

	सीमाशुल्क आयुक्त का कार्यालय, एनएस-II OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II केंद्रीकृत निर्यात आकलन कक्ष, जवाहरलाल नेहरू सीमाशुल्क भवन CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, न्हावा शेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400 707 NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707
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फ़ाइल नं./F. NO. CUS/ASS/AMND/1597/2025-CEAC

द.प.सं. /DIN:	20250918NT000000E33E
आदेश की तिथि	: 18.09.2025
Date of Order	
जारी किए जाने की तिथि	: 19.09.2025
Date of Issue	
आदेश सं. Order No.	: 201/2025-26/आयुक्त/सीईएसी/एनएस-II/सीएसी/जेएनसीएच 201/2025-26/Commissioner/CEAC/NS-II/CAC/JNCH
पारितकर्ता Passed by	: श्री गिरिधर जी.पई Shri Giridhar G. Pai आयुक्त, सीमाशुल्क (एनएस-II), जेएनसीएच, न्हावाशेवा Commissioner of Customs (NS-II), JNCH, Nhava Sheva
पक्षकार(पार्टी) का नाम Name of Party	: मै. एडीएफ फूड्स लिमिटेड (आईईसी: 0391167677) M/s. ADF FOODS LIMITED (IEC: 0391167677)

मूल आदेश
ORDER-IN-ORIGINAL

- इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि:शुल्क दी जाती है।
The copy of this order in original is granted free of charge for the use of the person to whom it is issued.
- इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम, १९६२ की धारा १२९ए के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच, ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

- अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Main points in relation to filing an appeal: -

फार्म Form	: फार्म नं. सीए-३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए) Form No. CA-3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy)
समय सीमा Time Limit	: इस आदेश की सूचना की तारीख से तीन महीने के भीतर Within 3 months from the date of communication of this order.

फीस Fee	: (क) एक हजार रुपये-जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पाँच लाख रुपये या उस से कम है। (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less. (ख) (पाँच हजार रुपये- जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पाँच लाख रुपये से अधिक परंतु पचास लाख रुपये से कम है। (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh. (ग) दस हजार रुपये-जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पचास लाख रुपये से अधिक है। (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
भुगतान की रीति Mode of Payment	: क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सी ई एस टी ए टी, मुंबई के पक्षमें जारी किया गया हो तथा मुंबई में देय हो। A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.
सामान्य General	: विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९६२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए। For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.
4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उस में माँगे गये शुल्क अथवा उद्गृहीत शास्ति का ७.५ % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, १९६२ की धारा १२९ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी । Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129 of the Customs Act 1962.	

Sub: Request for amendment of Shipping Bill from Scheme- Free SB Involving Remittance Of Foreign Exchange(Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74) by M/s. ADF Foods Ltd.-Reg.

M/s. ADF Foods Limited (IEC : 0391167677), having registered office at Plot no. 77, 83/86, 94 C/1-40, 40/1, 40/2, GIDC Industrial Estate Nadiad- 387001 (hereinafter referred to as "the exporter") has requested for amendment of Shipping Bill No. 2389816 dated 03.06.2025, from Scheme- Free SB Involving Remittance of Foreign Exchange(Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74) vide their letter dated 26.06.2025 (received on 30.06.2025), details of which are tabulated below:

TABLE - I

Sl. No.	Shipping Bill No.	Shipping Bill Date	LEO Date	FOB Value (In Rs.)	Scheme to which amendment sought	Scheme to which amendment sought
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	2389816	03.06.2025	11.06.2025	25,89,609.33	Free SB Involving Remittance of Foreign Exchange (Scheme Code 00)	Drawback (Scheme Code-19) (Drawback under Section 74, Dbk Sr. no. 9801)

2. The exporter, vide their letter dated 26.06.2025, inter alia, stated that the shipping bill was inadvertently filed under Scheme code Free (00) instead of under the Drawback Scheme (19) as per section 74 of the Customs Act, 1962 and Public notice 78/2017; that they have also mentioned same in shipping bill Section 74 of the Customs Act, 1962 and Public notice 78/2017.

