



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
 OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
 चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009.
 दूरभाष क्रमांक Tel. No. 079-26589281
 DIN-20250771MN0000230483

क	फ़ाइल संख्या FILE NO.	(1) S/49-145/CUS/AHD/24-25 (2) S/49-170/CUS/AHD/24-25
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-120 & 121-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	02.07.2025
च	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	(1) O.I.O. No. 29/AC/Dahej/Refund/2024-25 dated 12.06.2024 (2) O.I.O. No. 38/AC/Dahej/Refund/2024-25 dated 30.07.2024 both passed by the Assistant Commissioner, Custom House, Dahej.
छ	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	02.07.2025
ज	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Petronet LNG Ltd., Plot No. 7/A, GIDC Industrial Estate, Dahej, Dist. Bharuch.



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 हैं. 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)	बैगेज के रूप में आयातित कोई माल.				
(a)	any goods imported on baggage.				
(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 I item 6 of the Court Fee Act, 1870.				
(ख)	सम्बद्ध दस्तावेजों 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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित 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/-				
	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 सम्बन्ध 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 :				
	<table> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td><td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td></tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td><td>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td></tr> </table>	सीमाशुल्क, केन्द्रीय 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	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय 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	2 nd 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 हजार रूपए.
(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 हजार रूपए
(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 हजार रूपए.
(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 है, 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

1. M/s. Petronet LNG Ltd., Plot No. 7/A, GIDC Industrial Estate, Dahej, Dist. Bharuch (hereinafter referred to as 'the appellant') has filed the present two appeals under Section 128 of the Customs Act, 1962, against the O.I.O. No. 29/AC/Dahej/Refund/2024-25 dated 12.06.2024 and O.I.O. No. 38/AC/Dahej/Refund/2024-25 dated 30.07.2024 (hereinafter referred to as 'the impugned orders') passed by the Assistant Commissioner, Custom House, Dahej (hereinafter referred to as 'the adjudicating authority')

2. Facts involved in the appeal, in brief, are that the appellant was engaged in import of Liquefied Natural Gas ('LNG') falling under Customs Tariff Item No. 27111100 for which they have filed various Bills of Entry with Custom House, Dahej Port, Dist. Bharuch. The subject BoEs was assessed provisionally under Section 18 of the Customs Act, 1962, for want of documents. Subsequently, on production required documents, the subject BoEs were finally assessed. As per the final assessment, the Ex-Ship delivery quantity unloaded was lower than the quantity for which the provisional assessment was made i.e. Bill of Lading quantity, and thus, the appellant has paid excess duty. The appellant has filed refund claims, which have been rejected on the ground that the refund claims have been filed beyond one year from the date of final assessment of the Bills of Entry in EDI System. Particulars of these Bills of Entry are as under:

Table-1

Sl. No.	Appeal No.	BoE No. & Date	Date of final assessment in EDI System	Date of communication of final assessment	Excess duty as per final assessment (Rs.)	Date of filing of refund claim
[1]	[2]	[3]	[4]	[5]	[6]	[7]
1	145/24-25	9833692 Dtd. 02.08.2022	10.03.2023 (as per OIO dated 12.06.24) or 30.03.2023 (as per letter dated 21.07.23 of CH, Dahej)	Communicated vide letter dated 21.07.2023 enclosing therewith Finally assessed Bill of Entry	65,68,734	22.03.2024



2	170/ 24-25	4719593 Dtd. 31.08.2019	25.01.2023 (as per OIO dated 30.07.24) or 25.05.2023 (as per letter dated 14.07.23 of CH, Dahej)	Communicat ed vide letter dated 14.07.2023 enclosing therewith Finally assessed Bills of Entry	3,28,444	13.05.2024
3		3888058 Dtd. 10.05.2021			6,35,193	
4		4098123 Dtd. 27.05.2021			7,62,392	
5		4645135 Dtd. 12.07.2021			5,00,454	
		Appeal Total [2+3+4+5]			22,26,483	

3. The adjudicating authority has observed that as per Section 27(1B)(c), the limitation of one year should be computed from the date of adjustment of duty after final assessment and therefore, the contention of the claimant that one year limitation period should be calculated from the date of communication of finally assessed Bill of Entry, is not legal as per the provisions.

4. In view of the above, the adjudicating authority has rejected both the refund claims by holding that they were hit by the limitation of time as prescribed under Section 27 of the Customs Act, 1962.

