		<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 ई-मेल/ E-Mail: adj-mundra@gov.in</p>
A	फा /सं .FILE NO.	GEN/ADJ/ADC/417/2026-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/51/2026-27
C	द्वारा पारित किया गया PASSED BY	Dipak Zala, Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	24-04-2026
E	जारी करने की तिथि DATE OF ISSUE	27-04-2026
F	कारण बताओ नोटिस सं एवं तिथि . SCN NO. & DATE	04/2026-27/ADC/ZDC/MCH dated 02.04.2026
G	नोटिसीपार्टी / आयातक/ NOTICEE/PARTY/ IMPORTER	1. M/s. Jolly Marine Solutions (IEC:AAVFJ4864E) 2. Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions. 3. Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Services, Mundra
H	डिन DIN	20260471MO000031363C

- यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:
"सीमा शुल्क आयुक्त) अपील(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"
"The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."
- उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.
- उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए -
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by -
- उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।
The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this

order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.
8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।
An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. Jolly Marine Solutions, Plot No. 299, VIP Moti Talao Road, Kumbharvada, Bhavnagar, Gujarat - 364006 (hereinafter referred to as "**Importer**") (PAN-AAVFJ4864E / GSTIN-24AAVFJ4864E1Z0/ IEC No. AAVFJ4864E) are engaged in business activity of machines parts and mainly import new and refurbished machinery such as Turbo Charger & Kit, Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator Spares, Compressor, Fuel Injection Pump & other Misc. Tools / Spare parts, etc.

2. They have filed Bill of Entry No.4578858 dated 18.09.2025 for the clearance of the imported goods, i.e. Turbo Charger & Kit, Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator Spares, Compressor Fuel Injection Pump & other misc. Tools / Spare parts etc. (hereinafter referred to as the "said goods") for home-consumption, at the Port MUNDRA (INMUN1) through M/s. J.M.C. Logistics Services, Mundra (CHA/Custom Broker) (Custom Broker Code-AYTPM3864DCH001), on the strength of Bill of Lading No. RST/JEMUN/25000165 dated 12.09.2025 and Commercial Invoice No. AKMS786JMS25002 Dated 25.08.2025 issued by M/s. AKMS Ship and Boats Spare Parts Trading L.L.C., W500B-W506, Dubai Maritime City, Dubai, United Arab Emirates (UAE) (hereinafter referred to as the "supplier"). The purchase price of the said goods was US \$ 22,220 CFR Mundra Port as per the Commercial Invoice, and the importer declared the Assessable Value of the goods as Rs. 19,99,829/- and self-assessed / classified the said goods under Custom Tariff Item - 8412 90 90 of the 1st Schedule (Import Tariff) of the Customs Tariff.

3.1 The intelligence received by the Directorate of Revenue Intelligence (DRI) indicated that goods/consignment imported vide Bill of Entry No. 4578858 dated 18.09.2025 through Container No. VTBU9078071, at the Port of Mundra, has a possibility of misdeclaration/misclassification and importation of RESTRICTED goods. Based on the aforesaid intelligence, the goods imported vide Bill of Entry No. 4578858 dated 18.09.2025 under the cover of Bill of Lading No. RST/JEMUN/25000165 dated 12.09.2025 were put on hold for examination and further investigation at M/s. Saurashtra Freight Private Limited Saurashtra

Enclave Ground Floor Bharat CFS Zone-1, SEZ Road, Mundra Port & SEZ Road, Mundra, Gujarat - 370421. The details of the goods imported through the aforesaid container, as given in the Bill of Entry, are as under:

Sl. No.	Description of the Goods	HSN Code / CTSH	Quantity (In Pieces)	Rate per Unit (In USD)	Total Value (In USD)
1	TURBO CHARGER TYPE VTR214	8412 90 90	1	397.8	397.8
2	TURBO CHARGER TYPE VTR354	8412 90 90	1	3038.45	3038.45
3	TURBO CHARGER TYPE R3	8412 90 90	1	265.2	265.2
4	TURBO CHARGER TYPE RH253	8412 90 90	1	563.55	563.55
5	TURBO CHARGER TYPE VTR354	8412 90 90	1	2088.45	2088.45
6	TURBO CHARGER TYPE NR29	8412 90 90	1	861.9	861.9
7	TURBO CHARGER TYPE MET42	8412 90 90	1	1776.84	1776.84
8	TURBO CHARGER TYPE RH143	8412 90 90	1	139.23	139.23
9	TURBO CHARGER TYPE RH163	8412 90 90	1	140	140
10	TURBO CHARGER TYPE MET33	8412 90 90	1	1050	1050
11	TURBO CHARGER TYPE TPS57	8412 90 90	1	295	295
12	TURBO CHARGER TYPE TPS57	8412 90 90	1	295	295
13	TURBO CHARGER TYPE VTR304	8412 90 90	1	1345	1345
14	TURBO CHARGER TYPE VTR304	8412 90 90	1	1345	1345
15	TOOLS	8412 90 90	2	45	90
16	ELECTRIC MOTOR	8412 90 90	2	58.5	117
17	WEIGHT INDICATOR WITH METER	8412 90 90	10	7.75	77.5
18	COMPRESSOR	8412 90 90	2	50	100
19	CHARGER TYPE RH133	8412 90 90	1	55	55
20	DK 20 CYLINDER HEAD	8412 90 90	2	135	270
21	DK 20 CYLINDER HEAD	8412 90 90	2	135	270
22	DC 17 CYLINDER HEAD	8412 90 90	4	75.5	302
23	TURBO CHARGER TYPE	8412 90 90			

	TPS57		1	475	475
24	DK 20 CYLINDER HEAD	8412 90 90	2	202	404
25	DK 20 CYLINDER HEAD	8412 90 90	2	202	404
26	DK 20 CYLINDER HEAD	8412 90 90	2	202	404
27	DK 20 CYLINDER HEAD	8412 90 90	2	202	404
28	TURBO CHARGER TYPE TPS48	8412 90 90	1	190	190
29	TURBO CHARGER TYPE RH183	8412 90 90	1	375	375
30	TURBO CHARGER KIT	8412 90 90	14	3.643	51
31	O-RING KIT (BIG)	8412 90 90	12	3.975	47.7
32	O-RING KIT (SMALL)	8412 90 90	10	3.975	39.75
33	COUPLING	8412 90 90	2	6.63	13.26
34	NUT & BOLT KIT	8412 90 90	5	2.98	14.9
35	BUSH	8412 90 90	8	1.99	15.92
36	CCM 10	8412 90 90	47	0.33	15.51
37	DELIVERY VALVE 5 PCS	8412 90 90	5	0	1.65
38	BEARING 3 PAIR	8412 90 90	9	0	2.97
39	PLUNGER	8412 90 90	3	0	4.98
40	DRIVING GEAR	8412 90 90	3	0	4.47
41	LO PUMP DRIVE GEAR	8412 90 90	3	0	3.48
42	SPRING (BIG)	8412 90 90	26	0.99	25.74
43	SPRING (SMALL)	8412 90 90	18	0.25	4.5
44	BELLOWS	8412 90 90	1	0.65	1.65
45	SEAT	8412 90 90	3	0.5	1.5
46	BOLT FOR CONNECTING (BIG)	8412 90 90	41	0.5	20.5
47	BOLT FOR CONNECTING (SMALL)	8412 90 90	29	0.17	4.93
48	PISTON RING	8412 90 90	30	0.5	15
49	ANTI POLISHING RING	8412 90 90	3	0.5	1.5
50	GASKET	8412 90 90	59	0.07	4.13
51	O-RING	8412 90 90	76	0.07	5.32
52	ANTI POLISHING RING	8412 90 90	8	0.17	1.36
53	GASKET	8412 90 90	6	0.1	0.6
54	O-RING	8412 90 90	1	0.99	0.99
55	RUBBER RING	8412 90 90	6	0.69	4.15
56	PACKING RING	8412 90 90	1	0.5	0.5
57	ROCKER ARM BRACELET 1 PC	8412 90 90	15	0.33	4.95
58	VALVE SPINDLE 6 PCS	8412 90 90	4	0.5	2
59	SHAFT 1 PCS	8412 90 90	23	0.83	19.09
60	VALVE GUIDE 15 PCS	8412 90 90	10	0.75	7.5
61	BOLT NOZZLE	8412 90 90	10	0.17	1.7

62	VLVE SEAT (EX) 23 PCS	8412 90 90	1	0.5	0.5
63	VLVE SEAT (IN) PC	8412 90 90	1	0.09	0.09
64	ROTOCAP 10 PCS	8412 90 90	1	1.73	1.73
65	PISTON PIN 1 PCS	8412 90 90	10	0.5	5
66	CIRCULLER NUT 1 PCS	8412 90 90	2	0.73	1.46
67	STATOR 1 PCS	8412 90 90	6	0.33	1.98
68	SPRING 10 PCS	8412 90 90	7	0.15	1.05
69	CONNECTING PIN BUSH 2 PCS	8412 90 90	10	0.18	1.8
70	SLEEVE 6 PCS	8412 90 90	2	0.85	1.7
71	VALVE BRIDGE 7 PCS	8412 90 90	8	0.25	2
72	OIL SEAL 10 PCS	8412 90 90	5	0.15	0.77
73	BUSH (ROCKER ARM) 2 PCS	8412 90 90	42	0.75	31.5
74	SPRING SET 8 PCS	8412 90 90	16	0.15	2.4
75	COVER LEAK OIL	8412 90 90	5	0.17	0.85
76	BOLTS	8412 90 90	4	0.33	1.32
77	METAL PIECE	8412 90 90	10	0.15	1.5
78	HEAD STICK	8412 90 90	8	0.33	2.64
79	CONNECTING NUT	8412 90 90	2	0.17	0.34
80	CONTROL SLEEVE	8412 90 90	3	0.5	1.5
81	COIL SPRING	8412 90 90	140	0.25	35
82	BALL RACE	8412 90 90	3	0.5	1.5
83	FUEL PUMP	8412 90 90	1	23.25	23.25
84	HEAD BOLT	8412 90 90	4	0.99	3.96
85	ALTERNATOR BEARING	8412 90 90	1	56	56
86	CONNECTING ROD	8412 90 90	2	7.95	15.9
87	HEAD BOLT	8412 90 90	2	0.99	1.98
88	INJECTOR	8412 90 90	6	2.32	13.92
89	STICK BOLT FOR HEAD	8412 90 90	15	0.99	14.85
90	PLUNGER	8412 90 90	2	1.66	3.32
91	BEARING	8412 90 90	20	6	120
92	PUSH ROAD	8412 90 90	19	4	81.89
93	HYDRAULIC GEAR	8412 90 90	2	215	430
94	GASKET	8412 90 90	120	0	39.6
95	JACKET WITH MASK	8412 90 90	55	0	163.9
96	LIGHT	8412 90 90	10	0	36.5
97	CIRCUIT	8412 90 90	18	0	40.5
98	CYLINDER VALVE	8412 90 90	51	0	48.45
99	DOCTOR DK	8412 90 90	1	5.64	5.64
100	HONEYWELL	8412 90 90	4	1	18
101	BUSH	8412 90 90	5	1	4.95
102	AIR STARTER	8412 90 90	4	22	87

103	FILTER	8412 90 90	6	4	26.1
104	COMPRESSOR	8412 90 90	1	99	99.45
105	TURBO CHARGER TYPE 30SR	8412 90 90	1	650	650
106	TURBO ROTOR	8412 90 90	1	46	46.41
107	HYDRAULIC MOTOR	8412 90 90	1	270	270
108	HYDRAULIC PUMP	8412 90 90	10	36	364.7
109	HYDRAULIC MOTOR HVLG-DSS	8412 90 90	1	670	670
110	OIL	8412 90 90	1	600	600
111	HYDRAULIC PUMP	8412 90 90	1	305	305
	TOTAL				22220.0

3.2 The detailed examination of the goods covered by the aforesaid container was carried out by the officers of DRI, Regional Unit, Jamnagar (JRU) in the presence of two independent witnesses, under Panchanama dated 25.09.2025 and found that certain goods appeared to be retrieved from ships and are in old and used conditions. Since the goods are of a precise nature and technical specification, an expert opinion was required to be sought for proper identification, classification and assessment of the goods; therefore, the examination of the said goods was carried out in the presence of an empanelled Chartered Engineer under proper Panchanama dated 15.10.2025. Shri Bhasker G. Bhatt, Chartered Engineer, furnished a detailed Certificate-cum-Report No. BB/J-25/25/JMS/DRI-Jamnagar dated 10.11.2025 along with pictures of various spares/parts/accessories, the details of which are reproduced below, for the ready reference:

CHARTERED ENGINEER CERTIFICATE

FOR

INVOICE NO: AKMS786JMS25002, Dt:25-AUG-2025

OLD & USED DISCARDED SHIP PARTS

(Mainly Turbo Charger & Kit, Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator spares, Compressor, Fuel Injection Pump & Other Misc. Tools/Spare parts etc.)