3. Following the principles of natural justice, a personal hearing was granted on 14.08.2025. Shri B. Gopalkrishnan, Sr. Executive, Export representing M/s. ADF Foods Limited appeared through virtual mode before the undersigned and reiterated their request for the amendment of their Shipping bill No. 2389816 dated 03.06.2025 from Scheme- Free SB (Scheme Code-00) to Scheme-Drawback (Section-74) under Scheme Code-19.

DISCUSSIONS AND FINDINGS

4. I have carefully gone through the request made by the exporter vide their letter dated 26.06.2025 for amendment of shipping bill No. 2389816 dated 03.06.2025 from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74), the submissions made by the exporter at the time of the personal hearing, the Customs and Central Excise Duties Drawback Rules, 2017 and the relevant provisions of Customs Act, 1962, which govern the amendment of shipping bills.

5. I find that the exporter had filed the said shipping bill under Scheme- Free SB Involving Remittance of Foreign Exchange(Scheme Code-00). However, the exporter

has requested for amendment from Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74). The issue to be decided is whether the exporter is eligible for amendment sought by them for the said shipping bill for which Let Export Order was granted on 11.06.2025.

6. Amendment of shipping bills is governed by Section 149 of the Customs Act, 1962. Section 149 of the Customs Act, as amended with effect from 01.08.2019, reads as under:

Section 149. Amendment of documents- *Save as otherwise provided in section 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed:*

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorized to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

7. In the instant case, the shipping bill was filed on 03.06.2025 for which Let Export Order was granted on 11.06.2025. I find that Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025 have been notified vide notification No. 21/2025-Customs (N.T.) dated 03.04.2025. The relevant provisions of the regulations are as under:

Regulation 2 (1)(b):

"(b) "conversion" means amendment of the declaration made in the export entry to any one or more instrument based scheme, after the export goods have been exported

Regulation 2 (1)(c):

"(c) "export entry" means entry relating to export as defined in clause (16) of section 2 of the Act and includes an entry made in the Shipping Bills or Bills of Exports under Section 50 or entries made for goods to be exported by post or courier under Section 84 of the Act;

Regulation 2 (1)(d):

(d) "instrument based scheme" means a scheme involving utilisation of instrument referred to in explanation 1 to sub-section (1) of section 28AAA of the Act;

Regulation 3(2):

(2) Where an export entry is filed before the 22nd February, 2022, the period of one year specified under sub-regulation (1) shall be reckoned from the date on which these regulations have come into force.

Regulation 4 (e):

"(e) The export entry of which the conversion is sought is one that has been filed in relation to instrument based scheme, or under drawback or for fulfilment of any export obligation or combination thereof."

Explanation 1 of the Section 28AAA of the Customs Act, 1962:

Explanation 1 : *For the purpose of this sub-section, "instrument" means any scrip or authorization or license or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial*

or fiscal benefits, which may be utilized under the provisions of this act or the rules made on notifications issued thereunder”.

7.1. A conjoint reading of these provisions indicates that the regulations apply only to such shipping bills which were filed in relation to instrument based scheme, or under drawback or for fulfilment of any export obligation or combination thereof and the request for amendment in the shipping bill is for conversion to any one or more instrument based scheme. Further, as per Explanation 1 of section 28AAA of the Customs Act, 1962, instrument based scheme includes Advance License, EPCG, RoDTEP, RoSCTL etc. but does not include drawback which is not any scrip or authorization or licence or certificate or such other document issued under the Foreign Trade (Development and Regulation) Act, 1992.

