्ट व्यक्ति द्वारा हस्ताक्षरित निर्धारित प्रारूप में दायर किया जाना चाहिए। उक्त अपील को दो प्रतियों में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियां संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। संबन्धित सभी दस्तावेज चार प्रतियों में भेजे जाने चाहिए। उक्त अपील, अपील के उचित समय और दिनांक को कमिश्नर (अपील) कार्यालय, अहमदाबाद में व्यक्तिगत रूप से प्रस्तुत किया जाए।

An appeal should be filed in format prescribed. It shall be signed by the person specified in sub-rule (2) of rule 3 of the Customs Appeals Rules, 1982. It shall be filed in duplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents should be forwarded in quadruplicate. The appeal shall be presented in person to the office of the Commissioner (Appeals), Ahmedabad, but the date of receipt in the office will be relevant date of appeal whether in time or not.

4. अनुसूची-1 में न्यायालय शुल्क अधिनियम, 1870 के मद सं. 6 के तहत इस आदेश की प्रतिलिपि साथ निर्धारित 5/- रुपए का स्टाम्प कोर्ट फीस के रूप में वहन करना चाहिए।

The copy of this order attached herein should bear a Court Fee Stamp of Rs. 5/- (Rupees five only) as prescribed under 128 of the Customs Act, 1962.

Sub:-Refund claim application dated 15.05.2019 (received on 16.05.2019) for Rs. 64,193/- (Rupees Sixty Four Thousand One Hundred and Ninety Three only) filed by M/s. Indian Oil Corporation Limited (Marketing Division), LPG Import Plant, Kandla, Kutch (Gujarat)-370210.

Brief facts of the case:

(1) M/s. Indian Oil Corporation Limited (Marketing Division), LPG Import Plant, Kandla, Kutch (Gujarat)-370210 (hereinafter referred to as the "Claimant") have submitted a claim of refund for an amount of **Rs. 64,193/-** vide letter dated 15.05.2019 along with the relevant supporting documents and the same was acknowledged by this office on 16.05.2019. The said refund claim pertains to erroneously charged interest for an amount of Rs. 64,193/- by ICEGATE on bill of entries processed under "Deferred" mode even though the payment was made within the due date by the claimant. The refund claim is filed under Section 27 of the Customs Act, 1962.

(2) The claimant has filed the refund claim along with the following documents in support of their claim;

- i. Refund Applications in prescribed Performa.
- ii. Statement/Working Sheet for the amount of Customs duty Refund claimed.
- iii. Provisional Bill of Entry (Copy) (Original retained by importer for final assessment);

(a) 2579640/26.03.2019, (b) 2555230/25.03.2019, (c) 2556413/25.03.2019, (d) 2579650/26.03.2019, (e) 2465768/18.03.2019, (f) 2499235/20.03.2019, (g) 2499254/20.03.2019, (h) 2465755/18.03.2019, (i) 2483238/19.03.2019, (js) 2480841/19.03.2019.

- iv. Statement confirming bill of entry wise interest refund amount duly signed by Appraiser of Customs (Gr. I) and Assistant Commissioner of Customs (Gr.I), CH Kandla.
- v. Copy of e-payment challan of respective B/Es for payment of duty with interest.
- vi. Original Chartered Accountant Certificate dated 01.07.2019 issued by Vinal C. Sand, Chartered Accountant, Surat certifying that the interest deposited by M/s. Indian Oil Corporation Limited, Marketing Division, LPG Import Plant, Kandla against each Bill of Entry has not been passed on the duty to buyers / consumers, which has been paid against the provisional assessment of Bill of Entry along with verification of statement duly certified by the said C.A.
- vii. Undertaking dated 04.05.2019.
- viii. Declaration dated 04.05.2019.
- ix. Reply received by claimant from Dy. Commissioner of Customs (AG), CH Kandla dated 04.04.2019 asking importer to claim refund of the interest amount erroneously charged by ICEGATE systems.
- x. Reply received from ICEGATE by importer.

Findings:

(3) I have carefully gone through the case record submitted by the claimant. I find that the claimant has filed the refund claim on account of interest erroneously charged to the tune of Rs. 64,193/- by ICEGATE on bill of entries processed under "Deferred" mode even though the payment was made within the due date by the claimant; hence the claimant has filed the refund claim for differential amount of **Rs. 64,193/-** excess paid by them. The details of the same are as under;