IMPORTER

M/S. JOLLY MARINE SOLUTION

PLOT NO:299, VIP, MOTI-TALAV ROAD, KUMBHARVADA, BHAVNAGAR, 364006

Issued by:

BHASKER G. BHATTB.E.(MECH),L.L.B.,C.ENG.,M.I.E.,FIISLA.FIV

B.G.BHATT & Co.

C-805-6,SANKALP APPARTMENTS, OPPOSITEL.J.COLLEGE, VASTRAPUR, AHMEDABAD 380 015

CHARTERED ENGINEER M-103975/4 W.E.F. 30-05-1991

PHONE: 26752753, 9825025875 (M)

Email ID bhatt.bhasker@gmail.com

BHASKER G. BHATT B.E.(MECH),L.L.B. M.I.E., C.ENGG.FIHSLSA,FIV	TEL: 26752753 (M) 9825025875
B.G.BHATT & Co.	
HEAD OFFICE: C-805, SANKALP APPARTMENTS, OPP. L.J. COLLEGE, VASTRAPUR, AHMEDABAD - 380 015	
• CHARTERED ENGINEER	M-103975/4 W.E.F 30-MAY-1991
• GOVERNMENT APPROVED VALUER	44 OF 16-JAN-1996 OF CAT VII.

Page 1 of 4

Ref: BB/J-25/25/JMS/DRI-JAMNAGAR

Date:10-Nov-2025

(A)I, Bhasker Gunvantray Bhatt of B. G. Bhatt & Co. hereby certify that, based upon the inspection carried out for the import consignment covered under invoice No: AKMS786JMS25002, Dtd:25-Aug-2025 issued by; **M/S. AKMS SHIP & BOATS SPARE PARTS TRADING LLC. WS00B-WS06, DUBAI, MARITIME CITY, DUBAI (UAE)**

(B)Based upon the visual inspection of the second hand machinery/capital goods details are tabled below:

(i)	Place of Inspection	:	M/s. Saurashtra Freight Private Ltd (CFS-Mundra) Saurashtra Enclave Ground Floor Bharat C.F.S Zone-1, SEZ Road Mundra Port, Mundra-370421
(ii)	Date of inspection & Date of Panchnama	:	25-Oct-2025
(iii)	Duration of Inspection	:	12:10 Hrs to 19:15 Hrs

(C) Details of Importer & Importer

(i)	Name of Importer	:	M/S. JOLLY MARINE SOLUTION
(ii)	Address	:	Plot No:299, VIP, Moti Talav Road, Kumbharvada, Bhavnagar-364006
(iii)	IEC & GST (Importer) Details	:	AAVFJ4864E/0 GST NO:24AAVFJ4864E1Z0/G
(iv)	Name of Exporter	:	AKMS SHIP & BOATS SPARE PARTS TRADING LLC. WS00B-WS06, DUBAI, MARITIME CITY, DUBAI (UAE)
(v)	Invoice No & Date	:	AKMS786JMS25002, Dt:25-Aug-2025
(vi)	BE No & Date	:	45758858, Dt:18/09/2025
(vii)	MAWB No & Date	:	VMSJEAMUN089, Dt:12/09/2025

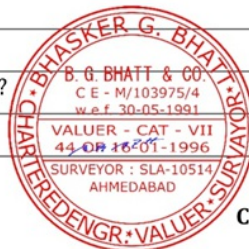


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B.G.BHATT & Co.	Ref: BB/J-25/25/JMS/DRI-JAMNAGAR	Page 2 of 4
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(D)Details of goods

(i)	Name of the manufacturer	:	As per the Annexure-A Enclosed
(ii)	Year of manufacturing	:	All available is mentioned as per the Annexure-A Enclosed else not available
(iii)	Manufacturers serial number	:	Not Applicable
(iv)	Description of the machinery	:	Old & used various types/size of ship parts, Mainly Turbo Charger & Kit, Hydraulic Pumps & Motors, Cylinder Head, Compressor, Fuel Injection Pump, Bearings & Other Misc. Tools/never used old spare parts etc.
(v)	Whether the original invoice relating to the machinery available?		
	Not available		
(vi)	If yes, Value _____, currency _____, Date of Invoice _____ (enclose copy)		
	Not applicable		
(vii)	If no, please estimate original sale price of the machinery		
	Please refer enclosed annexure		
(viii)	Present condition of the machinery and expected life span		
	Item under import mentioned in the Annexure-A, are recovered spares of discarded ship / Mainly Turbo Charger & Kit, Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator spares, Compressor, Fuel Injection Pump & Other Misc. Tools/spare parts etc packed in to the 37nos. wooden crates / pallet/ boxes & 04nos. in metal trunks (Total:41nos) no test is performed on the items under import; hence life cannot be estimated.		
(ix)	Has any reconditioning or repairs been carried out immediately preceding to this inspection Yes / No		
	Only dismantling and cleaning was noticed no repairs or reconditioning is observed.		
(x)	If yes, have this been carried out at the cost at the expenses of the seller or by the purchaser or by the third party?		
	Not applicable		
(xi)	Are there invoices for the cost thereof?		
	Not applicable		



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B.G.BHATT & Co.		Ref: BB/J-15/25/JMS/DRI-JAMNAGAR	Page 3 of 4
(xii)	If no, estimate cost thereof.		
	Not applicable		
(xiii)	Briefly describe nature of repairs / replacement		
	Not applicable		
(xiv)	Where any charges incurred by the purchase for dismantling, packing forwarding up to port of export? If yes indicate the charges?		
	Not indicated as the contract of purchase is FOB		
(xv)	Any catalogue / documentation available? Please provide the copies		
	Not available		

(E) The following means, aids / technical references materials have been used for inspecting the goods

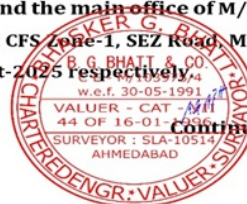
(i)	Public domain like internet
(ii)	Digital / Mobile phone camera for taking pictures

(F) OPINION

- **The items under import are old and used recovered spares of the discarded ships, the same is consider as old and used spares / implant suitable for similar type of ship engine / diesel engine: where replacement towards damaged /malfunctioned engine through these items imported, could be offered.**

(G) Note:

1. The goods are second hand old/used/discarded ship spares.
2. 37 nos. of wooden crates / pallet boxes & 04nos. of Metal Trunks, (Total:41nos) packages carrying 1192pcs of various used/second hand Ship-Spares/Items, Gr.Wt:20025 Kgs, Net Wt:16150kgs. To cross check the narration and items, randomly selected crates/pallets/boxes/trunks were open; physically verified/checked in presence of DRI official in charge & CFS authorised person/representative, containing mainly Turbo Chargers & Kits of various size / capacity, Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator spares, Compressor, Fuel Injection Pump & Other Misc. Tools/ never used old Spare parts etc which were kept in the ware house situated behind the main office of M/s. Saurashtra Freight Pvt. Ltd, Saurashtra Enclave Gr. Floor Bharat CFS Zone-1, SEZ Road, Mundra Port, Mundra, Gujarat-370421. Panchnama done on 25-Sept-2025 respectively.



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3. Looking to the condition, stains, wipes, rusted, dent/scratched etc. it is accepted that; the consignment is old & used without reconditioning, apparently not refurbished items were under import.
4. The consignment was to be imported by Inv. No: AKMS786JMS25002, Dt:25-Aug-2025 & BE No:45758858, Dt:18-Sep-2025, Container No: VTBU9078071, Seal No:117043.
5. As per the discussion with the importer's representative they have checked, which are suitable for use in old & used condition without any refurbishment.

Date:10-Nov-2025



B. G. BHATT & Co.
 CHARTERED ENGINEER
 C-805, SANKALP APARTMENTS
 OPP. L. J. COLLEGE, VASTRAPUR
 AHMEDABAD 380015
 bhatt.bhasker@gmail.com
 07926752753, 9825025875



B.G.BHATT & Co.	Ref: BB/J-15/25/JMS/DRI-JAMNAGAR	PICTURES
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B. G. BHATT & CO.
REG. NO. M/1039/24
ESTD. 30.05.1991
VALUER - CAT VII
44 OF 16-DT-1976
MURRAYOR F. CAT. 1987
AHMEDABAD
REGD. GR. VALUER

B.G.BHATT & Co.	Ref: BB/J-15/25/JMS/DRI-JAMNAGAR	ANNEXURE - A
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**STATEMENT SHOWING THE DETAILS OF THE CONSIGNMENT UNDER IMPORT BY;
M/S. JOLLY MARINE SOLUTION
PLOT NO:299, VIP, MOTI-TALAV ROAD, KUMBHARVADA, BHAVNAGAR - 364006
BE No: 4578858, Dt:18-Sept-2025**

Sr.	Description (HSN Code:84129090)	Rate per Unit	Qty/Pcs	Total (Inv.) Value US\$
1	TURBO CHARGER TYPE VTR214	397.800	1	397.80
2	TURBO CHARGER TYPE VTR354	3038.450	1	3038.45
3	TURBO CHARGER TYPE R3	265.200	1	265.20
4	TURBO CHARGER TYPE RH253	563.550	1	563.55
5	TURBO CHARGER TYPE VTR354	2088.450	1	2088.45
6	TURBO CHARGER TYPE NR29	861.900	1	861.90
7	TURBO CHARGER TYPE MET42	1776.840	1	1776.84
8	TURBO CHARGER TYPE RH143	139.230	1	139.23
9	TURBO CHARGER TYPE RH163	140.000	1	140.00
10	TURBO CHARGER TYPE MET33	1050.000	1	1050.00
11	TURBO CHARGER TYPE TPS57	295.000	1	295.00
12	TURBO CHARGER TYPE TPS57	295.000	1	295.00
13	TURBO CHARGER TYPE VTR304	1345.000	1	1345.00
14	TURBO CHARGER TYPE VTR304	1345.000	1	1345.00
15	TOOLS	45.000	2	90.00
16	ELECTRIC MOTOR	58.500	2	117.00
17	WEIGHT INDICATOR WITH METER	7.750	10	77.50
18	COMPRESSOR	50.000	2	100.00
19	CHARGER TYPE RH133	55.000	1	55.00
20	DK 20 CYLINDER HEAD	135.000	2	270.00
21	DK 20 CYLINDER HEAD	135.000	2	270.00
22	DC 17 CYLINDER HEAD	75.500	4	302.00
23	TURBO CHARGER TYPE TPS57	475.000	1	475.00
24	DK 20 CYLINDER HEAD	202.000	2	404.00
25	DK 20 CYLINDER HEAD	202.000	2	404.00
26	DK 20 CYLINDER HEAD	202.000	2	404.00
27	DK 20 CYLINDER HEAD	202.000	2	404.00
28	TURBO CHARGER TYPE TPS48	190.000	1	190.00
29	TURBO CHARGER TYPE RH183	375.000	1	375.00
30	TURBO CHARGER KIT	3.643	14	51.00
31	O-RING KIT (BIG)	3.975	12	47.70
32	O-RING KIT (SMALL)	3.975	10	39.75
33	COUPLING	6.630	2	13.26
34	NUT & BOLT KIT	2.980	5	14.90
35	BUSH	1.99	8	15.92
36	CCM 10	0.33	47	15.51
37	DELIVERY VALVE 5 PCS	0.00	5	1.65
38	BEARING 3 PAIR	0.00	9	2.97
39	PLUNGER	0.00	3	4.98
40	DRIVING GEAR	0.00	3	4.47
41	LO PUMP DRIVE GEAR	0.00	3	3.48
42	SPRING (BIG)	0.99	26	25.74