7.2. In view of the above, I find that the shipping bill mentioned in Table-I is not covered by the Regulations, 2025 supra as Drawback is not an instrument based scheme. Thus, the application must be dealt under Section 149 of the Customs Act, 1962 read with Board Circular No. 36/2010-Customs dated 23.09.2010. The relevant paras 3 to 5 of the Board's Circular read as follows:

3. *The issue has been re-examined in light of the above. It is clarified that Commissioner of Customs may allow conversion of shipping bills from schemes involving more rigorous examination to schemes involving less rigorous examination (for example, from Advance Authorization/DFIA scheme to Drawback/DEPB scheme) or within the schemes involving same level of examination (for example from Drawback scheme to DEPB scheme or vice versa) irrespective of whether the benefit of an export promotion scheme claimed by the exporter was denied to him by DGFT/DOC or Customs due to any dispute or not. The conversion may be permitted in accordance with the provisions of section 149 of the Customs Act, 1962 on a case to case basis on merits provided the Commissioner of Customs is satisfied, on the basis of documentary evidence which was in existence at the time the goods were exported, that the goods were eligible for the export promotion scheme to which conversion has been requested. Conversion of shipping bills shall also be subject to conditions as may be specified by the DGFT/MOC. The conversion may be allowed subject to the following further conditions:*
 - a) The request for conversion is made by the exporter within three months from the date of the Let Export Order (LEO).*
 - b) On the basis of available export documents etc., the fact of use of inputs is satisfactorily proved in the resultant export product.*
 - c) The examination report and other endorsements made on the shipping bill/export documents prove the fact of export and the export product is clearly covered under relevant SION and or DEPB/Drawback Schedule as the case may be.*
 - d) On the basis of S/Bill/export documents, the exporter has fulfilled all conditions of the export promotion scheme to which he is seeking conversion.*
 - e) The exporter has not availed benefit of the export promotion scheme under which the goods were exported and no fraud/misdeclaration /manipulation has been noticed or investigation initiated against him in respect of such exports.*

4. Free shipping bills (shipping bills not filed under any export promotion scheme) are subject to 'nil' examination norms. Conversion of free shipping bills into EP scheme shipping bills (advance authorization, DFIA, DEPB, reward schemes etc.) should not be allowed. However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill, without conversion of such free shipping bill to Drawback Scheme shipping bill, in terms of the proviso to rule 12(1) (a) of the Customs, Central Excise and Service Tax Drawback Rules, 1995.
5. Due care may be taken while allowing conversion to ensure that the exporter does not take benefit of both the schemes i.e., the scheme to which conversion is sought and the scheme from which conversion is sought. Whenever conversion of a shipping bill is allowed, the same should be informed to DGFT so that they may also ensure that the exporter does not take benefit of both the schemes.

8. A harmonious reading of Section 149 of the Customs Act, 1962 and the Circular No. 36/2010-Customs, dated 23.09.2010 clearly establishes that the following criteria should be met for post-export conversion of a shipping bill-

- A. Conversion of shipping bills should be allowed from schemes involving more rigorous examination to schemes involving less rigorous examination or within the schemes involving same level of examination.
- B. The conversion may be permitted in accordance with the provisions of Section 149 of the Customs Act, 1962 on case-to-case basis on merits provided the Commissioner of Customs is satisfied, on the basis of documentary evidence which was in existence at the time the goods were exported, that the goods were eligible for the export promotion scheme to which conversion has been requested.
- C. The request for conversion is made by the exporter within three months from the date of the Let Export Order (LEO).
- D. On the basis of available export documents etc., the fact of use of inputs is satisfactorily proved in the resultant export product.
- E. The examination report and other endorsements made on the shipping bill/export documents prove the fact of export and the export product is clearly covered under relevant SION and or DEPB/Drawback Schedule as the case may be.
- F. On the basis of S/Bill/export documents, the exporter has fulfilled all conditions of the export promotion scheme to which he is seeking conversion.
- G. The exporter has not availed benefit of the export promotion scheme under which the goods were exported and no fraud/misdeclaration /manipulation has been noticed or investigation initiated against him in respect of such exports.
- H. Conversion of free shipping bills into EP scheme shipping bills (advance authorization, DFIA, DEPB, reward schemes etc.) should not be allowed. However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill.
- I. Exporter should not be allowed to take the benefit of both the schemes, i.e. the scheme to which conversion is sought and the scheme from which conversion

is sought. The same should be informed to DGFT so that they may also ensure that the exporter does not take benefit of both schemes.

