



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20250671MN000000B8F1

क	फ़ाइल संख्या FILE NO.	S/49-276/CUS/JMN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	JMN-CUSTM-000-APP-029-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	25.06.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Bill of Entry No. 3945769 dated 11.06.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	25.06.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Arya Tankers Pvt. Ltd.,15B, Chandermukhi, Nariman Point, Mumbai - 400021.



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 exported
(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 1 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 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के 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/-
(d)	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 हज़ार 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 हज़ार 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 हज़ार 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 हैं, 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

The present Appeal has been filed by M/s. Arya Tankers Pvt. Ltd., 15B, Chandermukhi, Nariman Point, Mumbai – 400021 (hereinafter referred to as 'the Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Bill of Entry No. 3945769, dated 11.06.2024, filed for home consumption at Sikka Port, Custom House, Sikka, Jamnagar, Gujarat.

2. Facts of the case, in brief, are that the Appellant is engaged in the business of leasing tankers to local and foreign customers. The appellant is registered in the state of Maharashtra with IEC No. 0313043931 and GST Registration No. 27AALCA8831D1ZM. The Appellant purchased a vessel named Kashi (falling under HSN 89012000 of the Customs Tariff Act, 1975) from M/s Serpens Marine Inc., as per invoice dated 29.11.2023. In addition, the Appellant also purchased bunkers, lubricating and hydraulic oils, and greases available onboard the vessel at the time of its purchase, supported by a separate invoice of the same date. Subsequently, the Appellant entered into a Time Charter Agreement with M/s Trafigura Maritime Logistics Pte Ltd., Singapore, under which the vessel Kashi was given on time charter basis for transportation of cargo. The Charterer was granted operational control over the vessel, including the freedom to load or unload cargo within specified trading ranges including India. On 12.06.2024, the vessel entered Sikka Port, India, for loading/unloading cargo for the Charterer's customers and exited on 22.06.2024. The vessel was not converted for coastal trade. However, the Customs Authorities at Sikka Port directed the Appellant to file a Bill of Entry (BOE) for the vessel and its onboard consumables. Accordingly, the Appellant filed BOE No. 3945769 dated 11.06.2024, and duty amounting to ₹8,88,57,420 was assessed and paid through challans dated 15.06.2024 and 19.07.2024.

3. Being aggrieved by the levy of customs duty on the vessel and associated consumables, the Appellant has filed the present appeal and mainly contended as under:

- **No customs duty applicable as there is no clearance of goods for home consumption**

The Vessel-Kashi is not cleared for home consumption and hence, there shall be no customs duty applicable on the same. They rely on the decision of the Supreme Court in the case of Commissioner of Customs, Mumbai v. Aban Loyd Chiles Offshore Ltd. 2017 (346) E.L.T. 513 (S.C.), wherein it was held that the customs duty is payable only on goods intended to be



used for home consumption. Further, there cannot be a duty on the vessel imported as a conveyance.

They also rely on the decision of the Hon'ble Supreme Court in the case of Apar Industries Limited wherein it was held that the duty liability arises on clearance of goods for home consumption. The Vessel-Kashi shall not be cleared for home consumption and hence, there shall be no customs duty applicable on the same.

In the present case, the Vessel-Kashi entered into India for loading/unloading of cargo and has again returned for voyage in international water within period of 11 days. The Vessel-Kashi is not intended for use in India, and it shall not be cleared for home consumption and hence, it will not cross the customs frontier of India. Accordingly, the ratio laid down in the above decisions squarely applies to the facts of the present application.

In view of above, the Appellant is not liable to file BOE and pay customs duty on arrival of the Vessel-Kashi at Sikka Port.

• **Levy of Customs duty on goods not crossing customs frontier of India is unconstitutional and bereft of jurisdiction**

In the present case, the Vessel-Kashi has entered into India for loading/unloading of cargo. The Vessel 'Kashi' has not crossed the customs frontier of India and has again returned for voyage in international water.

It is an accepted judicial principle that customs duty is applicable only on goods crossing the customs frontier of India. They rely on the decision of the Hon'ble Supreme Court in the case of Commissioner of CGST & C. Ex., Mumbai East Versus Flemingo Travel Retail Ltd 2023 (73) G.S.T.L. 295 (S.C.) wherein the court has held that Duty Free Shops being outside the customs frontiers of India cannot be saddled with any indirect tax burden and any such levy would be unconstitutional.

They also placed reliance on the decision of the Apex Court in the matter of ITDC Ltd. - Hotel Ashoka v. Assistant Commissioner of Commercial Taxes and Anr. 2012 (276) E.L.T. 433 (S.C.) and J.V. Gokal & Co. Pvt. Ltd. v. Assistant Collector of Sales Tax - 1999 (110) E.L.T. 106 (S.C.)

• **Customs duty is payable on conversion of foreign going vessel into coastal run**



They submitted that customs duty is payable on conversion of foreign going vessel into coastal run.

They rely on the entry no 551A inserted vide the Finance Budget 2023 providing an exemption to Foreign Going Vessels converted for coastal runs provided it re-converts to a foreign going vessels within 6 months from the date of such conversion.

In the present case, Vessel-Kashi is engaged in the carriage of goods between a port in India and any port outside India. Therefore, it qualifies as a foreign going vessel. Further, as per the agreement, Vessel-Kashi shall not be converted for coastal run. Hence, there shall be no customs duty payable on the entry of Vessel Kashi into India till it converts into a coastal run.