Sr.	Description (HSN Code : 84129090)	Rate per Unit	Qty/Pcs	Total (Inv.) Value US\$
43	SPRING (SMALL)	0.25	18	4.50
44	BELLOWS	0.65	1	1.65
45	SEAT	0.50	3	1.50
46	BOLT FOR CONNECTING (BIG)	0.50	41	20.50
47	BOLT FOR CONNECTING (SMALL)	0.17	29	4.93
48	PISTON RING	0.50	30	15.00
49	ANTI POLISHING RING	0.50	3	1.50
50	GASKET	0.07	59	4.13
51	O-RING	0.07	76	5.32
52	ANTI POLISHING RING	0.17	8	1.36
53	GASKET	0.10	6	0.60
54	O-RING	0.99	1	0.99
55	RUBBER RING	0.69	6	4.15
56	PACKING RING	0.50	1	0.50
57	ROCKER ARM BRACELET 1 PC	0.33	15	4.95
58	VALVE SPINDLE 6 PCS	0.50	4	2.00
59	SHAFT 1 PCS	0.83	23	19.09
60	VALVE GUIDE 15 PCS	0.75	10	7.50
61	BOLT NOZZLE HOLDER	0.17	10	1.70
62	VLVE SEAT (EX) 23 PCS	0.50	1	0.50
63	VLVE SEAT (IN) PC	0.09	1	0.09
64	ROTCAP 10 PCS	1.73	1	1.73
65	PISTON PIN 1 PCS	0.50	10	5.00
66	CIRCULLER NUT 1 PCS	0.73	2	1.46
67	STATOR 1 PCS	0.33	6	1.98
68	SPRING 10 PCS	0.15	7	1.05
69	CONNECTING PIN BUSH 2 PCS	0.18	10	1.80
70	SLEEVE 6 PCS	0.85	2	1.70
71	VALVE BRIDGE 7 PCS	0.25	8	2.00
72	OIL SEAL 10 PCS	0.15	5	0.77
73	BUSH (ROCKER ARM) 2 PCS	0.75	42	31.50
74	SPRING SET 8 PCS	0.15	16	2.40
75	COVER LEAK OIL	0.17	5	0.85
76	BOLTS	0.33	4	1.32
77	METAL PIECE	0.15	10	1.50
78	HEAD STICK	0.33	8	2.64
79	CONNECTING NUT	0.17	2	0.34
80	CONTROL SLEEVE	0.50	3	1.50
81	COIL SPRING	0.25	140	35.00
82	BALL RACE	0.50	3	1.50
83	FUEL PUMP	23.25	1	23.25
84	HEAD BOLT	0.99	4	3.96
85	ALTERNATOR BEARING	56.00	1	56.00
86	CONNECTING ROD	7.95	2	15.90
87	HEAD BOLT	0.99	2	1.98
88	INJECTOR	2.32	6	13.92
89	STICK BOLT FOR HEAD	0.99	15	14.85
90	PLUNGER	1.66	2	3.32
91	BEARING	6.00	20	120.00
92	PUSH ROD	4.25	19	81.89
93	HYDRAULIC BEAR	215	2	430.00
94	GASKET	32.50	120	39.60
95	JACKET WITH MASK	2.95	55	163.90



Sr.	Description (HSN Code:84129090)	Rate per Unit	Qty/Pcs	Total (Inv.) Value US\$
96	LIGHT	0	10	36.50
97	CIRCUIT	0	18	40.50
98	CYLINDER VALVE	0	51	48.45
99	DOCTOR DK	640000	1	5.64
100	HONEYWELL	1	4	18.00
101	BUSH	1	5	4.95
102	AIR STARTER	22	4	87.00
103	FILTER	4	6	26.10
104	COMPRESSOR	99	1	99.45
105	TURBO CHARGER TYPE 30SR	650	1	650.00
106	TURBO ROTOR	46	1	46.41
107	HYDRAULIC MOTOR	270	1	270.00
108	HYDRAULIC PUMP	36	10	364.70
109	HYDRAULIC MOTOR HVLG-DSS	670	1	670.00
110	OIL	600	1	600.00
111	HYDRAULIC PUMP	305	1	305.00
	Total		1192	22220

Date:10-Nov-2025



The Chartered Engineer, in its report dated 10.11.2025, has opined that the said goods are second-hand/old & used discarded Ship Spare. These goods are old and used spares recovered from discarded ships, which can be used or are suitable for use in similar types of ship engine/diesel engine for the replacement of damaged/malfunctioned parts. Further, the goods were found to be stained, rusted, dented/scratched condition; therefore, the same were old & used, without being repaired/reconditioned and apparently not refurbished goods.

4. STATEMENTS AND INQUIRY :

4.1 Statement of Shri Mohammed Abbas Shabbirali S/o Merchant Shabbirali, Authorized Representative of M/s. Jolly Marine Solutions, Bhavnagar.

A Statement of Shri Mohammed Abbas Shabbirali S/o Merchant Shabbirali, Authorised Representative of M/s. Jolly Marine Solutions, Bhavnagar, was recorded under Section 108 on 14.11.2025 wherein he inter alia stated that:

- He was working as the Purchase & Sales Manager of M/s. Jolly Marine Solution, Bhavnagar and looking after all the work related to Purchase and Sales of the company and associated with the firm for the last one and a half year;
- M/s. Jolly Marine Solution is engaged in the business activity of machine parts and their firm imports new and refurbished machinery such as Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator Spares,

Compressor, Fuel Injection Pump, as well as other Misc. Tools / Spare Parts;

- M/s. Jolly Marine Solution is a partnership firm having two partners, namely Mr. Jollyali Vajirali Halani and M/s. Sahil Jollyali Halani; all the day-to-day activities and import operations of the firm are handled by him only.
- M/s. Jolly Marine Solution used to import both new and refurbished spare parts, and they have imported new and refurbished spare parts under Bill of Entry No. 4578858 dated 18.09.2025 from M/s. AKMS Ship and Boat Spare Parts Trading LLC., W500B-W506, Dubai Maritime City, Dubai, UAE; he had personally visited at Dubai for the purchase of the said goods and the goods were inspected at the warehouse where it was stored; the goods were inspected as per their requirement for its purchase, wherein, some of the goods were brand new and some were refurbished;
- the overseas supplier had informed verbally that some of the items were imported from other countries, which were recovered from dismantled/discarded ships, but were refurbished;
- They had personally inspected the goods at the time of purchase; however, they have not received any inspection report, quality certificate, testing certificate, reconditioning certificates or refurbishment documents for these goods.
- they never prepare any purchase order or contract, however, goods are purchased as per their requirement of particular goods, out of the goods available with the supplier, after its inspection by personal visit at Dubai; once the goods are finalized, the order is placed verbally on the spot there only; the physical condition of the goods are personally verified before shipment and no inspection or survey is conducted by any third-party surveyor;
- he has gone through both the Panchanama dated 25.09.2025 & 15.10.2025 drawn at M/s. Saurashtra Freight Private Limited CFS at Mundra for examination of the goods imported vide their Bill of Entry by the DRI Officer and an empanelled Chartered Engineer, and he has also perused the Chartered Engineer Report No. BB/J-25/25/JMS/DRI-JAMNAGAR dated 10.11.2025, which opined that the goods imported are Second Hand old/used/discarded ship spares without reconditioning and apparently not refurbished, and thereafter he stated that he agrees with the fact that the consignment is old & used but does not agree that the imported items are not refurbished;

- On being asked, he stated that he was personally present and inspected the goods before placing the order to verify that goods being imported by them are refurbished, however, refurbishing activity was not done before him; On being further asked that when the refurbishing activity was not carried out before him, how can the said goods be considered as refurbished one to which he replied that their supplier had informed that the goods are refurbished;
- On being asked, he stated that the Bill of Entry was filed by their CHA, and he didn't have any knowledge about the declaration of the goods as "old/used/second hand" or goods as new.
- They are not aware that import of second-hand /old & used goods including used ship spares is restricted under Para 2.31(ii) of Foreign Trade Policy (FTP), 2023 and prior authorization is required from DGFT for import of such goods, therefore, their firm had not applied for any authorization/permission / license in this regard from DGFT for importation of the above old & used marine spares and they came to know about such requirement only after importation of these goods; neither CHA nor Supplier had informed about the requirement of DGFT authorization for import of such goods;
- On being asked to explain as to why the goods were not declared as "second-hand/old & used marine spares" in the import documents, even though they appear used and retrieved from the ships, to which he replied that the goods is mentioned as "Refurbished used machinery Parts and Electrical Items" as description of the goods in the Bill of Lading;
- They are not aware that mis-declaration of the nature/condition/classification of the goods attracts penal provisions under the Customs Act, 1962, as they have recently started their business, and they were also not aware that the goods were mis-declared.
- There is no such communication in the form of email, WhatsApp Chats have been made to the effect that the goods are second-hand / used / ship-retrieved for price negotiation or correspondence with overseas suppliers;

4.2 Accordingly, in view of the above, the said imported goods appears to be mis-declared and restricted for import in terms of Para 2.31 (II) of the Foreign Trade Policy (FTP), 2023 and the importer is required an authorization from DGFT for import of such goods, however, the importer appears to do not have any such Authorization / Certificate for import of such goods. As such, said imported goods have been placed under Seizure u/s 110 of the Customs Act, 1962 vide

Memorandum of Seizure (Seizure Memo) No. DRI/JRU/INQ-06/2025-26 dated 14.11.2025 under the reasonable belief that the same are liable for confiscation under Section 111 of the Customs Act, 1962 and handed over to M/s. Saurashtra Freight Private Limited, Saurashtra Enclave, Ground Floor, Bharat C.F.S. Zone-1, SEZ Road, Mundra Port & SEZ Road, Mundra, Gujarat-370 421 under Suparatnama for its safe-custody on 14.11.2025.

4.3 Statement of Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Services, Mundra, acted as the Customs Broker for M/s. Jolly Marine Solutions, Bhavnagar.

A Statement of Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Service, Mundra (Customs Broker), was recorded under Section 108 on 22.12.2025, wherein he inter alia stated that:

- He is working in the capacity of Branch Manager of M/s. JMC Logistics Service and also an Authorised Representative of the said firm; he has been working with the said firm for the last one and a half years;
-
- his firm was authorised to handle the customs clearance of the import consignment of M/s. Jolly Marine Solution; one of his friends referred M/s. Jolly Marine Solutions to him for handling the import consignment and one Shri Mehandi Bhai of M/s. Jolly Marine Solutions has been contacted for the consignment; a written authorisation dated 15.09.2025 was issued by the importer for filing the Bill of Entry;
- A total of 111 items were declared under the Bill of Entry No. 4578858 dated 18.09.2025, which were unloaded at Mundra Port; the import document such as Invoice, Packing List, Bill of Lading, etc., were provided by the importer, i.e. M/s. Jolly Marine Solution through email; they had verified the correctness and completeness of the documents before filing the Bill of Entry;
-
- the goods were declared based on the invoice and packing list received from the importer and they were not informed by the importer about the exact condition of the goods such as new, old or refurbished; he did not have any documents with him indicating that the goods were old, used, refurbished or second-hand; the Tariff Heads / HS Code, Duty Structure, etc. were verified by them for possible mis-declaration / mis-classification of the goods prior to filing the Bill of Entry to exercise due diligence as Customs Broker as per Customs Brokers Licensing Regulations; he observed only during the examination of the goods by DRI Authorities that goods were in old and used conditions;
- On perusal of the Chartered Engineer's Report, he agrees with the fact that

the imported goods are Second Hand, Old / Used / Discarded Ships Spares; and the consignment is old and used, without refurbishing;

- goods were examined for the first time by DRI Authorities, and he came to know about such conditioning of goods at that time only; the discrepancies between the declared description and actual condition of the goods were pointed out during the course of examination of the goods by DRI to him, and he was present there at that time;
- The importer did not inform them that the goods were old or used before filing the Bill of Entry; they had prepared the draft Bill of Entry based on documents provided by the importer and were sent to the importer for approval; he agreed that declaring old and used goods as new amounted to mis-declaration.