5. Being aggrieved, the appellant has filed the present appeals. As both the appeals have been filed against rejection of refund claims, pre-deposit under the provisions of Section 129E for filing appeals are not required.

- (i) In the Form C.A.-1 of Appeal No. 145/2024-25, the date of communication of the impugned Order-In-Original dated 12.06.2024 has been shown as 12.06.2024, whereas, the appeal has been filed on 02.08.2024.
- (ii) In the Form C.A.-1 of Appeal No. 170/2024-25, the date of communication of the impugned Order-In-Original dated 30.07.2024 has been shown as 30.07.2024, whereas, the appeal has been filed on 06.09.2024.

As both the appeals have been filed within normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962, they have been admitted and being taken up for disposal on merits.



6. As both appeals are filed on similar grounds of appeal, the grounds of appeal for the Appeal No. 145/24-25, against O.I.O. dated 12.06.2024, are mentioned below the sake of brevity:

6.1 The Ld. Adjudicating Authority has erred by ignoring the date of the final assessment as mentioned in letter dated 21.07.2023 and solely rely on EDI system date. The importer is not communicated by the EDI system on the final assessment. Thus, importers are totally dependent on the communication by the Customs authorities for this.

6.2 Our grounds of appeal in this regard are as follows:

- The Appellant submitted the refund claim within 12 months from the date of final assessment as communicated by the department.
- The impugned order does not specify why the date mentioned in the letter dated 21 July 2023 was not considered.
- Documents issued by the Customs authorities cannot be ignored at the time of refund.

6.3 The grounds of appeal in detail are as follows:

A. The Appellant submitted the refund claim within 12 months of the date of finalisation communicated by the department

- a) As per sub-Section (1B) of Section 27 of the Customs Act 1962 the refund claim needs to be filed within 12 months from the date of final assessment of bill of entry.
- b) The Customs authorities at the port of import completed the final assessment in their EDI system and communicated the same to the Appellant after the period of 4 months about the same vide letter no. F. No. CH/DJ/Misc./22-23 dated 21 July 2023.
- c) The letter of 21st July 2023 clearly mentions the date of final assessment of bill of entry number 9833692 dated 02.08.2022 as 30th March 2023. Refer Annexure 1.
- d) The last date for filing of refund after the final assessment of bills of entry would be 29.03.2024. Accordingly, the Appellant submitted the refund claim before the said last date. The refund claim was submitted on 21st March 2024.



- e) Subsequently, the learned Adjudicating Authority issued a show cause notice on 31st May 2024. However, in this show cause notice nowhere they have mentioned why the date of final assessment mentioned in the letter of July 2023 should not be considered the date of final assessment.
- f) It is most respectfully submitted that your good self would agree that any person of prudence would consider the written communication as the basis for his subsequent actions. If the date mentioned in the letter of July 2023 was incorrect then the authority had time to issue a corrigendum and inform the correct date. However, Customs authorities choose not to do so and the refund claim has been rejected unilaterally without appreciating the documents available on record.
- g) In an identical matter, Hon'ble CESTAT in the case of INDIAN OIL CORPORATION LTD. Versus C.C. (EXPORT), NEW DELHI 2014 (308) E.L.T. 169 (Tri. - Del.) held that the date on which a public order is served on the person to whom that is meant, such date of service is counted for the remedial measure if the person on whom the order served is aggrieved.
- h) The appeal of the department against the said order was dismissed by the Hon'ble Delhi High Court in CUSAA No. 9 of 2015.
- i) It is therefore most respectfully submitted that the impugned order should be set aside on this ground alone that the Appellant had filed the refund claim within the prescribed period of 12 months from the date of final assessment communicated in writing by the Customs authorities.

B. The rejection order does not specify why the date mentioned in the letter dated 21 July 2023 was not considered

- a) It is most respectfully submitted that the show cause notice issued by the Ld. adjudicating authority and the impugned order nowhere specifies as to why the date of 30th March 2023 should not be considered as the date of final assessment.
- b) The show cause notice and the impugned order are completely silent on this particular aspect and have been drafted to reject the refund claim with a preconceived notion.

C. Documents issued by the Customs authorities under Section 18 cannot be ignored at the time of refund



- a) Section 18 of the Customs Act, 1962 requires Customs authorities to issue an order informing the final assessment of Bills of Entry. The same is corroborated by the decision of the Tribunal in the case of SAURASHTRA CEMENT LTD Versus CC, JAMNAGAR 2013 (297) E.L.T. 365 (Tri. - Ahmd.)