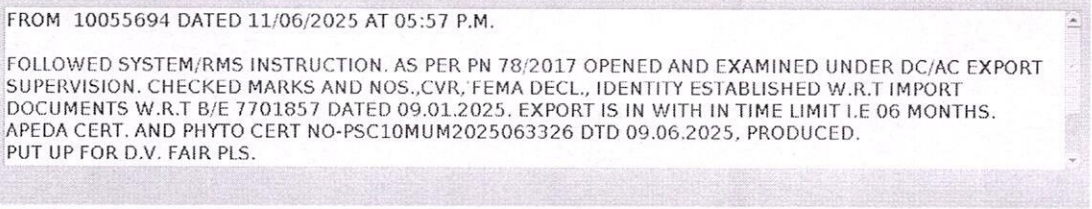
9. I proceed to examine the present case in terms of each of the criteria as given above.

A. Examination Norms

(a) The exporter has requested for amendment of the said shipping bill from Scheme - Free Shipping Bill Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74). The Indian Customs Risk Management System('RMS') provides instructions regarding examination norms based on the risk profile of the consignment/export incentive declared in the shipping bill by the exporter.

(b) In the instant case, examination instructions given are verified for the said shipping bill from the ICES 1.5 system and the same is found as *"Examine the Package No.22,49,66,202,228,256,257,322,338,343,396,405,415,463,489,526,553,568,608,611"& "In case of re-export, identity of the goods to be established with respect to the import documents. Conditions of the re-export Notification to be fulfilled. Mention part No. Serial No., Model No. and any other distinguishing feature of the item in the departmental comments/report, wherever applicable".*

(c) Thereafter, the Examining Officer examined the consignment under the supervision of DC/Docks(X) and, mentioned in his comments that *"FOLLOWED RMS/SYSTEM INSTRUCTION, AS PER PN 78/2017 OPENED AND EXAMINED UNDER DC/DOCKS EXPORT SUPERVISION. CHECKED MARKS & NOS., CVR, FEMA DECL., IDENTITY ESTABLISHED WRT IMPORT DOCUMENT WRT. B/E NO- 7701857 DTD 09.01.2025. EXPORT IS WITHIN TIME LIMIT I.E. 06 MONTHS. APEDA CERT. AND PHYTO CERT NO. PSC10MUM2025063326 DATED 09.06.2025 PRODUCED, PUT UP FOR DV FAIR PLS".* Snapshot of the examination report available in ICES 1.5 is attached for ready reference:



A snapshot of invoice uploaded at Sr. no. 10 (331000) having IRN No. 2025060200143715 is also attached for reference:

INVOICE (CUSTOMS PACKING LIST)