5. LEGAL PROVISIONS REGARDING IMPORT OF OLD, USED & SECOND-HAND GOODS:

5.1 M/s. Jolly Marine Solutions has imported various goods viz. "Turbo Charger" "Tools", "Electric Motors", "Compressors", "Cylinders", "Ring", "Coupling" "Nut & Bolt", "Bush", "Bearing", "Valve", "Plunger", "Driving Gears", "Springs", "Bellows", "Piston", "Shaft", "Fuel Pump", "Alternator Bearings", "Injector", "Gasket", "Hydraulic Gear", "Jacket with Mask", "Cylinder Valve", "Hydraulic Motor", "Hydraulic Pump" etc. and classified it under CTSH 8412 90 90 of the 1st Schedule of the Customs Tariff (Import Tariff). As per the Customs Tariff (Import Tariff), Chapter 84, read with HS Code 8412, is for "Parts of Other Engine and Motors". The relevant abstract of the same is reproduced below for the sake of convenience:

Chapter 84 : Nuclear Reactors, Boilers, Machinery and Mechanical Appliances; Parts thereof :

Tariff Item	Description of the Goods	Unit Rate of Duty Policy			
		Std. Rate	Effec- tive Rate	Policy	
(1)	(2)	(3)	(4)	(5)	(6)
8412	OTHER ENGINES AND MOTORS				
8412 10 00	-Reaction engines other than turbo-jets	u.	7.50%	7.50%	Free
	-Hydraulic Power engines and motors:				
8412 21 00	--Liner acting (cylinder)	u.	7.50%	7.50%	Free
8412 29	--Other				
8412 29	--Hydrojet (Hydraulic jet engines)	u.	7.50%	7.50%	Free

10	-			
8412 29	--Other	u.	7.50% 7.50%	Free
90	-			
	-Pneumatic power engines and motors			
8412 31	--Liner acting (cylinder)	u.	7.50% 7.50%	Free
00				
8412 80	--Other	u.	7.50% 7.50%	Free
	--Steam or other vapour power			
	-			
8412 80	--Stationary	u.	7.50% 7.50%	Free
11	--			
8412 80	--Other	u.	10.00% 10.00%	Free
19	--			
8412 80	--Motors, spring operated excluding clock &	u.	10.00% 10.00%	Free
20	-watch movements			
8412 80	--Wind turbine or engine	u.	10.00% 10.00%	Free
30	-			
8412 80	*-Wind mills and wind operated electricity	u.	10.00% 10.00%	Free
30	--generators (WOG)			
8412 80	--Other	u.	10.00% 10.00%	Free
90	-			
8412 90	-Parts			
8412 90	--Of steam engines incorporating boilers	u.	7.50% 7.50%	Free
10	-			
8412 90	--Of other steam engines & other vapour power	u.	7.50% 7.50%	Free
20	-units not incorporating boilers			
8412 90	--Of hydraulic engines & motors	u.	7.50% 7.50%	Free
30	-			
8412 90	--Other	u.	7.50% 7.50%	Free
90	-			

5.2 The provisions of Chapter#2 of Foreign Trade Policy, 2023 (FTP) deals with General Provisions regarding Imports and Exports. As per Para # 2.01 of the FTP, Imports shall be "Free" except when regulated by way of "Restriction". Further, some items are "Free" for import / export, but subject to conditions stipulated in other Acts or in law for the time being in force. Moreover, Para#2.08 of the FTP stipulates that Restricted goods may be imported only in accordance with an Authorisation / Permission or in accordance with the Procedures prescribed in a Notification / Public Notice issued in this regard. The relevant provisions are re-produced herein-below for the sake of reference:-

2.01 Policy regarding Import/Exports of goods

(a) *Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', 'Restriction' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. The list of 'Prohibited', 'Restricted', and STE items can be*

viewed under 'Regulatory Updates' at <https://dgft.gov.in>

(b) Further, there are some items which are 'Free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

2.08 Export/Import of Restricted Goods/ Services

Any goods /service, the export or import of which is 'Restricted' may be exported or imported only in accordance with an Authorisation / Permission or in accordance with the Procedures prescribed in a Notification / Public Notice issued in this regard.

5.3 Further, the provisions of Para 2.31 of the Foreign Trade Policy (FTP) 2015-20 read under:-

Sl. No.	Categories of Second-Hand Goods	Import Policy	Conditions, if any
I	Second Hand Capital Goods		
(a)	(i) Desktop computers, (i i) Refurbished/reconditioned spares of re-furbished parts of Personal Computers/Laptops	Restricted	Importable against Authorization
(b)	All electronics and IT Goods notified under the Electronics and IT Goods Order 2012	Restricted	Importable against authorization.
(c)	Refurbished/re-conditioned spares of Capital goods	Free	Subject to the production of a Chartered Engineer certificate to the effect that such spares have at least 80% residual life of the original spare.
(d)	All other second-hand capital goods {other than (a), (b) & (c) above}.	Free	
II	Second Hand Goods other than Capital Goods	Restricted	Importable against Authorization.

5.4. The word "Capital Goods" is defined/explained in Foreign Trade Policy 2015-20, as below:-

"Capital Goods" means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly of goods or for rendering services, including those required for replacement, modernization, technological up-

gradation or expansion. It includes packaging machinery and equipment, refrigeration equipment, power generating sets, machine tools, equipment and instruments for testing research and development, quality and pollution control."

5.5 In view of the aforementioned provisions of the Customs Tariff and the Foreign Trade Policy, it is observed that:-

- a. the import of goods, i.e. "other parts" of "other engines and motors" classifiable under CTS/CTI 8412 90 90 if at all, imported in Brand New Condition, be it used as Capital Goods or otherwise, is **FREE**;
- b. the import of goods i.e. "other parts" of "other engines and motors" classifiable under CTS/CTI 8412 90 90, if at all, imported Refurbished/Re-conditioned spares of Capital goods, is **FREE**, subject to the condition that a Chartered Engineer issue a certificate to the effect that such spares have at least 80% residual life of the original spare;
- c. the import of goods, i.e. "other parts" of "other engines and motors" classifiable under CTS/CTI 8412 90 90, in old & used condition (i.e. second hand & without refurbished), for its use other than as Capital Good, is **RESTRICTED**;

6. SCRUTINY AND ANALYSIS OF DOCUMENTS / EVIDENCE:

[A] Analysis of the Panchanama dated 25.09.2025 & 15.10.2025 drawn for examination of the goods:

- The examination of the goods imported under Container No. VTBU 9078071 indicates that the goods were packed in 37 wooden pallet boxes and 04 metal trunks. On random examination of the goods from 37 wooden pallet boxes and 04 metal trunks, it was found to be in old and used conditions and retrieved from ship.
- The Technical Data or specification showing the precise nature of the goods was not mentioned on the goods, nor was such material available with the said consignment; therefore, proper identification of the goods was not possible and required technical or expert opinion. Therefore, a detailed examination of the goods was carried out in the presence of an empanelled Chartered Engineer.
- The Chartered Engineer observed that the imported goods are old & used spares of the sea-going vessel drive engine as well as of other accessories like hydraulic pump and hydraulic motor, the turbo-chargers of various sizes and categories dismantled from several engines;

[B] Analysis of the Chartered Engineer's Certificate / Report No.

BB/J-25/25/JMS/DRI-Jamnagar dated 10.11.2025 in respect of goods imported as pr Invoice No. AKMS786JMS25002 Dated 25.08.2025:

- Shri Bhaskar G. Bhatt, C/o B. G. Bhatt & Co., is an empanelled Chartered Engineer who had inspected the imported goods on 15.10.2025 during the course of the examination of the goods by DRI and submitted its Report No. BB/J-25/25/JMS/DRI-Jamnagar dated 10.11.2025.
- As per the CE Report, the imported goods were imported under Container No. VTBU 9078071 consists mainly of Turbo Charger & Kit, Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator Spares, Compressor, Fuel Injection Pump & Other Misc. Tools / Spare parts etc., supplied under Invoice No. AKMS786JMS25002 Dated 25.08.2025 by the Supplier M/s. AKMS Ships & Boats Spare Parts Trading LLC, Dubai (UAE).
- The goods were found to be only dismantled and cleaned from the discarded ships; however, no repairs or reconditioning/refurbishment were observed. The items are old & used ships recovered spares and suitable for similar type of ships' engine/diesel engine as a replacement against damaged/malfunctioned engine. Looking at its condition, i.e. strains, wipes, rusted, dents/scratches, etc., the consignment is of old & used or second-hand goods without reconditioning and apparently not refurbished.

[C] Analysis of the facts deposed by Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar.

- M/s. Jolly Marine Solution used to import both new and refurbished spare parts, and they have imported new and refurbished spare parts under Bill of Entry No. 4578858 dated 18.09.2025 from M/s. AKMS Ship and Boat Spare Parts Trading LLC., W500B-W506, Dubai Maritime City, Dubai, UAE. The Brand New as well as Refurbished goods were purchased after physical inspection in Dubai.
- The overseas supplier had informed the importer of the fact that some of the items were imported by them from other countries. These items were recovered from dismantled/discarded ships and were refurbished there. However, the claim of refurbishment does not appear to be true in light of the CE Report.
- The importer did not get the said goods inspected & tested for their quality & fitness purpose, and any inspection report/quality certificate/testing certificate / Re-conditioning Certificate / Refurbishment Documents, etc. have not been prepared or issued by the seller in this regard.

- There was no Purchase Order made or contract entered into for the purchase of such goods. The said goods have been purchased by the importer on an 'as is where is' basis after its physical examination on the spot, followed by verbal order. Any third-party inspection or survey was also not carried out by the importer or seller to ascertain the quality and fitness condition of the goods.
- The importer agreed with the fact that the goods were purchased after due physical inspection and based on the assurance of the seller that the supplier will provide the goods duly refurbished. They further agreed with the fact that any activity relating to the refurbishment of such goods was not carried out in front of them.
- The importer also agrees with the physical examination of the goods carried out by DRI Officers / Chartered Engineer and CE Report issued by the Chartered Engineer, and also accepts that the imported goods are old / used / second-hand and not refurbished.
- They had purchased Brand New or Refurbished goods, therefore the goods were not declared as "second-hand/old & used marine spares" in the import documents, even though the goods were retrieved from the ships.
- The importer was not aware of the legal provision that the import of second-hand/old & used goods, including used ship spares is restricted under Para 2.31(ii) of Foreign Trade Policy (FTP), 2023 and prior authorization is required from DGFT for import of such goods and they are also not in possession of any such authorization/permission/licence. They came across such a legal provision after the importation of goods, and neither CHA nor Supplier had informed them about the requirement of DGFT authorisation for the import of such goods.
- They are not aware that mis-declaration of the nature/condition/classification of the goods attracts penal provisions under the Customs Act, 1962, as they have recently started their business, and they were also not aware that the goods were mis-declared. Further, there was no such communication in the form of email. WhatsApp Chats have been made with the seller to the effect that the goods are second-hand / used / ship-retrieved for price negotiation or correspondence with an overseas supplier;

**[D] Analysis of the facts deposed by Shri Renjit Behra,
Authorised Representative of M/s. JMC Logistics Services, Mundra,**

a Custom Broker :

- M/s. J. M. Logistics Service, Mundra have filed Bill of Entry No. Bill of Entry No. 4578858 dated 18.09.2025 for the clearance of imported goods and declared a total of 111 items thereunder based on the import document, such as Invoice, Packing List, Bill of Lading, etc., which were provided by the importer, i.e. M/s. Jolly Marine Solution through email.

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- They had verified the correctness and completeness of the documents before filing the Bill of Entry to oversee the possible mis-declaration / mis-classification of the goods to exercise due diligence as a Customs Broker as per the Customs Brokers Licensing Regulations.