The provisions of Section 18 relevant to the issue clearly show that the assessing officer has to indicate the amount paid and adjusted.

- b) In fact, the Customs authorities followed this procedure and the date of final assessment was communicated to us as 30 March 2023 vide letter F. No. CH/DJ/Misc./ 22-23 dated 21 July 2023 (Refer Annexure 1).
- c) In case any information in the said document is not correct then Customs authorities should have corrected the same by issuing a corrigendum. As a taxpayer, we are totally dependent on the information provided by the authorities.
- d) In case no action was taken by the Customs authorities then we should not be made victim of error and delays at the end of the Customs authorities.
- e) On this ground alone, the impugned order should be set aside, and refund claim should be allowed to us since it was filed within statutory time limit of 12 months from the date of the final assessment communicated to us.

7. Similar grounds of appeal, with change of applicable dates, have been submitted by the appellant in their Appeal No. 170/24-24 against O.I.O. dated 30.07.2024.

Personal Hearing:

8. Personal Hearing in this case was held in virtual mode on 24.06.2025, which was attended by Shri. Yogesh Gupta and Shri. Priyank Pareek, Authorised Representatives and Shri. Mukesh Kumar, GGM&P (Finance) of the appellant. They reiterated the written submissions made by them.

9. They also submitted additional written submissions vide email dated 24.06.2025, wherein the appellant has relied upon following case laws:

9.1 PRINCIPAL COMMISSIONER OF CUSTOMS, AHMEDABAD COMMISSIONERATE Versus GAIL (INDIA) LTD. 2025 (391) E.L.T. 185 (Guj.) /



(2024) 20 Centax 516 (Guj.). In this case, the Bill of Entry was assessed between 7-10-2015 and 20-10-2015, and a refund application was filed on 26-10-2016 and therefore, the same was considered time-barred as the refund application is filed beyond one year from the date of final assessment.

The Hon'ble Gujarat High Court held that merely because the Custom Department has uploaded the final assessment orders on portal is not sufficient compliance of intimation to the assessee as it is a condition 'sine qua non' to file the refund claim within one year as per Section 27(1B)(c) of the Act from the date of finalization provided such order of assessment is communicated to the assessee. The Court stated that *"Therefore, the Tribunal has rightly taken into consideration the various documents intimating the respondent assessee about the finalization of provisional assessment communicated by the respondent in para No. 6 of the order which is quoted hereinabove"* and therefore the Appeal was dismissed.

9.2 Further, in the case of PUNEET WOOLLEN MILLS Versus COMMISSIONER OF CUSTOMS, NEW DELHI 2014 (304) E.L.T. 97 (Tri. - Del.), where the Appeal was considered time barred based on the Bill of entry date 09-09-2008. CESTAT held that the order appealable emerges on 14-10-2008; which is the final assessment date and a person becomes aggrieved only when the order to that effect sees light of the day, the limitation for filing appeal shall be counted from that day, which was the date of communication about the final assessment of bill of entry by Customs and accordingly, the Tribunal set aside the rejection of appeals as time-barred, remanding the matter with direction: *"The Commissioner shall compute limitation from 14-10-2008 (date of communication) and decide appeals on merits."*

9.3 In view the above, the appellant submitted that they relied solely on the formal communication of the final assessment date provided by the Customs and as a result, their refund claims are squarely within the limitation period.

Findings:

10. I have carefully gone through the facts of the case and written as well as oral submissions made by or on behalf of the appellant. The issues which are to be decided in the present appeal are as under:



Issue-1: The 'relevant date' for the purpose of filing refund claim is the date of finalization of provisional assessment in EDI System or the date when the final assessment has been communicated to the appellant.

Issue-2: On which dates the assessment have been finalized and whether the refund claims are time-bared or not.

Findings on Issue-1:

11. As per Section 27(1B)(c) of the Customs Act, 1962, where any duty is paid provisionally, the limitation of one year shall be computed from the date of adjustment of duty after the final assessment thereof. In the present cases, the assessments were provisional and the duty payable on account of final assessment has been adjusted against duty paid provisionally. As the duty paid provisionally was more than the duty assessed finally, the refund claims arise. However, the fact regarding final assessment done by Customs Department was communicated to the appellant vide letters dated 21.07.2023 and 14.07.2023 only. There is no other document available on record, which shows the date of communication of final assessment to the appellant. Under this situation, I agree with the contention of the appellant that they were unaware about finalization of assessment of the subject Bills of Entry, till receipt of the impugned letters dated 21.07.2023 and 14.07.2023.

