



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.

आदेश की दिनांक / Date of Order: 02/08/2019

1. S/6-198/Ref./2018-19
2. S/6-200/Ref./2018-19
3. S/6-201/Ref./2018-19
4. S/6-202/Ref./2018-19
5. S/6-203/Ref./2018-19
6. S/6-204/Ref./2018-19
7. S/6-205/Ref./2018-19
8. S/6-206/Ref./2018-19

spdt (EOD)
- 88
6-8-2019

जारी करने की दिनांक/ Date of Issue: 02/08/2019

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/ 89 /Ref/2019-20

1. जिसके लिये यह प्रतिलिपि जारी की जाती है उस व्यक्ति के उपयोग के लिए यह निः 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-I 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 applications dated 21.02.2019 (filed on 12.03.19 & 14.03.2019) for total amount of Rs. 26,069/- (Rupees Twenty Six Thousand Sixty Nine 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 bill of entry wise claim of refund for total amount of Rs. 26,069/- vide 8 letters dated 21.02.2019 along with the relevant supporting documents and the same was acknowledged by this office on 12.03.2019 & 14.03.2019. The said refund claim pertains to payment of differential duty excess paid by the claimant at the time of import consignments provisionally, which were finally assessed subsequently during May 2018. The refund claim is filed under Section 27 of the Customs Act, 1962.

(2). The claimant has filed bill of entry wise refund claims along with the following documents in support of their claim;

- Refund Applications in prescribed Performa.
- Statement/Working Sheet for the amount of Customs duty Refund claimed.
- Provisional Bill of Entry Duplicate (Importer copy) in original as under;
(i) 3421160/28.09.2017, (ii) 3420744/28.09.2017, (iii) 3246742/15.09.2017, (iv) 3246778/15.09.2017, (v) 3664354/18.10.2017, (vi) 3662168/18.10.2017, (vii) 3324768/21.09.2017, (viii) 3324736/21.09.2017

The above Home Consumption Bill of Entries are finally assessed as per letter issued by Dy. Commissioner of Customs (Gr. I), Kandla Ref. S/26-03/Final BE/Gr. I/2015-16 dated 16.05.2018.

- Copy of relevant e-payment challans / TR-6 Challans against respective B/Es. Duty payments.
- Bill of Entry wise Original Chartered Accountant Certificate all dated 09.05.2019 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 passed on the duty to buyers / consumer, which has been paid against the provisional assessment of Bill of Entry.
- Undertaking dated 20.05.2019.

Findings:

(3). I have carefully gone through the case record submitted by the claimant. I find the claimant has filed the refund claim on account of excess payment of duty than it is assessed provisionally by the assessing officer of Group-I, Kandla Customs at the time of importation and the said assessment has been finalized during May 2018, the claimant has filed the refund claim for differential duty of Rs. 2,6069/- excess paid by them. The details of the same are as under:

Sr. No.	File No.	BOE No./Date	Vessel	Amount(Rs.)	Claim filed on
1	S/6-198/Ref./2018-19	3324768/21.09.17	Anafi	1,266	12.03.19
2	S/6-200/Ref./2018-19	3324736/21.09.17	Anafi	2,799	14.03.19
3	S/6-201/Ref./2018-19	3662168/18.10.17	Anafi	4,932	14.03.19
4	S/6-202/Ref./2018-19	3664354/18.10.17	Anafi	3,288	14.03.19
5	S/6-203/Ref./2018-19	3246778/15.09.17	Manitoba	6,459	14.03.19
6	S/6-204/Ref./2018-19	3246742/15.09.17	Manitoba	4,521	14.03.19
7	S/6-205/Ref./2018-19	3421160/28.09.17	Manitoba	935	14.03.19
8	S/6-206/Ref./2018-19	3420744/28.09.17	Manitoba	1,869	14.03.19
Total				26,069/-	

3.1 From the above, it appears that the claimant have made excess payment of customs duty total amounting to Rs. 26,069/- and therefore, they are eligible for refund of excess customs duty paid by them.

(4). Further, the Deputy Commissioner of Customs (Gr.I), Customs House, Kandla vide letter F.No. S/26-03/ Final BE/Gr. I/2015-16 dated 16.05.2018 has reported that the bill of entries are finally assessed and reported bill of entry wise calculation. The difference between the duty payable figure as per the

calculation sheet and the duty payable as per the provisionally assessed BOE is due to reason that while finally assessing the BOE, the data (i.e. Qty receipt, final invoice rate etc) cannot be changed/edited in the system. However, the changes made are mentioned in the Comments section of the BOE. Therefore, there is a difference between the duty payable / paid as shown in the system and actual duty payable/paid. As far as the copies of provisionally assessed Bills of Entry are concerned, the same are not available with their section as all the documents get submitted to MCD section after examination procedure.

Thus, relying upon the above report, I hold that the above Bill of Entry were provisionally assessed and they were subsequently re-assessed/finally assessed by the concerned group of the Customs House, Kandla, and according the claim for excess payment of duty than its assessed are appears to be justified and correct.

(5). I find that the Vimal C. Sand, Chartered Accountant vide his certificate dated 09.05.2019 has certified against each Bill of Entry separately 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 above Bill of Entry were provisionally assessed and said Bill of Entry were finally assessed during on/ during May-2018 and this refund claim was filed to this office on 14.03.2019, 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. The claim was scrutinized under the provisions of Section 27 of Customs Act, 1962 and is found in order.

(7) In view of above facts and circumstances, I hold that the clamant is eligible for refund of excess Customs Duty paid to the tune of Rs. 26069/- under the provisions of Section -27 of the Customs Acts, 1962.

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

ORDER

I hereby sanction the refund of Rs. 26,069/- (Rupees Twenty Six Thousand Sixty nine 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.

M. Chadha
02/08/19

(Mukesh Chadha)

Assistant Commissioner (Refund)
Customs House, Kandla.

Dated: 02/08/2019

F.Nos.

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2. S/6-200/Ref./2018-
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8. S/6-206/Ref./2018-19

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