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- The goods were declared in the Bill of Entry based on the invoice and packing list received from the importer. They were not informed by the importer about the exact condition of the goods, viz. New, Old & used or Refurbished. There were no documents with him indicating that the goods were not new but old, used, refurbished or second-hand.

- They observed only during the examination of the goods by DRI Authorities that the goods were in old and used conditions. They agree with the CE Report dated 10.11.2025, forming an opinion that the imported goods are Second Hand, Old / Used / Discarded Ships Spares and also agree with the fact that the goods covered by this consignment are old and used, without refurbishing. The approval of the importer was obtained before filing the Bill of Entry. They also agree that the declaration of Old & Used goods as New ones amounts to mis-declaration.

7. OUTCOME OF THE INVESTIGATION :

7 . 1 Whereas it appears that the goods imported vide Container No. VTBU9078071 and sought to be cleared vide Bill of Entry No. 4578858 dated 18.09.2025 filed at Mundra Port are mainly Turbo Charger & Kit, Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator Spares, Compressor, Fuel Injection Pump & Other Misc. Tools / Spare parts etc. classifiable under CTSH-8412 90 90 as "Parts of Other Engines and Motors" as per the 1st Schedule of the Customs Tariff (Import Tariff). The said goods appear to be dismantled and retrieved from discarded ships. Further, looking at its physical condition, i.e. strains, wipes, rusted, dents/scratches, etc., it appears to be old & used or second-hand goods without reconditioning and refurbishment and does not appear to be Brand New.

7.2 Whereas, it appears that the importer is engaged in the import of ship's machinery and spare parts for trading purposes and does not appear for its own use in any plant, machinery, equipment or accessories for manufacture or

production or for rendering services. It also appears from the CE report that the items are old & used ships recovered spares, therefore, appear to be suitable in seagoing / ocean-going ships for a similar type of ship's engine/diesel engine as a replacement against a damaged/malfunctioned engine. Thus, the imported goods do not fall under the category of "Capital Goods" in terms of the Foreign Trade Policy.

7.3 Whereas, it appears that the imported goods are Old & Used or Second-Hand goods, without reconditioning or refurbishment and not a Brand New. Further, the said goods are useful for replacement against damaged/malfunctioned engine in a seagoing vessel. Further, the said goods have been imported for trading purposes, and their exact usage is not known; therefore, the said goods appear not to be covered by "Capital Goods" as per Foreign Trade Policy, 2015-20 (as amended). Since the said goods appear to be second-hand and not to be used as "capital goods", it appears to be covered as RESTRICTED as per Para 2.31 Foreign Trade Policy (FTP), and its import appears to be permissible against Import Authorization issued by the DGFT.

7.4 Whereas, Old & Used, Second-Hand Spares & Parts, to be used for replacement in seagoing vessels/ships as discussed hereinabove, and classifiable under CTSN 8412 90 90 is "RESTRICTED" for import as per the Foreign Trade Policy, as such, same is allowed for import only in accordance with an Authorisation/Permission/Licence issued by the competent authority, as per Para#2.01 & 2.08 of the Foreign Trade Policy.

7.5 Whereas, it appears from the discussion in the foregoing paragraphs that the said imported goods fall under the category of RESTRICTED goods as per the Foreign Trade Policy. Further, for the purpose of importing the RESTRICTED goods, a valid licence/authorisation issued by the Directorate General of Foreign Trade (DGFT) is required, whereas the said importer appears not to have any valid licence/authorisation issued in this regard.

7.6 In view of the above, it appears that the said goods have been imported in contravention of Para 2.31 read with Para 2.08 of the Foreign Trade Policy; therefore, the said goods are liable to be confiscated under Section 111(d) & (m) of the Customs Act, 1962.

8. CONTRAVENTIONS AND CHARGES

8.1 Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar, in his statements recorded on 14.11.2025, deposed that they were engaged in the import of both new and refurbished spare parts and have purchased the said goods as New/Refurbished goods after their physical inspection at the warehouse of the overseas supplier at Dubai. It was also deposed in the said statement that the overseas supplier had informed the manner of procurement of such goods, i.e. some of the items were imported by the said supplier from other countries, and such items are recovered there, out of dismantled/discarded ships and are refurbished there. In other words, the said

items were not refurbished by the supplier either before or after their sales to the importer. It is further observed from the deposition that the importer had neither got the said goods inspected & tested for its quality & fitness purpose nor any inspection report/quality certificate/testing certificate / Re-conditioning Certificate / Refurbishment Documents, etc. were prepared or issued by the seller. It is also seen that any third-party inspection or survey was carried out by the purchaser to ascertain the quality and fitness condition of the goods. It is, thus, evident that the said goods have been purchased by the importer on an 'as is where is' basis after its physical examination on the spot, followed by verbal order in as much as there was no Purchase Order made or contract entered into for the purchase of such goods.

8.2 Further, CBIC vide Circular No.43/2005-Cus. Dated 24.11.2005, has introduced the 'Risk Management System' (RMS) to facilitate a large number of Bills of Entry, which are perceived to be compliant with the Customs Laws and Regulations. Such self-assessed Bills of Entry will be processed by the RMS to evaluate the risk in the Bill of Entry, if any, duty will be calculated, and a challan will be generated by I CES based on the declaration/self-assessment made by the importer. The goods will be ready for out-of-charge on the basis of the importer's declaration/self-assessment, and without any assessment/examination by the officers, to strike an optimal balance between facilitation and enforcement and to enable low-risk consignments to be cleared based on the acceptance of the importer's self-assessment and without examination. In RMS system, the stress is on self-assessment of the Bills of Entry which will be processed by the system based on declaration and if found compliant, such Bills may be sent to out of charge without any action and it is expected from all importers that they have suitable mechanisms in place to ensure that their declarations are accurate, sufficient and factually correct, while filing the fields in the Bill of Entry.

8.3 In the instant case, it appears from the above that the importer has knowingly and deliberately chosen not to declare the description of the imported goods as "Old & Used or Second-hand Spare Parts" in the prefix of the description of the goods against every item, in the Bill of Entry. The importer has chosen to declare the description of the goods, as if it were a new one or a branded one, based on merely a copy of the Invoice, Packing List & Bill of Lading issued by the overseas supplier of the goods. It is also evident that the importer had purchased the goods at supplier's sight after due physical verification and it was very well aware to the importer that no refurbishment activity is being carried out by the seller, even before or after purchase or supply of the goods, by the seller.

In this scenario, no sooner are the goods declared as "Parts of Other Engine and Motors", on the strength of all the above documents, the same are cleared by the RMS system without Assessment & Examination, considering the goods as Brand New goods. Hence, based on such incorrect declaration of the description of the goods in the Bill of Entry, the effect of RESTRICTION for import of such goods as per the Foreign Trade Policy is neutralized, thereby enabling the import of restricted goods without valid DGFT authorisation under the guise of a compliant self-asse

ssed Bill of Entry.

8.4 It appears from the above discussion that the importer was very well aware that the import of the second-hand goods is RESTRICTED and not permissible without proper authorisation issued by the DGFT in this regard. However, in order to circumvent such policy restriction, the importer appears to have arranged to obtain from the supplier an invoice showing the goods, as if it is Brand New. Under such pretext, the importer had initially deposed that some of the goods purchased by them are Brand New and some of the goods are refurbished; however, they changed their view later on, stating that they relied upon the version of the Seller that the goods are refurbished ones. In fact, the importer was very well aware at the time of physical inspection only that the goods were old & used ones retrieved from discarded ships and not a refurbished one. Further, importer said to have wrongly deposed for this very purpose that they were not aware about the legal provision that the import of second-hand /old & used goods including used ship spares is restricted under Para 2.31(ii) of Foreign Trade Policy (FTP), 2023 and prior authorization is required from DGFT for import of such goods and they were also not in possession of any such authorization/permission/licence and they come across about such legal provision after importation of goods and neither CHA nor Supplier had informed about the requirement of DGFT authorization for import of such goods. It further appears that they have wrongly stated the fact that they were also not aware that mis-declaration of the nature/condition/classification of the goods attracts penal provisions under the Customs Act, 1962, under the pretext that they have recently started their business activity.

Thus, in view of this backdrop, it appears that the importer had knowingly and deliberately attempt to import the goods by way of declaration of incorrect and wrong description of the goods in the Bill of Entry to circumvent from the RESTRICTION on its import, and to import such goods without valid authorization required for such goods, through Risk Management System by way of mis-declaration of the goods.

8.5 In view of the above, it appears that the act of mis-declaration in the description of the goods, as discussed hereinabove, is a wilful mis-statement to circumvent from Restriction imposed on the import of such goods. In the era of Self-assessment, it was incumbent upon the importer to declare the true and correct particulars, including a description of the goods, in the Bill of Entry irrespective of the fact as to what is the description mentioned in the documents furnished by the supplier. The importer cannot escape from the charge of wilful mis-statement under the pretext that the declaration is based on the description given in the supplier invoices, packing list, etc.

8.6 The fact that the said goods are old & used, and second-hand has emerged only during the investigation initiated by DRI authorities. Accordingly, it appears that the importer has knowingly and deliberately mis-declared the description of the goods in the Bill of Entry filed by them to circumvent the RESTRICTION on import

of such goods and to clear the goods on payment of normal Customs duty.

8.7 In view of the above facts and circumstances, the importer appears to have imported the said goods improperly into India in contravention of Para#2.31 read with Para#2.01 & 2.08 of Foreign Trade Policy, therefore, rendered the said goods liable for confiscation under Section 111(d) & (m) of the Customs Act, 1962. By these acts of omission and commission, the importer has rendered themselves liable to penalty under Section 112 of the Customs Act, 1962, for the goods imported by them.

9. In view of the discussion in the foregoing paragraphs, it appears that Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar, has knowingly and deliberately chosen to declare the incorrect description of the imported goods in the Bill of Entry, on the basis of merely a copy of the Invoice & Packing List issued by the supplier of the goods.

Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar have arranged to obtain such documents from the supplier during the course of physical inspection of the goods at the time of his sight visit at the supplier's premises. He did not enter into any written contract or agreement with the supplier of the goods to circumvent showing the true and exact nature or description of the goods, as well as not shown any due diligence to take care of such vital condition having a direct bearing on the importability of the goods into India. Contrarily, he has simply relied upon the description of the goods manifested in the Invoice & Packing List / etc. supplied by the supplier, despite knowing that the goods being purchased by them were neither new nor refurbished, and no refurbishment activity is being carried out by the supplier, even before or after its purchase by the supplier.

In view of the above, it thus appears that Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar, has made a misdeclaration in the description of the goods so as to circumvent from RESTRICTION imposed on the import of such goods. As a result, the said goods have imported improperly into India in contravention of Para 2.31 read with Para#2.01 & 2.08 of Foreign Trade Policy, therefore, rendered the said goods liable for confiscation under Section 111(d) & (m) of the Customs Act, 1962.

Thus, by acting in this way, Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar had consciously and deliberately dealt with the goods which he knew or had reasons to believe were liable to confiscation under the provisions of Section 111(d) & Section 111(m) of the Customs Act, 1962 in respect of imports made by them without any valid DGFT authorization, and such acts and omissions and commission on his part have rendered him liable to penalty under Section 112 of the Customs Act, 1962 for the goods imported by them.

10. Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Service, Mundara (a Customs Broker) deposed in his statement dated 22.12.2025 that they had filed the Bill of Entry and declared a total of 111 items thereunder based on the import document, such as Invoice, Packing List, Bill of Lading etc., provided by the importer, i.e. M/s. Jolly Marine Solution through email and verified the correctness and completeness of the documents before filing the Bill of Entry to oversee the possible mis-declaration / mis-classification of the goods to exercise due diligence as a Customs Broker as per the Customs Brokers Licensing Regulations. The CHA further deposed that they were not informed by the importer about the exact condition of the goods, viz. New, Old & used or Refurbished, and there were no documents with him indicating that the goods were not new but old, used, refurbished or second-hand.