Exporter ADF FOODS LIMITED E-5, M.I.D.C. INDUSTRIAL ESTATE MALEGAON, SINNAR, NASHIK -422103, MAHARASHTRA, INDIA EMAIL: brabhatar@adf-foods.com		Invoice No. & Date NKDECI - 25260001R 01/06/2025			
		Buyer's Order No. & Date			
		Other Reference(s)			
Consignee RICELAND INTERNATIONAL LTD, 38/17, ANUMANRACHATHON, DECHO ROAD, SURIYAWONG, BANGRAK, BANGKOK 10500 THAILAND		Buyer (if other than Consignee) RICELAND INTERNATIONAL LTD, 38/17, ANUMANRACHATHON, DECHO ROAD, SURIYAWONG, BANGRAK, BANGKOK 10500 THAILAND			
Pre-carriage by SEA	Place of receipt by Pre-carrier J.N.P.T.(NHAVA SHEVA)	Country of Origin of Goods THAILAND	Country of Final Destination THAILAND		
Vessel / Flight No.	Port of Loading J.N.P.T.(NHAVA SHEVA)	Terms of Delivery and Payment FOB JNPT (NHAVA SHEVA)			
Port of Discharge LAT KRABANG	Final Destination LAT KRABANG				
Marks & Nos/ Container No.	No. Kind of Pkgs.	Description of Goods	Quantity in MTS.	Rate USD	Amount USD
		"THAI JASMINE RICE (PARTIAL RE-EXPORT UNDER SECTION 74 OF THE CUSTOMS ACT, 1962 OF THAI JASMINE RICE IMPORTED VIDE BILL OF ENTRY NO. 7701857 DATED. 09/01/2025)"			FOB
		THAI JASMINE			
		1) HTS CODE:- 10063090			
		633 BAGS RICE -THAI JASMINE RICE. PACKED IN 50 KGS NET NEW SINGLE PP BAGS.	31.650	966.000	30,573.90
		Net Wt: 31,650.000KGS Gross Wt: 31,730.00KGS			
		Total		FOB	30,573.90
		Total Net Weight 31,650.000			
		Total Gross Weight 31,730.000			
		Total Quantity 633.00 BAGS			
		Exchange Rate (1 Rs.) 84.70		FOB	30,573.90
		Total Value 25,89,609.330 INR			E & O E
		IGST RATE 5% AMOUNT 1,29,480.466 INR			
		(RE-EXPORT AGAINST PAYMENT OF IGST.)			
Amount Chargeable (in Words) : USD Thirty Thousand Five Hundred Seventy-Three And Cent Ninety Only					
BE NO.7701857 DATE. 09/01/2025					
INVOICE NO. 20241504 DATE 21/12/2024					
PACKING LIST NO. 20241504 DATE 21/12/2024					
BL NO. HLCUBKK241151670 DATE 21.12.2024					
RBI Code	BA 006098	ADF FOODS LIMITED			
I E Code	IEC 0391187677	E-5, M.I.D.C. INDUSTRIAL ESTATE			
I T Code	PAN NO.AACCA2270KACIT,CIRCLE, NADIAD	MALEGAON, SINNAR, NASHIK -422103,			
EDP Code	000000803-17-2-93	MAHARASHTRA, INDIA			
Three Star Export House Certificate, valid upto 31/03/2028. AEO T2 MSME		ADF FOODS LTD.			
Certificate No. INAACCA2270K2F229 Valid upto 10.07.2025.					
GSTIN	27AACCA2270K1ZR				
District Code	487	For ADF FOODS LIMITED			
State Code	27	BALU GHUGE			
Declaration : We Declare that this invoice shows the actual price of the goods described and that all particulars are true and correct.		Signatory AUTHORISED SIGNATORY Signatory			

Page 1 of 1

B. Documentary evidence in existence at the time of export

(a) As discussed above, at the time of export, the exporter had wrongly filed the shipping bill under Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00). However, on perusal of the ICES 1.5 system, it is observed that at item level scheme code-00 has been mentioned in the shipping bill. Now, the exporter has requested for amendment of the said shipping bill from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74), as they have inadvertently selected wrong scheme code while filing the shipping bill as per the Public Notice 78/2017- JNCH dated 21.06.2017.

(b) Upon examination of the documents uploaded on e-Sanchit, i.e., Invoice, Packing List, etc., it is evident that the exporter had shown their intention to avail the benefits of Duty Drawback under Section 74, in the Marks and Nos. column of the said shipping bill by mentioning 'Partial re-export Under Sec 74 of the Customs Act, 1962 of Thai Jasmine Rice Imported vide Bill of Entry no. 7707857 dt. 09/01/2025. Notification no. 78/2017 JNCH for re-export', in the export invoice and in the goods description also, and has fulfilled all the examining conditions, but due to an inadvertent error the scheme code was wrongly selected as 00 instead of 19.