- **The charterer (Trafigura Maritime Logistics Pte Ltd.) and not the Appellant is liable to pay customs duty for bringing the vessel 'Kashi' into India**

Notwithstanding their above submission, they submitted that they have executed the time charter agreement with M/s Trafigura Maritime Logistics Pvt. Ltd., Singapore for giving the Vessel-Kashi on Time Charter basis. As per the agreement, the right to use the Vessel-Kashi for transportation of cargo will be transferred to the Charterer. The Charterer is free to load or unload the cargo within trading ranges as agreed including India.

In view of above, the movement of Vessel-Kashi into India will be caused by the charterer M/s Trafigura Maritime Logistics Pte Ltd. In the present case, as M/s Trafigura Maritime Logistics Pte Ltd. is a charterer and has caused the movement of the Vessel-Kashi into India, M/s Trafigura Maritime Logistics Pvt. Ltd. shall be considered as the importer of goods. Further, M/s Trafigura Maritime Logistics Pvt. Ltd. being a charterer is covered by entry 557B of the Notification 50/2017-Cus and is eligible for exemption from payment of IGST.

- **No customs duty applicable on bunkers, lubricating and hydraulic oils and greases**

Bunkers, lubricating and hydraulic oils and greases are already consumed



They submitted that Bunkers, lubricating and hydraulic oils and greases, available in the vessel at the time of purchase of vessel, were already consumed before entering of the vessel Kashi at the Sikka Port. Further, Section 12 of the Customs Act, 1962 is a charging section for levy of customs duty. As per the said section, the taxable event to pay customs duty arises on import of goods. In the present case, the customs authority has levied customs duty on Bunkers, lubricating and hydraulic oils and greases, available in the vessel at the time of purchase of vessel. since, the bunkers, lubricating and hydraulic oils and greases were already consumed before entering of the vessel Kashi at the Sikka Port and has not been imported into India. Therefore, the levy of customs duty on goods not imported into India is grossly incorrect and without any backing of the legal provisions. Hence, the impugned order is illegal and liable to be set aside.

Bunkers, lubricating and hydraulic oils and greases are already consumed

Without prejudice to above, they further submitted that, the vessel 'Kashi' is not intended for use in the Indian water and has arrived only for the purpose of loading / unloading of cargo. Accordingly, the entire quantity of bunkers, lubricating and hydraulic oils and greases have not been cleared for home consumption.

Therefore, in-line with their submission in the context of 'vessel', they submitted that the customs duty is not payable on the bunkers, lubricating and hydraulic oils and greases.

PERSONAL HEARING:

4. A personal hearing was granted to the Appellant on 10.06.2025 in adherence to the principles of natural justice, during which Shri S. S. Gupta, Chartered Accountant, and Shri Vaibhav Shah, Advocate, appeared on behalf of the Appellant. During the course of the hearing, the representatives reiterated the submissions made in the Appeal Memorandum as well as the additional submissions filed on 09.06.2025.

DISCUSSION AND FINDINGS:

5. I have gone through the facts of the case available on record, grounds of appeal and submission made by the appellant at the time of personal hearing

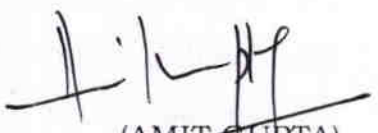


and additional submission dated 09.06.2025, it is observed that the question of law involved in the present case has already been decided by the Customs Authority for Advance Rulings vide its Order dated 31.07.2024, as submitted by the Appellant in its additional submissions. It is also brought on record that the Vessel 'Kashi' stands registered under the Merchant Shipping Act, 1958 at Mumbai Port as of 27.03.2024, which indicates that the vessel had first entered the Mumbai Port for purposes related to registration formalities. However, it is not evident from the available records whether the Appellant had filed any Bill of Entry at the time of the vessel's first arrival in India for registration purposes. This fact is material to the determination of the issue at hand and requires due verification.

5.2 In view of the foregoing and taking into consideration the Ruling dated 31.07.2024 passed by the Customs Authority for Advance Rulings in the case of the Appellant, the matter is hereby remanded to the original adjudicating authority with a direction to pass a reasoned and speaking order after due consideration of the said ruling dated 31.07.2024 and upon verification from the Mumbai Customs as to whether any Bill of Entry was filed by the Appellant at the time of the Vessel 'Kashi' entering India for the purpose of registration under the Merchant Shipping Act, 1958, and pass speaking order in the matter in accordance with law after affording the Appellant a reasonable opportunity of being heard.

6 In the light of the aforesaid facts and circumstances, I allow the appeals by way of remand and remit the matters to the adjudicating authority, who shall ascertain the facts, examine the documents, submissions made by the appellants and pass speaking order after following principles of natural justice and adhering to the legal provisions. While passing this order, no opinion or views have been expressed on the merits of the dispute or the submissions by the appellant in this regard, which shall be independently examined by the adjudicating authority.




(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-276/CUS/JMN/2024-25

Date: 25.06.2025

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सत्यापित/ATTESTED

अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.

By Registered Post A.D/E-Mail

To,

- (1) M/s. Arya Tankers Pvt. Ltd.,
15B, Chandermukhi, Nariman Point, Mumbai – 400021

Copy to:

- ✓ 1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Commissioner of Customs (Preventive), Jamnagar.
3. The Assiatant Commissioner of Customs, Custom (Preventive), Jamnagar.
4. Guard File.