It further appears from the Commercial Invoice / Packing List that a very specific description of each and every item has been provided therein, viz. Type / Size / Diameter / Nos., however, no supporting documents like Technical Literature, Drawing & Designs, Manufacturer Specification or Data Sheets, etc. were made available to them. Moreover, the description of the goods was shown as "ONLY REFURBISHED USED MACHINERY PARTS AND ELECTRICAL ITEMS" in the Bill of Lading supplied by the importer. In this backdrop, the Custom Broker ought to have called for Technical Literature / Manufacturer Specification or Data Sheet / Drawing & Designs by the manufacturers, etc., to ascertain and to arrive at the exact nature of the goods. It appears from the above that the Custom Broker have not shown due diligence to call for further documents and relied upon whatever documents were made available by the importer, especially when the goods are classifiable as "Parts" and that to in "residual entry" of CTSH 8412.

It appears that it is incumbent upon the Custom Broker in this case, to advise and suggest his client to comply with the provisions of the Act / other Allied Acts and the rules and regulations thereof, and required to exercise due diligence to ascertain the correctness of any information which under imports, to a client with reference to any work related to clearance of cargo. In the instant case, the Customs Broker appears to have failed their liabilities as envisaged under Regulation 10 (d) & (e) of the Customs Brokers Licensing Regulations, 2018 by not advising/suggesting/guiding/imparting in proper manner, as discussed hereinabove, in respect of the goods imported by the said importer and sought to be cleared through the said Customs Broker. Thus, by failure in due diligence in discharge of its duty as Customs Broker, the true and correct description of the goods could not have been shown/declared in the Bill of Entry, which led to import of RESTRICTED goods improperly into India, in contravention of Para 2.31 read with Para#2.01 & 2.08 of Foreign Trade Policy, therefore, rendered the said goods as liable for confiscation under Section 111(d) & (m) of the Customs Act, 1962. Thus, by acting in this way, Ranjit Behra, Authorized Representative of M/s. JMC Logistics Service, Mundra (a Customs Broker) had consciously and deliberately dealt with the goods which he knew or had reasons to believe were

liable to confiscation under the provisions of Section 111(d) & Section 111(m) of the Customs Act, 1962 in respect of imports made by them without any valid DGFT authorization, and such acts and omissions and commission on his part have rendered him liable to penalty under Section 112 of the Customs Act, 1962 for the goods imported by them.

11. The relevant legal provisions relating to Improper Importation of the goods and Penal Liabilities are as follows:

[A] **SECTION 2(23), 2(25), 2(33) & 2(39) OF THE CUSTOMS ACT, 1962 :**

- **Section 2(23) - "import"**, with its grammatical variations and cognate expressions, means bringing into India from a place outside India;
- **Section 2(25) - "imported goods"** means any goods brought into India from a place outside India, but does not include goods which have been cleared for home consumption;
- **Section 2(33) - "prohibited goods"** means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force, but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;
- **Section 2(39) - "smuggling"**, in relation to any good, means any act or omission which will render such goods liable to confiscation under Section 111 or Section 113;

[B] **SECTION 11 OF THE CUSTOMS ACT, 1962 :**

Section 11. Power to prohibit importation or exportation of goods.

(1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

2. *** *** *** *** ***

(3) Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any

order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications, or adaptations as the Central Government deem fit.

**[C] FOREIGN TRADE (DEVELOPMENT & REGULATIONS) ACT, 1992
& FOREIGN TRADE POLICY :**

Section 3 of FTDR ACT: Powers to make provision relating to imports and exports :

1. The Central Government may, by Order published in the Official Gazette, make provisions for the development and regulation of foreign trade, facilitating imports and increasing exports.
2. The Central Government may also, by Order published in the Official Gazette, make provisions for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology:

Provided *** **

3. All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under Section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

[D] SECTION 111. Confiscation of improperly imported goods, etc. -

The following goods brought from a place outside India shall be liable to confiscation: -

(a) ...

(b) ...

(c) ...

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

...

...

(m) any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act, or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods

under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;

...
...

[E] Sections 112. Penalty for improper importation of goods, etc.-

Any person,-

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act,

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) *in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.*

Section 125: Option to pay fine in lieu of confiscation.

(i) *Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:*

12. MIS-DECLARATION OF THE GOODS :

12.1. Vide Finance Act, 2011, "Self-Assessment" has been introduced w.e.f. from 08.04.2011 under the Customs Act, 1962. **Section 17** of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill, as the case may be, in the electronic form, as per Section 46 or 50, respectively. Thus, under self-assessment, it is the responsibility of the importer or exporter to ensure that he declares the correct classification, applicable rate of duty, value, benefit or exemption notification claimed, if any, in respect of the imported/exported goods while presenting Bills of Entry or Shipping Bill.

12.2 In the present case, it appears that the importer, have deliberately contravened the above said provisions with a malafide intention to circumvent from the RESTRICTION imposed on the said goods and to clear the said goods (old & used / second hand goods), without any authorization issued by DGFT, on the basis of merely an incorrect declaration in the Commercial Invoice, Packing List & Bill of Lading made available by the Seller / Supplier.

12.3. In view of the above, it appears that the importer, Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar and Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Service, Mundara (a Customs Broker) have violated the provisions of Sections 17 and 46 of the Customs Act, 1962 which was their duty to comply correctly and properly, but for which no express penalty is elsewhere provided for such contravention or failure, they shall also be liable to penalty under **Section 117** of Customs Act, 1962 which reads as under:

SECTION 117. Penalties for contravention, etc., not expressly mentioned.
- Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.

13. PENAL IABILITIES FOR USE OF FALSE AND INCORRECT MATERIALS :

13.1. It appears from the discussion in foregoing paragraphs that the importer has arranged to obtain the Commercial Invoice & Packing List duly issued by the supplier, which are false and incorrect in nature, for import of the said goods, with an intention to use the same for mis-declaration of the description of the goods, at the time of clearance of the imported goods. Thus, by this act, the importer has used or causes to be used the aforesaid declarations during the transactions of their business, therefore, has rendered them liable for penalty under **Section 114AA** of the Customs Act, 1962, too.

13.2 The relevant provision of Section 114AA reads as follows:

SECTION 114AA. Penalty for use of false and incorrect material – If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

11. Accordingly, Show Cause Notice No. 04/2026-27/ADC/ZDC/MCH dated 02.04.2026 was issued to the all noticees calling upon it to show cause as to why:

(i) The goods i.e. 111 items (1192 Nos./Pcs) of different description of "Parts of Other Engine and Motors" valued at Rs. 19,99,829/- (Rupees Nineteen Lakhs Ninety-Nine Thousands Eight Hundred and Twenty-Nine Only), imported under Bill of Entry No. 4578858 dated 18.09.2025 should not be held liable for confiscation under Section 111(d) & Section 111(m) of the Customs Act, 1962.

(ii) Penalties should not be imposed upon M/s. Jolly Marine Solutions under Sections 112, 114AA and 117 of the Customs Act, 1962.

(iii) Penalties should not be imposed upon Shri Mohammed Abbas Shabbirali, S/o Merchant Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar, under Sections 112 and 117 of the Customs Act, 1962;

(iv) Penalties should not be imposed upon Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Services, Mundra (Custom Broker Code - AYTPM3864DCH001), under Sections 112 and 117 of the Customs Act, 1962

WRITTEN SUBMISSIONS

12.1 The importer M/s Jolly Marine Solutions vide their letter dated 09.04.2026 submitted the following:

"....."

(i) *In our statement dated 04.11.2025, we have already submitted that we are a newly established importer and were not fully conversant with all mandatory compliance requirements at the time of import. This being our first import transaction, we had arranged funds through borrowings from relatives and financial institutions, and we are presently under considerable financial strain*

due to mounting interest liabilities.

We respectfully submit that we were not aware that the import of second-hand/old & used goods, including used ship spares, is a restricted activity under Para 2.31(ii) of the Foreign Trade Policy, 2023, requiring prior authorization from the Directorate General of Foreign Trade (DGFT). Owing to such lack of awareness, our firm did not apply for any authorization/permission/license from DGFT for the import of the said old and used marine spares. We came to know about this requirement only after the importation of the goods.

(ii) In our earlier letter dated 25-03-2026, we had requested your good office to adjudicate the matter without issuance of a Show Cause Notice in view of our severe financial hardship. We had also requested that the case pertaining to the import consignment covered under Bill of Entry No. 4578858 dated 18.09.2025 be adjudicated expeditiously, permitting re-export of the goods. Since a Show Cause Notice has now been issued, we respectfully request that the same may kindly be adjudicated at the earliest without granting us a personal hearing, and a speaking order may be passed allowing re-export of the goods covered under the aforesaid Bill of Entry.

(iii) We humbly and respectfully request that our prayer for re-export of the goods may kindly be considered in a sympathetic and judicious manner. It is submitted that the impugned goods were imported without any mala fide intention or deliberate violation of law, but solely due to lack of awareness regarding the applicable provisions governing import of second-hand/used goods. The lapse, if any, is purely technical and procedural in nature.

We further submit that we are not seeking to avail any undue benefit, profit, or gain from the said goods. On the contrary, we are willing to re-export the entire consignment at our own cost, thereby ensuring that no prejudice is caused to the revenue or to the regulatory framework. In such circumstances, the very purpose of regulation stands satisfied once the goods are directed to be re-exported.

It is also pertinent to submit that we are facing severe financial hardship, having arranged funds for this import through borrowings, and the continued detention of goods is causing undue financial burden in the form of interest and incidental charges. Imposition of heavy redemption fine and penalty, in addition to such losses, would result in disproportionate hardship and would not be commensurate with the nature of the lapse.

In view of the above facts and circumstances, it is earnestly prayed that your good office may be pleased to take a lenient and pragmatic view in the matter, permit re-export of the goods, and impose only nominal redemption fine and penalty, if any, in the interest of justice, equity, and fair play."

12.2 Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s Jolly Marine Solutions vide their e-mail dated 16.04.2026 submitted the following:

(i) In my statement dated statement dated 04.11.2025, we have already submitted that we are a newly established importer and were not fully conversant with all mandatory compliance requirements at the time of import. This being our first import transaction, we had arranged funds through borrowings from relatives and financial institutions, and we are presently under considerable financial strain due to mounting interest liabilities.

I respectfully submit that I was not aware that the import of second-hand/old & used goods, including used ship spares, is a restricted activity under Para

2.31(ii) of the Foreign Trade Policy, 2023, requiring prior authorization from the Directorate General of Foreign Trade (DGFT). Owing to such lack of awareness, our firm did not apply for any authorization/permission/license from DGFT for the import of the said old and used marine spares. We came to know about this requirement only after the importation of the goods.

(ii) I have narrated all the facts to the Investigating Agency. I did not hide any information and have given true information to the DRI.

(iii) It is a settled proposition of law that while imposing penalty upon a person, the Doctrine of Proportionality must be duly taken into account. In the case of *Om Kumar v. Union of India*, the Hon'ble Supreme Court adopted the Doctrine of Proportionality and held that administrative action should not be more drastic or excessive than is necessary to achieve the desired objective. Further, the Hon'ble Supreme Court in *Hindustan Steel Ltd. v. State of Orissa* categorically held that penalty is not to be imposed merely because it is lawful to do so. It was observed that no penalty should ordinarily be imposed for a technical or venial breach of legal provisions, or where the breach flows from a bona fide belief that the person is not liable to act in the manner prescribed by the statute. The relevant extract from the said judgment is reproduced below:

7. Under the Act penalty may be imposed for failure to register as a dealer : Section 9(1) read with Section 25(1)(a) of the Act. But the liability to pay penalty does not arise merely upon proof of default in registering as a dealer. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute. Those in charge of the affairs of the Company in failing to register the Company as a dealer acted in the honest and genuine belief that the Company was not a dealer. Granting that they erred, no case for imposing penalty was made out.

