



सीमा शुल्क आयुक्त का कार्यालय, सीमा शुल्क सदन, कांडला  
नया सीमा शुल्क भवन, बालाजी मंदिर के नजदीक, कांडला, गुजरात  
OFFICE OF THE COMMISSIONER OF CUSTOMS: CUSTOM HOUSE: KANDLA.  
New Customs Building, Near Balaji Temple  
Kandla, GUJARAT

फा.सं./ F. No. S/10-BRC/SCN-33/AC/19-20

आदेश की दिनांक/ Date of Order: 11.06.2020

जारी करने की दिनांक/Date of Issue: 11.06.2020

पारित कर्ता/ Passed by :

HEMESH CHHABRA  
ASSISTANT COMMISSIONER (BRC)  
CUSTOM HOUSE, KANDLA.

आदेशमेंमूलसं. -KDL/AC/HC/12/BRC/2020-21

ORDER-IN-ORIGINAL NO. -KDL/AC/HC/12/BRC/2020-21

306 (EOL)  
306  
19-6-2020

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 कीधारा-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 380009में 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 7<sup>th</sup> floor, Mridul 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 सीमाशुल्कनियमावली-1982 केनियम-3 केउपनियम-(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, उसकीभी उतनी ही प्रतियां संलग्न की जाएँ (उनमेंसे कमसेकम एकप्रति प्रमाणित होनी चाहिए)।संबन्धित सभी दस्तावेज चार प्रतियों में भेजे जाने चाहिए।उक्त अपील,अपील के उचित समय और दिनांक को कमिश्नर (अपील) कार्यालय, अहमदाबादमें व्यक्तिगत रूप से प्रस्तुतकियाजाए ।

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 कोर्टफीस 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 schedule-I, item 6 of the Court Fees Act, 1870.

5. उक्त अपील पर 5/- ( पाँच रुपये मात्र ) का न्यायशुल्क टिकट लगा होना चाहिए तथा इसके साथ उक्त अपील की एक प्रति और इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर 5/- ( पाँच रुपये मात्र ) का न्यायशुल्क टिकट अवश्य लगा हो संलग्न की जाये ।

The appeal should bear a court fee stamp of Rs.5.00 (Rupees five only) and it must be accompanied by A copy of appeal and this copy or any other copy of this order which must bear a court fee stamp of Rs. 5.00 (Rupees five only).

6. यदि कोई व्यक्ति इस आदेश के विरुद्ध अपील करना चाहता है तो, उक्त अपील में मांगा गया शुल्क अथवा उस पर लगायी गयी शास्ति जमा करने और उक्त अपील के साथ ऐसे भुगतान का सबूत प्रस्तुत करने पर विचाराधीन रहेगी, ऐसे करने में असफल होने पर उक्त अपील सीमा शुल्क अधिनियम-1962 कीधारा-128के प्रावधानों के गैर अनुपालन करने के लिए अस्वीकृत किए जाने योग्य होगी ।

Any person desirous of appealing against his decision or order shall pending the appeal, deposit the duty demanded or the penalty levied therein and produce proof of such payment along with the appeal failing which the appeal is liable to be rejected for noncompliance of the provisions of Section 128 of the Customs Act, 1962.

Sub: Drawback claim of Rs. 7,59,884/- of M/s. Gujarat Ambuja Exports Limited, (IEC No. 0891013041), Ambuja Tower, Sindhu Bhavan Road, Bodakdev, Opposite Sindhu Bhavan, Post- Thaltej, Ahmedabad, Gujarat



### **BRIEF FACTS OF THE CASE:**

M/s. Gujarat Ambuja Exports Limited, (IEC No. 0891013041), Ambuja Tower, Sindhu Bhavan Road, Bodakdev, Opposite Sindhu Bhavan, Post- Thaltej, Ahmedabad, Gujarat, (hereinafter referred to as the exporter) are engaged in the export of Indian Solvent Extracted Toasted Soybean Meal / Rapeseed Meal / Soybean Meal (Defatted) / Soybean Meal Non GMO / Soybeans Meal for Animal use from Kandla. The exporter are claiming drawback on the goods exported by them.

2. The exporter had exported Indian Solvent Extracted Toasted Soybean Meal / Rapeseed Meal / Soybean Meal (Defatted) / Soybean Meal Non GMO / Soybeans Meal for Animal use from Kandla vide DBK Shipping Bills mentioned in the table below and had claimed drawback amount as shown against the respective shipping bill. The drawback amount of Rs. 7,59,884/- (Rupees Seven lakh Fifty nine thousand eight hundred eighty four only) was sanctioned and paid to them against the following S/Bills.

Sr. No.	S. B No	S.B. Date	Drawback Amt. Paid Rs.	Scroll No. & Date	Expected realization date	Invoice Value
1	1189557	08-01-19	191697	32660/2019 dated 08-02-2019	08-10-19	132695614
2	1199668	09-01-19	40968	32386/2019 dated 28-01-2019	09-10-19	28358948
3	9135083	26-11-18	224181	31417/2018 dated 20-12-2018	26-08-19	159451382
4	9820064	22-12-18	204492	32239/2019 dated 23-01-2019	22-09-19	141146429
5	2959490	23-03-19	98546	34170/2019 dated 26-04-2019	23-12-19	68978340
	<b>Total</b>		<b>759884</b>			<b>530630713</b>

3. As per the records available, the exporter had failed to produce the evidence in respect of realization of export proceeds within 180 days from the date of export against these Shipping Bills.