C. Time limit of filing of the conversion application

In this case, Let Export Order (LEO) was granted on 11.06.2025 for the shipping bill No. 2389816 dated 03.06.2025, whereas the exporter has made the request for amendment of shipping bill vide their letter dated 26.06.2025 (received in this office on 30.06.2025). Thus, I find that the request for amendment of shipping bill bearing no. 2389816 dated 03.06.2025 has been made well within the prescribed limit of three months as per the Board Circular, though by way of several judgments of High Courts this time limit has been struck down as ultra vires section 149 of the Customs Act, 1962 which does not provide for any time limit for amendments thereunder.

D. The fact of use of inputs is satisfactorily proved in the resultant export product.

I find that this condition is not applicable in the present case as the amendment is sought from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74).

E. Examination report proves the fact of export and the export product is covered under relevant SION and or Drawback Schedule.

As discussed above, the examination report has been perused in the ICES 1.5 system which states that the goods have been examined in the presence of AC/DC and that the identity of the goods is established w.r.t. to the import documents. Also, there is no adverse comment by the examining officer against the said shipping bill.

F. Exporter has fulfilled all conditions of the scheme to which he is seeking conversion.

(a) Although, the exporter did not opt for the Scheme-Drawback (Scheme Code-19) (Drawback under Section 74) as per PN 78/2017- JNCH in the shipping bill instead the shipping bill was inadvertently filed under Free shipping bill (00). Except the scheme code, all the other conditions such as, Identity establishment, Examination of goods under AC/DC docks observation, Time limit for re-exporting the goods etc. for re-export of the goods under Section 74 of the Customs Act, 1962 have been duly fulfilled by the exporter . The para 04 of the said PN is as under:

"4. Re-export under Section 74 (Drawback allowed on re-export of duty-paid goods):

4.1 In this regard, attention is invited to Board Circular No. 46/2011 – Customs [F.No.603/01/2011-DBK], dated 20th October, 2011 and Circular No. 35/2013- Customs [F.No.603/01/2011-DBK], dated 5th September, 2013, wherein it has been provided that:

3.1 Instructions relation to "identification of goods" and "determination of use" in terms of Section 74 of the Customs Act, 1962. (a) In terms of the section 74 of the Customs Act, 1962, the export goods are to be identified to the satisfaction of the Assistant/Deputy Commissioner of Customs. This may require examination and verification of various parameters, including but not limited to physical properties, weight, marks and numbers, test reports, if any, documentary evidences vis-à-vis import documents etc., for identification of the goods. If such export goods have been 'used after import', the same is to be determined besides establishing the identity of the goods.

4.2 Therefore, AC /DC incharge of export examination and issuance of LEO will ensure that the suitable comments about "identification of goods" and "determination of use" as required in terms of above instructions issued for the purpose of Section 74 of the Customs Act, 1962 are entered in the "Departmental Comments" field in the system before issue of Let Export Order (LEO). It is further re-iterated that identity of goods and period of use needs to be established / ascertained by examination of goods & documents even if the shipping bill is facilitated by RMS.

4.3 Sample examination report may be as under: "Inspected lot, checked marks & numbers & net weight, examined 100% under DC/AC Export Docks Supervision. Identity established with import document i.e. Bill of Entry No ____, dated ____ and concerned invoice & packing list. Export is within time period i.e. 2 years (in case of goods were not used after import) or 18 months ((in case of goods were used after import). Present market value and FOB value declared in the shipping bill is fair. Representative samples drawn and forwarded to DyCC for testing (if sample drawn), Goods not found to be used / found to be used"

4.4 Shipping bill under claim of drawback under Section 74 may be filed under Scheme Code 19 and Drawback Sr. No 9801 (till a separate "scheme code" is provided for this category of export). Drawback claim will continue to be filed as per provisions

of Reexport of Imported Goods (Drawback of Customs Duties) Rules, 1995. Officers processing drawback claims under Section 74 of the Customs Act will ensure that the goods have actually been exported by verifying the relevant EGM filed by shipping line in the EDI system instead of present practice of manual verification through MCD section. Such shipping bills need to be finalised in the system by "Drawback section" after disposal of drawback claims.