Prayer

In view of the above facts and settled position of law, it is humbly prayed that the penalty proposed against me under the Show Cause Notice dated 02.04.2026 may kindly be dropped in the interest of justice. Further, we do not want for personal hearing in the matter and an speaking order may be passed based on the above submission

12.3 Shri Ranjit Behra, M/s JMC Logistics Services vide their letter dated 09.04.2026 *inter-alia* submitted the following:

(i) the goods were declared strictly on the basis of invoice and packing list provided by the importer, and at the time of filing the Bill of Entry, no document was available indicating that the goods were old, used, refurbished, or second-hand in nature;

(ii) as a Customs Broker, due diligence was exercised by verifying the tariff headings/HS Code and duty structure to rule out any apparent misclassification or misdeclaration;

(iii) it was only during physical examination by DRI authorities that the old and used condition of the goods came to their notice, and they have concurred with the Chartered Engineer's Report dated 10.11.2025;

(iv) penalty under Section 112(a) is not tenable as the second part of the said provision, which is applicable to Customs Brokers as facilitators, requires mens rea/knowledge as an essential ingredient, and no such knowledge or animus has been established on record; that the noticee had acted only on documents forwarded by Cargo Trans Maritime Private Limited and S N Shipping, and had no reason to doubt the same; that no extra benefit or additional amounts were received from the said parties; reliance was placed on the following decisions:

AMRITLAKSHMI MACHINE WORKS Vs. COMMR. OF CUS. (IMPORT), MUMBAI, 2016 (335) E.L.T. 225 (Bom.) – wherein it was held that for persons other than the importer/exporter/beneficial owner, invocation of the second part of Section 112(a) requires mens rea, and imposing penalty upon an abettor without any mens rea on his part would bring all business to a halt;

V. Esakia Pillai Vs. CC Chennai 2001 (138) ELT 802 (Tri. Chennai);

Hindustan Steel Ltd. Vs. State of Orissa 1978 (2) ELT J159 (SC);

Union of India (UOI) and Ors. Vs. Raja Agencies 1993 (42) ECC 166, confirmed by the Hon'ble Supreme Court reported in 1998 (102) ELT A154;

U. Shivasubramanian Vs. CC Trichy reported in 2004 (165) ELT 97 (Tri. Chennai);

(v) penalty under Section 112(b) is also not sustainable as the noticee neither acquired possession of the goods nor was physically concerned in carrying, removing, depositing, or otherwise dealing with the seized goods; that mens rea is an essential prerequisite for invoking the said provision; reliance was placed on the following decisions:

MAYEEN UDDIN Vs. COMMISSIONER OF CUSTOMS (PREV.), SHILLONG, 2020 (371) E.L.T. 779 (Tri. – Kolkata) – wherein it was held that the expressions "which he knows or has reason to believe are liable to confiscation" in Section 112(b) are very crucial, and it has to be ascertained whether such a person knows or has reason to believe that the goods are liable for confiscation;

VIKRAM SINGH Vs. COMMISSIONER OF CUSTOMS, 2007 (207) E.L.T. 373 (Del.);

NABA KUMAR SAHAV Vs. COLLECTOR OF CUSTOMS, Order No. 382/Cal./90-382 dated 10-08-1990 (Cal.);

DINESH ISHWARLAL PATEL Vs. COLLECTOR OF CUSTOMS, BOMBAY, 1988 (34) E.L.T. 382 (Tribunal) – wherein it was held that mere custody of goods without knowledge or reason to believe that they

are liable to confiscation is not sufficient to impose penalty under Section 112(b);

DASS PHOTO ELECTRONICS Vs. COLLECTOR OF CUSTOMS, NEW DELHI, 1987 (30) E.L.T. 988 (Tribunal);

ANA JAMIL Vs. COMMISSIONER OF CUSTOMS (PREV.), SHILLONG, 2016 (342) E.L.T. 248 (Tri. – Kolkata) – wherein it was observed that post-importation knowledge of goods being of smuggled nature is an essential element for imposing penalty under Section 112(b);

SHANKESHWAR METAL CORPORATION Vs. COMM. OF CUS. (IMPORTS), MUMBAI, 2014 (312) E.L.T. 344 (Tri. – Mumbai) – wherein it was held that mens rea is an important ingredient for imposing penalty under Section 112(b), and the person who owns goods need not necessarily have anything to do with smuggling or dealing with them knowingly;

Commissioner of Central Excise Vs. Ramesh Kumar Rajendra Kumar & Co. 2015 (325) E.L.T. 506 (Bom.) – wherein it was held that physical possession of goods is a must for invoking Rule 209A (pari materia to Section 112(b)), and that a person who is only issuing invoices without any movement of goods cannot be visited with penalty;

D. Ankneedu Chowdhry Vs. Commissioner of Customs, 2004 (178) E.L.T. 578 (Tribunal) – wherein it was held that no physical act of the appellant in relation to the goods having been brought out, the expression "in any other manner dealing with" has to be understood ejusdem generis with the preceding words, and that the penalty under Section 112(b) was not sustainable on facts or in law;

Shri Vipul Joshi Vs. CC, Ahmedabad (Customs Appeal No. 10053 of 2022) vide Final Order No. A/11181/2022 dated 04.10.2022 – wherein it was held that in the absence of proof of knowledge of the appellant, there were no grounds for imposition of penalty, and that mens rea is a well-established essential ingredient for penalty under Section 112(b);

(vi) penalty under Section 117 is not attracted as no specific provision alleged to have been contravened by the noticee has been identified in the SCN, and no evidence of connivance or abetment has been brought on record; that the Bill of Entry was filed on the basis of documents provided by the importer, and no material was available at the relevant time to indicate the old and used nature of the goods;

(vii) reliance is placed on CBIC Instruction No. 20/2024-Customs dated 03.09.2024, which specifically discourages implicating Customs Brokers as co-noticees in a routine manner unless the element of abetment is established by the investigating authority and clearly elaborated in the Show Cause Notice;

(viii) the penalty proposed under the SCN may kindly be dropped in the interest of justice; that no personal hearing is requested, and a speaking order may be passed on the basis of the written submissions.

PERSONAL HEARING

13. M/s. Jolly Marine Solutions vide their letter dated 09.04.2026, Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions vide

his e-mail dated 16.04.2026, and Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Services vide their letter dated 09.04.2026 have requested for waiver of personal hearing in the subject matter and prayed that a speaking order may be passed on the basis of their written submissions.

DISCUSSION AND FINDINGS

14. I have carefully gone through the Show Cause Notice, the written submissions filed by the Noticees and all the documentary evidence available on record. All three Noticees have, in their respective written submissions, requested for waiver of personal hearing in the matter. Accordingly, in terms of Section 122A of the Customs Act, 1962, I find that the principles of natural justice have been duly complied with and I proceed to decide the case on the basis of the Show Cause Notice, the written submissions and the documentary evidence available on record. The issues to be decided by me are:

(i) Whether the goods i.e. 111 items (1192 Nos./Pcs) of different description of "Parts of Other Engine and Motors" valued at Rs. 19,99,829/- (Rupees Nineteen Lakhs Ninety-Nine Thousands Eight Hundred and Twenty-Nine Only), imported under Bill of Entry No. 4578858 dated 18.09.2025, are liable for confiscation under Section 111(d) & Section 111(m) of the Customs Act, 1962;

(ii) Whether penalties are imposable upon M/s. Jolly Marine Solutions under Sections 112, 114AA and 117 of the Customs Act, 1962;

(iii) Whether penalties are imposable upon Shri Mohammed Abbas Shabbirali, S/o Merchant Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, Bhavnagar, under Sections 112 and 117 of the Customs Act, 1962;

(iv) Whether penalties are imposable upon Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Services, Mundra (Custom Broker Code - AYTPM3864DCH001), under Sections 112 and 117 of the Customs Act, 1962.

15.1 Regarding the first issue of the confiscation, I find that the goods imported by M/s. Jolly Marine Solutions vide Bill of Entry No. 4578858 dated 18.09.2025 are 111 items (1192 Nos./Pcs) comprising Turbo Charger & Kit, Hydraulic Pumps & Motors, Cylinder Head, Bearing, Alternator Spares, Compressor, Fuel Injection Pump & Other Misc. Tools/Spare parts, self-assessed and classified under CTH 8412 90 90 ("Parts of Other Engines and Motors") of the 1st Schedule (Import Tariff) of the Customs Tariff. The declared Assessable Value is **Rs. 19,99,829/-**.

15.2 I find that the detailed examination of the goods was carried out by DRI officers under Panchanama dated 25.09.2025 which initially revealed that certain goods appeared to be retrieved from ships and were in old and used condition. Since the goods required technical expertise for proper identification, examination was subsequently carried out in the presence of an empanelled Chartered Engineer under Panchanama dated 15.10.2025. Shri Bhaskar G. Bhatt, Chartered Engineer, submitted his Certificate-cum-Report No. BB/J-25/25/JMS/DRI-Jamnagar dated 10.11.2025. The CE Report conclusively states that: (a) the items under import are old and used recovered spares of discarded ships; (b) looking at the condition i.e. stains, wipes, rusted, dents/scratches etc., the consignment is of old & used or second-hand goods without reconditioning and apparently not refurbished items; (c) only dismantling and cleaning was noticed and no repairs or reconditioning/refurbishment were observed; and (d) the items are suitable for use

in similar type of ship engine/diesel engine as replacement against damaged/malfunctioned engine parts.

15.3 I further find that Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of the Importer, in his statement recorded under Section 108 on 14.11.2025, has admitted that: he had personally visited Dubai and inspected the goods at the supplier's warehouse before purchase; the overseas supplier had verbally informed him that some of the items were recovered from dismantled/discarded ships; no inspection report, quality certificate, testing certificate, reconditioning certificate or refurbishment documents were obtained from the supplier; no written contract or purchase order was entered into; and the goods were purchased on 'as is where is' basis followed by verbal order. He further admitted that the refurbishing activity was not carried out before him and he relied only on the supplier's verbal assurance regarding refurbishment. He agreed with the CE Report that the consignment is old & used.

15.4 I now examine the applicable provisions of the Foreign Trade Policy (FTP) 2023. Para 2.31 of the FTP 2023 categorizes second-hand goods for import policy purposes. As per the said Para, 'Second Hand Goods other than Capital Goods' are RESTRICTED for import and importable only against Authorization from DGFT. 'Capital Goods' as defined in the FTP means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services. The CE Report clearly states that the imported goods are old & used recovered spares of discarded ships, suitable for use in sea-going vessels/ships for replacement of damaged/malfunctioned engine parts. The Importer is admittedly engaged in trading of machine parts and does not appear to use these goods as 'Capital Goods' for manufacture or production or rendering of services. I, therefore, find that the imported goods are not 'Capital Goods' as defined under the FTP and do not fall in the category of Second Hand Capital Goods.

15.5 Accordingly, I find that the imported goods fall under the category of 'Second Hand Goods other than Capital Goods' under Para 2.31 of the FTP 2023, which is RESTRICTED for import. As per Para 2.08 of the FTP read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992, restricted goods are deemed to be goods the import of which has been prohibited under Section 11 of the Customs Act, 1962. Import of the said goods therefore required a valid Authorization from DGFT. The Importer admittedly does not possess any such Authorization/Permission/Licence from DGFT.

15.6 The Importer, in their written reply, has submitted that the import was made without mala fide intention and solely due to lack of awareness of FTP provisions, and that the lapse, if any, is purely technical and procedural. I have carefully considered this submission. I find that ignorance of law is not a valid defence in matters of statutory import restrictions. The FTP is a publicly notified document and it was incumbent upon the Importer, as a participant in international trade, to be aware of and comply with the applicable import policy. The Importer's own Sales & Purchase Manager has admitted in his statement that he personally inspected the goods in Dubai and was verbally informed by the supplier that the goods were recovered from dismantled/discarded ships. Despite this knowledge, he chose to import the goods without verifying whether such import required DGFT authorization. The plea of ignorance, in this backdrop, cannot be accepted.

15.7 I further note that the goods were declared in the Bill of Entry merely as "Parts of Other Engine and Motors" under CTH 8412 90 90, without any mention of their second-hand/old & used nature. The Bill of Lading, however, described the goods as "ONLY REFURBISHED USED MACHINERY PARTS AND ELECTRICAL ITEMS" - a clear indicator that the goods were not new. The failure to declare the old & used nature of the goods in the Bill of Entry constitutes a misdeclaration of description of the goods. Since the goods were self-assessed and processed through the Risk Management System (RMS) without physical examination, such misdeclaration enabled the importation of restricted goods without DGFT authorization under the guise of a compliant self-assessed Bill of Entry.