4. As per the provisions of Rule- 17 of the Customs, Central Excise and Service Tax Drawback Rules, 2017, Where an amount of drawback and interest, if any has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub section (1) of Section 142 of the Customs Act, 1962 (52 of 1962).

5. As per the provisions of Rule- 18(1) of the Customs, Central Excise and Service Tax Drawback Rules, 2017, where an amount of drawback has been paid to an Exporter or a person authorized by him, but the sale proceeds in respect of such export goods have not been realized by or on behalf of the Exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the drawback shall be recovered.



6. As per Rule- 18(2) of the Customs, Central Excise and Service Tax Drawback Rules, 2017, If the exporter fails to produce evidence in respect of realisation of export proceeds within the period allowed under the Foreign Exchange Management Act, 1995, or any extension of the said period by the Reserve Bank of India, the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, as the case may be shall cause notice to be issued to the exporter for production of evidence of realisation of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce such evidence within the said period of thirty days, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within thirty days of the receipt of the said order.

7. As per Rule-18(3) of the Customs, Central Excise and Service Tax Drawback Rules, 2017, where the exporter fails to repay the amount under sub-rule (2) within said period of thirty days referred to in sub-rule(2) , it shall be recovered in the manner laid down in Rule- 17 of the Customs, Central Excise and Service Tax Drawback Rules, 2017.

8. Since the Exporter had failed to produce the evidence in respect of realization of export proceeds against the said S/Bills within 180 days from the respective date(s) of export, a Show Cause Notice was issued to them vide F. No. S/10-BRC/SCN-33/AC/2019-20 dated 22.04.2020 to show cause as to why the drawback amount of Rs. 7,59,884/- (Rupees Seven lakh Fifty nine thousand eight hundred eighty four only) sanctioned and paid to them should not be recovered from them along with applicable interest as per the provisions of the Rule 17 and Rule 18(1) of Customs, Central Excise & Service Tax DBK Rules, 2017 read with Section 75 and 75 A of the Customs Act, 1962 and why penal action should not be initiated under section 117 of Customs Act, 1962.

#### **Defence Reply-**

9. In response to the Show Cause Notice bearing F. No. S/10-BRC/SCN-33/AC/2019-20 dated 22.04.2020, the exporter vide their letter dated 06.06.2020 submitted a reply along with documents of E-BRCs mentioned in the said Show Cause Notice.

#### **Discussion and Finding-**

10. I have carefully gone through the records of the case and reply letter dated 22.01.2019 submitted by the exporter along with documents. On

verification of the E-Bank Realization Certificate submitted by the exporter it is found that they have realized the export proceeds vide following e-BRC:-

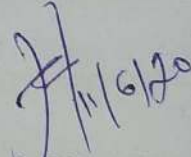
Sr. No.	Shipping Bill No. & date	e-BRC No.	Value (\$)	Date of Realisation
1	1189557 dtd 08.01.2019	HDFC0000006190201779 dtd 15.02.19	1837500.00	29.01.2019
2	1199668 dtd 09.01.2019	SBIN0006926100076920 dtd 30.01.19	392700.00	24.01.2019
3	9135083 dtd 26.11.2018	UBIN0550353001391914 dtd 15.12.18	2097600.00	14.12.2018
4	9820064 dtd 22.12.2018	SBIN0006926100076423 dtd 15.01.19	1954510.5	15.01.2019
5	2959490 dtd 23.03.2019	UBIN0550353001482707 dtd 26.04.19	68978340.0	25.04.2019

Thus, I find that the Exporter has realized the export proceeds in full within the stipulated time as per Regulation 9 of FEMA Regulation 2015. Hence, the action stipulated in Rule 17 and Rule 18(1) of Customs, Central Excise & Service Tax DBK Rules, 2017 is not warranted.

In view of the above discussion, I pass order as under:

**ORDER**

- (i) I drop the demand of Rs. 7,59,884/- (Rupees Seven lakh Fifty nine thousand eight hundred eighty four only) raised against M/s. Gujarat Ambuja Exports Limited, (IEC No. 0891013041), Ambuja Tower, Sindhu Bhavan Road, Bodakdev, Opposite Sindhu Bhavan, Post- Thaltej, Ahmedabad, Gujarat, vide Show Cause Notice bearing No. F. No. S/10-BRC/SCN-33/AC/2019-20 dated 22.04.2020 as the exports sale proceeds have already been realized.



(Hemesh Chhabra),  
Assistant Commissioner (DBK),  
Customs House, Kandla.  
Date of Order: 11.06.2020

F. No. S/10-BRC/SCN-33/AC/19-20  
By REGD. POST A.D./SPEED POST

To,  
M/s. Gujarat Ambuja Exports Limited,  
(IEC No. 0891013041), Ambuja Tower,  
Sindhu Bhavan Road, Bodakdev,  
Opposite Sindhu Bhavan, Post- Thaltej,  
Ahmedabad, Gujarat.