4.5 In case all other categories of re-export of imported goods, which are not sought to be cleared by importers [refer Public Notice No 95/2003, 07.11.2003] procedure as prescribed from Para 4.1 to para 4.4 above should be followed. However, Shipping bill should be filed under Scheme Code 99 or 00, as the case may be, (till a separate "scheme code" is provided for these categories of export)."

(b) As discussed above, it is evident that the exporter has clearly shown their intention by way of filing the shipping bill under Section 74 of the Customs Act, 1962, and by mentioning the relevant details in the shipping bill and other export related documents. Although it is the exporter's responsibility to declare the correct scheme under which the export is to be made, but in the instant case, the said error appears a typographical/clerical on the part of exporter.

(c) It is a well settled principle of law that procedural lapse or inadvertent mistakes cannot take away the substantial benefits. Substantial benefits cannot be denied due to such an error. I refer to case laws of Portescap India Pvt Ltd vs Union of India & Ors, MANU/MH/0571/2021, Mangalore Chemicals and Fertilizers Limited vs. Deputy Commissioner 1991 (55) ELT 437 (SC) in this regard.

G. Non-availment of benefit of scheme under which the goods were exported and no fraud/mis-declaration/manipulation having been noticed or investigation initiated in respect of such exports.

I find that as the shipping bill has been filed under the Scheme-Free Shipping Bill (Scheme Code-00), the exporter has not claimed any benefits viz., DBK/RoDTEP. No fraud/mis-declaration/manipulation has been noticed by the Customs Officers (Docks) at the time of export. I also find that no initiation of investigation with respect to this shipping bill has been brought to my notice.

H. Conversion of Free shipping bills into EP scheme shipping bills should not be allowed.

(a) Attention is drawn to para (4) of Board Circular No. 36/2010-Customs dated 23.09.2010.

"4. Free shipping bills (shipping bills not filed under any export promotion scheme) are subject to 'nil' examination norms. Conversion of free shipping bills into EP scheme shipping bills (advance authorization, DFIA, DEPB, reward schemes etc.) should not be allowed. However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill, without conversion of such free shipping bill

to Drawback Scheme shipping bill, in terms of the proviso to rule 12(1) (a) of the Customs, Central Excise and Service Tax Drawback Rules, 1995."

(b) In this regard, as discussed in the preceeding paras, the exporter has filed the shipping bill in (Scheme Code-00) and seeking amendment into Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74). In the instant case, the exporter is neither seeking drawback under AIR rate nor under any export promotion scheme such as Advance authorization, DFIA, DEPB, Reward schemes etc., as the goods were imported after payment of applicable duties, and same were re-exported under Section 74 of the Customs Act, 1962 after fulfilment of the examining conditions cited in the said PN. Therefore, the amendment of the shipping bills may be permitted, as such an amendment would fundamentally not alter the nature and character of the original shipping bill.

I. Exporter not to be allowed to take benefit of both the schemes.

It is evident from the "SB view" Menu that the exporter has not claimed any export benefits in the system and no export incentives have been availed.

10. In view of the above discussions, I hold that the request for amendment of shipping bill No. 2389816 dated 03.06.2025, as detailed in Table-I above from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74), may be allowed. Accordingly, I pass the following order:-

ORDER

I allow the amendment of Shipping Bill No. 2389816 dated 03.06.2025, as detailed in Table-I above, from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74).

Digitally signed by
GIRIDHAR GOPALKRISHNA PAI
Date: 18-09-2025 15:36:18
(Giridhar G. Pai)

Commissioner of Customs, NS-II
JNCH, Nhava Sheva.

To:

1. **M/s. ADF Foods Limited**
Plot no. 77, 83/86, 94 C/1-40, 40/1, 40/2,
GIDC Industrial Estate Nadiad- 387001

Copy to:

1. The Deputy Commissioner of Customs, CCO, JNCH, Nhava Sheva,
2. Assistant Commissioner of Customs, CEAC, JNCH, Nhava Sheva,
3. EDI section, For uploading on website
4. Office copy.