12. I have gone through the Final Order No. A/11824/2023 dated 25.08.2023 in Customs Appeal No. 12326 of 2018 passed by Hon'ble CESTAT in the case of *GAIL (India) Ltd. Vs. Commissioner of Customs, Ahmedabad*. In the said Order, it has been held to the effect that the 'relevant date' for the purpose of limitation in filing refund claim would be the date of service of finalization of provisional assessment, not the date of finalization of assessment in Customs EDI System. I find that the Customs Department has filed a Tax Appeal No. 211 of 2024 with Hon'ble High Court of Gujarat against the said Order. However, vide Order dated 13.06.2024 in said Tax Appeal, Hon'ble High Court has dismissed the appeal filed by Department by observing as under (extracts):

"9. Merely because the Custom Department has uploaded the final assessment orders on portal is not sufficient compliance of intimation to the assessee as it is a condition sine qua non to file the refund claim within one year as per section 27(1B)(c) of the Act from the date of

finalization provided such order of assessment is communicated to the assessee. Therefore, the Tribunal has rightly taken into consideration the various documents intimating the respondent assessee about the finalization of provisional assessment communicated by the respondent in para No. 6 of the order which is quoted hereinabove.

10. *In view of the above, we do not find any infirmity in the impugned order of the Tribunal and no question of law much less any substantial question of law arises therefore, the appeal being devoid of any merit, is accordingly dismissed."*

13. Further, I find that the Principal Commissioner of Customs, Ahmedabad, has filed a Special Leave Petition (C) Diary No. 59586/2024 with Hon'ble Supreme Court against the said Order of Hon'ble High Court. Vide Order dated 01.07.2025, Hon'ble Supreme Court has dismissed the said SLP by observing that they did not find any good ground to interfere with the Judgment of Hon'ble Gujarat High Court.

14. The Orders of jurisdictional CESTAT, jurisdictional High Court and Supreme Court are binding on lower authorities.

15. In view of the above legal position, I hold that the relevant date for filing the refund claim on account of finalization of provisional assessment should be treated as the date of communication of final assessment to importer, not the date of finalization of provisional assessment in EDI System.

Findings on Issue-2:

Appeal No. 145/24-24

16. I have gone through the impugned letter F.No. CH/DJ/Misc./212/22-23 dated 21.07.2023 issued by the Superintendent, Custom House, Dahej. A copy of the said letter has been reproduced below:

- On next page -



सहायक आयुक्त (सीमा शुल्क) का कार्यालय, कस्टम हाउस दाहेज
OFFICE OF THE ASSISTANT COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE, DAHEJ

पहली मंजिल, राखिदास कॉम्प्लेक्स, बिल्डिंग कॉम्प्लेक्स रोड, दाहेज, तालुका-वागडा, जिला- भरुच (गुजरात)
1ST FLOOR, RAKHIDAS COMPLEX, BUILDING COMPLEX ROAD, DAHEJ, TALUKA-VAGDA, DISTRICT-BHARUCH (GUJARAT)

TIN: 20230771MN000091919D

File No CH/DJ/Misc /212/22-23

Dated:-21.07.2023

M/s. Petronet LNG Limited,
Dahej

Gentlemen,

Subject - Finalisation of Provisionally Assessed Bill of Entry - m/r.

Please refer to the above subject matter.

In connection to the above mentioned subject, it is to inform that the following Bill of Entries has been finally assessed