Vessel Name	BL Date	BOE No	BOE date	Product	Challan No.	Challan Amount (Rs.)	Amount payable by IOCL (Rs.)	Interest Charged (Rs.)
Anka	22-03-2019	2579640	26-03-2019	Butane Domestic	2026432508	165,05,620	164,98,840	6,780
Brussels	19-03-2019	2555230	25-03-2019	Propane Domestic/ Propane Non Domestic	2026412360	227,34,255	227,24,916	9,339
Brussels	19-03-2019	2556413	25-03-2019	Butane Domestic	2026412260	106,81,181	106,76,793	4,388
Anka	22-03-2019	2579650	26-03-2019	Propane Domestic/ Propane Non Domestic	2026432524	151,98,445	151,92,202	6,243
Anka	12-03-2019	2465768	18-03-2019	Propane Domestic/ Propane Non Domestic	2026332516	175,10,999	175,03,806	7,193
Warinsart	17-03-2019	2499235	20-03-2019	Propane Domestic	2026361311	102,31,041	102,26,838	4,203
Warinsart	17-03-2019	2499254	20-03-2019	Butane Domestic	2026361325	138,52,131	138,46,441	5,690
Anka	12-03-2019	2465755	18-03-2019	Butane Domestic/ Butane Non Domestic	2026332504	207,72,018	207,63,485	8,533
Dicle	16-03-2019	2483238	19-03-2019	Butane Domestic	2026344910	137,54,605	137,48,955	5,650
Dicle	16-03-2019	2480841	19-03-2019	Propane Domestic/ Propane Non Domestic	2026344565	150,28,411	150,22,237	6,174
						1562,68,706	1562,04,513	64,193

From the above, I find that the claimant has paid interest erroneously charged by ICEGATE of Rs. **64,193/-** at the time of duty payment of aforementioned Bill of Entry on provisional assessment basis. Dy. Commissioner of Customs (AG), CH Kandla in reply ref. S/20-03/IOCL-AEO/AG/2019-20/120 dated 04.04.2019 to importer's letter asked Indian Oil Corporation Limited to make application for refund in prescribed format before this office.

3.1 From the above, it appears that the claimant was liable to pay only Customs duty and IGST totaling to Rs. **15,62,04,513/-** against above referred Ten Bill of Entries at the time of payment before due date, whereas they were asked to pay Rs. **15,62,68,706/-** in respect of above referred bill of entry at the time of payment even before due date prescribed in Notification No. 28/2017 Customs(NT) dated 31.03.2017. Thus, it appears that they have made excess payment on account of wrong levy of interest amounting to Rs. **64,193/-** and therefore, they are eligible for refund of interest amount paid by them.

(4) Further, statement confirming the bill of entry wise interest amount to be refunded has been signed by the Deputy Commissioner of Customs (Gr.I), Customs House, Kandla and the Superintendent

(Group-I), Customs House, Kandla on dtd. 15.05.2019 verifying the amount of Rs. 64,193/- of interest paid by the claimant which is liable to be refunded.

Thus, relying upon the above details, I hold that the above interest paid by payment was erroneously levied by ICEGATE system as claimant had discharged the duty well within due date prescribed for AEO T-2 holder under Notification No. 28/2017-Customs (N.T.) dated 31.03. 2017 and accordingly the claim for interest amount appears to be justified and correct.

(5) I find that the Vimal C. Sand, Chartered Accountant vide his certificate dated 01.07.2019 has certified the interest refund amount against each Bill of Entry that the claimant has not passed on the duty to buyer/ consumer. Hence, I am satisfied that there is no unjust enrichment in the present case.

(6) As regards to limitation of filing refund claim within one year from the date of payment of duty or from the date of final assessment, I find, in the present case, the payment of interest against above Bill of Entry was made on/ during March-2019 and this refund claim was filed to this office on 16.05.2019, which is within stipulated period of one year from the date of finalization of provisional assessment of B/Es under the provisions of Section 27 of the Customs Acts, 1962, therefore, I find the claim is not hit by time bar.

(7) In view of above facts and circumstances, I hold that the clamant is eligible for refund of interest paid Rs.64,193/- under the provisions of Section -27 of the Customs Acts,1962.

X (8). This Refund claim file is not required to be sent for pre audit as the amount of refund claim is below Rs. 5 Lacs. Moreover, the Asstt. Commissioner (TRC), Customs House, Kandla vide letter F. No. S/20-02/NOC-Ref/Rec/2018-19 dtd. 17.07.2019 informed this office that there are no government dues pending against M/s. Indian Oil Corporation Limited LPG Import Plant, Kandla.

(9). In view of the above facts and the discussions herein, I pass the following order-

ORDER

I hereby sanction the refund of Rs. 64,193/- (Rupees Sixty Four Thousand One Hundred and Ninety Three Only) to the claimant M/s. **Indian Oil Corporation Limited (Marketing Division), LPG Import Plant, Kandla, Kutch (Gujarat)-370210** under Section 27 of the Customs Act, 1962.

Mukesh
17/07/19

(Mukesh Chadha)

Assistant Commissioner (Refund)
Customs House, Kandla.

F.No./फा.सं.- S/6- 01/ Refund/2018-19

Dated: /07/2019.

BY REGD. POST / HAND DELIVERY

To

M/s. Indian Oil Corporation Limited (Marketing Division),
LPG Import Plant, Kandla,
Kutch (Gujarat)-370210.

- Copy to: 1) Deputy Commissioner (RRA) CH Kandla
2) Guard File Refund Section
3) Refund Section Respective file.
4) Dy. Comm. EDI Section CH Kandla

Supch (EDI)