15.8 In view of the foregoing, I hold that the imported goods are liable for confiscation under Section 111(d) of the Customs Act, 1962, as goods imported contrary to a prohibition imposed by another law for the time being in force (i.e. Para 2.31 read with Para 2.08 of FTP 2023), and also under Section 111(m) of the Customs Act, 1962, as goods which do not correspond in respect of their description with the entry made under the Act.

15.9 Once the goods are held liable for confiscation, the next question before me is whether to give the Importer an option to redeem the goods in lieu of confiscation under Section 125 of the Customs Act, 1962. I find that Section 125(1) of the Customs Act, 1962 empowers the adjudicating authority, in the case of prohibited goods, to give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit. I also note that the Importer has requested to re-export the entire consignment at their own cost and has not sought to retain the goods for domestic use. Having regard to the facts of the case including the Importer's willingness to re-export the goods, I find it appropriate to give an option to redeem the confiscated goods by re-exporting the same.

16.1 Regarding the second issue of proposed penalties against M/s. Jolly Marine Solutions, I find that Section 112(a)(i) of the Customs Act, 1962 provides for penalty upon any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, in the case of goods in respect of which any prohibition is in force. I have held above that the imported goods are liable for confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962. The act of importation of restricted goods without valid DGFT authorization and the misdeclaration of the description of the goods in the Bill of Entry have been committed by the Importer. Accordingly, M/s. Jolly Marine Solutions has rendered themselves liable to penalty under Section 112(a)(i) of the Customs Act, 1962.

16.2 I also find that Section 114AA of the Customs Act, 1962 provides for penalty upon a person who knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act. In the present case, the Commercial Invoice No. AKMS786JMS25002 dated 25.08.2025 and the Packing List, which described the goods without disclosing their old & used nature, were used by the Importer to support the Bill of Entry. The Importer's Sales & Purchase Manager was personally aware, having inspected the goods in Dubai, that the goods were old & used ship spares recovered from discarded ships. The use of the said documents, which were

false and incorrect in a material particular viz. the nature and condition of the goods, renders M/s. Jolly Marine Solutions liable for penalty under Section 114AA of the Customs Act, 1962.

16.3 As regards the proposed penalty under Section 117 of the Customs Act, 1962, I find that Section 117 is a residuary penal provision which, by its express language, is attracted only where no express penalty is elsewhere provided for the contravention or failure in question. In the present case, the contravention committed by M/s. Jolly Marine Solutions viz. acts and omissions rendering the goods liable to confiscation under Section 111 is squarely and expressly covered by Section 112(a)(i) of the Customs Act, 1962, and the use of false and incorrect documents in the transaction of customs business is expressly covered by Section 114AA of the Customs Act, 1962. Since express penalty provisions exist and have been invoked for the contraventions in question, the residuary provision of Section 117 cannot be independently attracted. Accordingly, I refrain from imposing penalty under Section 117 of the Customs Act, 1962 upon M/s. Jolly Marine Solutions.

17.1 Regarding the third issue of penalties proposed against Shri Mohammed Abbas Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, I find that he was the key decision-maker in the Importer-firm who handled all day-to-day activities and import operations. In his statement recorded under Section 108 on 14.11.2025, he has admitted that: he personally visited Dubai and inspected the goods at the supplier's warehouse; the supplier verbally informed him that some items were recovered from dismantled/discarded ships; no refurbishing activity was carried out before him; no quality certificate, testing certificate, reconditioning certificate or refurbishment documents were obtained; and the goods were purchased on 'as is where is' basis without any written contract or purchase order.

17.2 Shri Mohammed Abbas Shabbirali, in his written reply, has submitted that: he was not aware of the restriction on import of second-hand goods under Para 2.31(ii) of the FTP, 2023; he cooperated fully with the investigation and did not conceal any facts from DRI; the breach, if any, was bona fide and technical in nature; and penalty should not be imposed merely because it is lawful to do so. He has placed reliance on the judgment of the Hon'ble Supreme Court in *Hindustan Steel Ltd. v. State of Orissa*, wherein it was held that penalty will not ordinarily be imposed unless the party acted deliberately in defiance of law or was guilty of contumacious or dishonest conduct, and that no penalty should be imposed for a technical or venial breach or where the breach flows from a bona fide belief. He has also placed reliance on the Doctrine of Proportionality as enunciated in *Om Kumar v. Union of India*, wherein the Hon'ble Supreme Court held that administrative action should not be more drastic or excessive than is necessary to achieve the desired objective.

17.3 I have carefully considered these submissions. I find that the judgment in *Hindustan Steel Ltd. v. State of Orissa* is distinguishable on facts. In that case, the party had acted under a genuine bona fide belief that it was not liable to comply with the statutory obligation. In the present case, however, Shri Mohammed Abbas Shabbirali personally visited Dubai, physically inspected the goods at the supplier's warehouse, and was verbally informed by the supplier that some of the items were recovered from dismantled/discarded ships. Despite this first-hand knowledge, he chose to import the goods without DGFT authorization and

without declaring their true nature in the Bill of Entry. The plea of bona fide belief or lack of awareness cannot hold good when the noticee had actual knowledge of the nature of the goods at the time of their procurement. His conduct cannot be characterised as a technical or venial breach.

17.4 I further find that Shri Mohammed Abbas Shabbirali, as the Sales & Purchase Manager who handled all import operations of the Importer-firm, falls squarely within the category of principal offender – equivalent to the importer/beneficial owner – in whose relation the act of importation of restricted goods and the misdeclaration in the Bill of Entry was committed. By these acts and omissions, he has rendered the goods liable to confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962. Accordingly, Shri Mohammed Abbas Shabbirali is liable to penalty under **Section 112(a)(i)** of the Customs Act, 1962. Taking into consideration the Doctrine of Proportionality, the fact that this is the first offence and the noticee has cooperated with the investigation, I find it appropriate to impose the penalty under Section 112(a)(i) in a calibrated manner.

17.5 As regards the proposed penalty under Section 117 of the Customs Act, 1962, I find that Section 117 being a residuary provision is attracted only where no express penalty is elsewhere provided. Since the contravention by Shri Mohammed Abbas Shabbirali is already covered under Section 112(a)(i) of the Customs Act, 1962, which is an express penalty provision, the residuary provision of Section 117 cannot be independently attracted. Accordingly, I refrain from imposing penalty under Section 117 of the Customs Act, 1962 upon Shri Mohammed Abbas Shabbirali.

18.1 Regarding the fourth issue of proposed penalties against Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Services, Mundra, I find that he filed the Bill of Entry for the Importer based on the invoice, packing list and Bill of Lading provided by the importer through email. He has stated in his Section 108 statement recorded on 22.12.2025 that he verified the tariff headings/HS Code and duty structure and exercised due diligence as required under the Customs Brokers Licensing Regulations, 2018 (CBLR). He has also stated that he was not informed by the importer about the actual condition of the goods and that it was only during the DRI examination that he came to know that the goods were in old and used condition.

18.2 In his written reply, the Customs Broker has made a detailed legal argument to the effect that penalty under Section 112(a) cannot be imposed upon a Customs Broker in the absence of proof of abetment and mens rea, placing reliance on *Amritlakshmi Machine Works v. CCus Mumbai* [2016 (335) ELT 225 (Bom.)] and several other judgments. He has also placed reliance on CBIC Instruction No. 20/2024-Customs dated 03.09.2024 which specifically discourages implicating Customs Brokers as co-noticees in a routine manner unless the element of abetment is established by the investigating authority. I have carefully considered these submissions.

18.3 I note that the Bill of Lading, which was admittedly provided to the Customs Broker by the importer through email along with other import documents and which was verified by the Customs Broker before filing the Bill of Entry, clearly described the goods as "ONLY REFURBISHED USED MACHINERY PARTS AND ELECTRICAL ITEMS". Despite having this document before him, the Customs Broker filed the Bill of Entry without any reference to the used/refurbished nature

of the goods and without calling for further documents such as a Chartered Engineer Certificate or seeking clarification from the Importer regarding the actual nature of the goods and the applicable import policy under Para 2.31 of the FTP. The Customs Broker thus failed to exercise due diligence as required under Regulation 10(d) and 10(e) of the CBLR, 2018.

18.4 I find that the filing of the Bill of Entry by the Customs Broker, without disclosing the used/refurbished nature of the goods despite the Bill of Lading clearly indicating the same, constitutes a positive act which rendered the goods liable to confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962. It was the filing of this Bill of Entry, with an incorrect and incomplete description of the goods, that enabled the importation of restricted goods through the RMS green channel without DGFT authorization. The Customs Broker, having verified the Bill of Lading which itself disclosed the used/refurbished character of the goods, cannot claim to have been unaware of the nature of the goods at the time of filing the Bill of Entry. Accordingly, I find that Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Services, Mundra, is liable to penalty under Section 112(a)(i) of the Customs Act, 1962.

18.5 As regards the proposed penalty under Section 117 of the Customs Act, 1962, I find that Section 117 being a residuary provision is attracted only where no express penalty is elsewhere provided. Since the contravention by Shri Ranjit Behra is already covered under Section 112(a)(i) of the Customs Act, 1962, which is an express penalty provision, the residuary provision of Section 117 cannot be independently attracted. Accordingly, I refrain from imposing penalty under Section 117 of the Customs Act, 1962 upon Shri Ranjit Behra.

ORDER

19. In view of the foregoing Discussion and Findings, I pass the following order:

(i) I hold that the goods i.e. 111 items (1192 Nos./Pcs) of different description of "Parts of Other Engine and Motors" valued at **Rs. 19,99,829/-** (Rupees Nineteen Lakhs Ninety-Nine Thousands Eight Hundred and Twenty-Nine Only), imported vide Bill of Entry No. 4578858 dated 18.09.2025, are confiscated under Section 111(d) and Section 111(m) of the Customs Act, 1962. However, I give option to the importer to redeem the said goods for re-export only under Section 125 of Customs Act, 1962 on payment of Redemption Fine of **Rs. 2,00,000/-** (Rupees Two Lakh Only);

(ii) I impose a penalty of **Rs. 1,00,000/-** (Rupees One Lakh Only) on M/s. Jolly Marine Solutions under Section 112(a)(i) of the Customs Act, 1962;

(iii) I impose a penalty of **Rs. 25,000/-** (Rupees Twenty Five Thousand Only) on M/s. Jolly Marine Solutions under Section 114AA of the Customs Act, 1962;

(iv) I impose a penalty of **Rs. 25,000/-** (Rupees Twenty Five Thousand Only) on Shri Mohammed Abbas Shabbirali, S/o Merchant Shabbirali, Sales & Purchase Manager of M/s. Jolly Marine Solutions, under Section 112(a)(i) of the Customs Act, 1962;

(v) I impose a penalty of **Rs. 25,000/-** (Rupees Twenty Five Thousand Only) on Shri Ranjit Behra, Authorised Representative of M/s. JMC Logistics Services, Mundra, under Section 112(a)(i) of the Customs Act, 1962.

2 0 . This order is issued without prejudice to any other action that may be contemplated against the Noticees or any other person under the provisions of the Customs Act, 1962 and the rules/regulations framed thereunder or under any other law for the time being in force in the Republic of India.

2 1 . Show Cause Notice No. 04/2026-27/ADC/ZDC/MCH dated 02.04.2026 stands disposed of in the above terms.

(Dipak Zala)
Additional Commissioner of Customs,
Custom House, Mundra.

To,

1. M/s. Jolly Marine Solutions,
Plot No. 299, VIP Moti Talao Road,
Kumbharvada, Bhavnagar, Gujarat – 364 006
2. Shri Mohammed Abbas Shabbirali,
S/o Merchant Shabbirali, Sales & Purchase Manager,
M/s. Jolly Marine Solutions, Bhavnagar, Gujarat – 364 006
3. Shri Ranjit Behra, Authorised Representative,
M/s. JMC Logistics Services, Mundra – 370 421

Copy to:

1. The Deputy Director, DRI, Jamnagar
2. The Deputy Commissioner, Review, Customs House, Mundra
3. The Deputy Commissioner, TRC, Custom House, Mundra
4. The Assistant Commissioner, EDI, Customs, Mundra
5. Guard File