Sr No	Bill of Entry No	BoE Date	Date of Final Assessment in EDI System
1	2152256	25.08.2022	30.03.2023
2	9833692	02.08.2022	30.03.2023
3	2024915	16.08.2022	30.03.2023
4	9773033	29.07.2022	30.03.2023
5	9894273	08.08.2022	30.03.2023
6	2552557	22.09.2022	30.03.2023
7	2809421	10.10.2022	30.03.2023
8	2956254	19.10.2022	30.03.2023
9	3296038	14.11.2022	30.03.2023
10	3912792	27.12.2022	30.03.2023
11	3195028	07.11.2022	25.05.2023
12	3096196	31.10.2022	25.05.2023
13	2964047	20.10.2022	25.05.2023
14	2444217	15.09.2022	25.05.2023
15	2337990	07.09.2022	25.05.2023
16	2571798	23.09.2022	25.05.2023
17	2712885	03.10.2022	25.05.2023
18	2824309	11.10.2022	25.05.2023
19	3611935	06.12.2022	25.05.2023
20	3470769	25.11.2022	25.05.2023
21	3308452	15.11.2022	25.05.2023
22	3729587	14.12.2022	25.05.2023
23	3873285	23.12.2022	25.05.2023

Finally assessed Duplicate Importer Copy (in original) of the above said Bill of Entries is enclosed herewith.

End: As Above

Yours faithfully,

Superintendent of Customs
Customs House, Dahej
Custom House, Dahej



16.1 As mentioned at Sr.No.02 in the above letter 21.07.2023, the Bill of Entry No. 9833692 dated 02.08.2022 has been finally assessed in the EDI System on "30.03.2023". Whereas, the claimant has filed the refund claim on 22.03.2024, i.e. within one year from the date of finalization of provisional assessment. In the impugned order dated 12.06.2024, it has been simply mentioned that the date of finalization in the EDI System is 10.03.2023, but it is nowhere mentioned that the date of final assessment in EDI System mentioned as "30.03.2023" in the impugned letter dated 21.07.2023 is wrong or otherwise. Under such circumstances and in absence of any contradictory evidence, I cannot hold that the refund claim filed on 22.03.2024 is time-barred.

Appeal No. 170/24-24

17. In the above appeal, the appellant has submitted a copy of the similar letter F.No. CJ/DJ/Misc/ 212/22-23 dated 14.07.2023 issued by Superintendent, Custom House, Dahej. Vide the said letter, Finalisation of provisional assessment of 149 Bills of Entry have been communicated to the appellant and copies of the finally assessed Bills of Entry were enclosed. The four Bills of Entry involved in the Appeal No. 170/24-25 have been mentioned at Sr. Nos. 108, 132, 133 and 134 of the said letter dated 14.07.2023 and the 'Date of Final Assessment' has been mentioned as "25.05.2023" in the last column of the Table against all the four Bills of Entry. The claimant has filed the refund claim on 13.05.2024, i.e. within one year from the date of finalization of provisional assessment. In the impugned order dated 30.07.2024, it has been simply mentioned that the date of finalization in the EDI System is 25.01.2023, but it is nowhere mentioned that the date of final assessment in EDI System mentioned as "25.05.2023" in the impugned letter dated 14.07.2023 is wrong or otherwise. Under such circumstances and in absence of any contradictory evidence, I cannot hold that the refund claim filed on 13.05.2024 is time-barred.

Order:

18. In view of the above findings, I set aside the O.I.O. No. 29/AC/Dahej/Refund/2024-25 dated 12.06.2024 and O.I.O. No. 38/AC/Dahej/Refund/2024-25 dated 30.07.2024, both, passed by the Assistant Commissioner, Custom House, Dahej, and I allow the two appeals filed by M/s. Petronet LNG Ltd. with consequential relief, in accordance with law.



(AMIT GUPTA)

Commissioner (Appeals)
Customs, Ahmedabad

F.No. S/49-145/CUS/AHD/24-25
S/49-170/CUS/AHD/24-25

Date: 02.07.2025

By e-mail [As per Section 153(1)(c) of the Customs Act, 1962]

To

M/s. Petronet LNG Ltd.,

Plot No. 7/A, GIDC Industrial Estate,

Dahej, Dist. Bharuch.

(email: mukeshgupta@petronetlng.in ravi@petronetlng.in)



Copy to:

1. The Chief Commissioner of Customs, Ahmedabad Zone, Customs House, Ahmedabad. (email: ccoahm-guj@nic.in)
2. The Pr. Commissioner of Customs, Ahmedabad.
(email: cus-ahmd-guj@nic.in ; rra-customsahd@gov.in)
3. The Deputy/Assistant Commissioner of Customs, Custom House, Dahej, Dist. Bharuch. (email: chdahej@gmail.com , sup.ch-cusdahej@gov.in)
4. Comercinate Advisors LLP
(email: yogeshgupta@comercinate.com priyank@commercinate.com)
4. Guard File.
