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

DIN-20261071MN0000E299EC

क	फ़ाइल संख्या FILE NO.	S/49-303/CUS/JMN/JAN/2025-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	JMN-CUSTM-000-APP-90-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	22.10.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	16/Additional Commissioner/2025-26 dated 28.11.2026
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	22.10.2026
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s Demo Shipping Services #302 D & I EXCELUS, Opp, Home School, Waghawadi Road, Bhavnagar

1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क(	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods imported
(ख(	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग (	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.

(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ — **Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 — 2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.

(c)	where the amount of duty and interest demanded and penalty levied by an officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा **129** (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

ORDER-IN-APPEAL

1. Brief facts of the case

1.1 M/s Demo Shipping Services #302 D & I EXCELUS, Opp, Home School, Waghawadi Road, Bhavnagar (herein after referred to as the "Appellant for the sake of brevity) has filed the present appeal against Order-In-Original 16/Additional Commissioner/2025-26 dated 28.11.2025 (herein after referred to as the "impugned order") issued by the Additional Commissioner, Customs(Preventive), Jamnagar (herein after referred to as the "Adjudicating Authority).

1.2 The Appellant had declared the arrival of a vessel with name MSC FEDERICA for breaking at Alang. The said vessel arrived at Alang Anchorage on 01.07.2023 from the Indian Port MUNDRA (last port of call). All usual customs formalities were completed in respect of the said vessel. Since, the said vessel arrived at Alang from the Indian Port (last port of call), accordingly the Appellant requested to allow them to file manual Bill of Entry for payment of customs duty on account of consumption of bunkers & stores during last voyage being coastal voyage, as per prevailing practice.

1.3 On the basis of the permission granted for filing Manual Bill of Entry on 28-07-2023, the Appellant filed Bill of Entry declaring therein Bunkers & Provisions. The said Bill of Entry was self-assessed to duty of Customs to the tune of Rs. 34,53,582/- and was assigned Bill of Entry No. 6697080-A. The self-assessment of Customs duty in the said Bill of Entry was made as per provisions of Section 17(1) of the Customs Act, 1962 to Customs duty to the tune of Rs. 34,53,852/-. Accordingly, duty of Rs. 34,53,852/-was paid on 27.02.2025 vide Challan No. 2670538105. However, the applicable interest at the appropriate rate for relevant period in accordance with the provisions of Customs Act, 1962 was not paid at the time of late payment of custom duty which was also required to be paid by the Appellant at that material time, but the same was not paid.

1.4 Therefore, letters dated 10.03.2025 and 25.03.2025 were issued by the Competent Authority asking them to pay applicable interest amount under section 28AA of Customs Act, 1962 but neither any reply was received from the Appellant nor the applicable interest was paid. The Appellant was required to pay the applicable Customs Duty along with interest. The applicable interest was required to be paid as per section 28AA of the Customs Act, 1962.

1.5 Thus, it appeared that applicable interest as per section 28AA of the Customs Act, 1962 was required to be paid and was not paid by the Appellant

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and was required to be demanded and recovered from the Appellant under the Section 28AA of the Customs Act, 1962. As stipulated under provision to clause (a) to sub-section (1) of Section 28 of the Customs Act, 1962 read with the provisions of pre-notice Consultation Regulations, 2018, the Appellant in the said matter was served with a pre-notice Consultation issued vide letter F.NO. CUS/3299/2025-Adj. dated 14.05.2025. The Appellant vide letter reference no. Nil dated 23.05.2025, 08.08.2025 and 27.08.2025 submitted the reply to pre-notice consultation, wherein the Appellant did not agree to the proposal of paying interest.

1.6 Accordingly, the Appellant was called upon to show cause as to why :-

(i) Customs Duty to the tune of Rs. 34,53,852/-(Thirty Four Lacs Fifity Three Thousand Eight Hundred Fifty Two only) should not be recovered from them under Section 28 of the Customs Act, 1962.

(ii) As the Customs Duty to the tune of Rs. 34,53,852/-(Thirty Four Lacs Fifty Three Thousand Eight Hundred Fifty Two only) has already been paid by them on 27.05.2025, why the same should not be appropriated against the Customs duty demand as mentioned Sr. No. (i).

(iii) Interest at appropriate rates, should not be demanded and recovered from them on the amount as mentioned at Sr. No. (i) as per section 28AA of the Customs Act, 1962.

1.7 The above mentioned demand was adjudicated vide the impugned order wherein the Adjudicating Authority confirmed the demand Rs. 34,53,852/-(Thirty-Four Lacs Fifty-Three Thousand Eight Hundred Fifty-Two only) under Section 28(1) of the Customs Act, 1962 along with interest under Section 28AA of the Customs Act, 1962. The Adjudicating Authority also appropriated the amount of Rs. 34,53,852/- (Thirty-Four Lacs Fifty-Three Thousand Eight Hundred Fifty-Two only) paid by the Appellant.

1.8 Being aggrieved by the impugned order, the Appellant preferred the present appeal.

2. Ground of Appeal submitted by the Appellant

2.1 The Appellant submitted that they are registered shipping agent under the respective provisions of Customs act, 1962. Accordingly dealt with the proceedings of such "imported Goods" in the Indian Territorial Water/land as provided under the provisions of Section 30 of the Customs Act, 1962. Accordingly dealt with the importation of an old and used vessel MSC FEDERICA imported only for breaking purpose of behalf of the owner. The Appellant

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submitted that the impugned order appears not to be correct, legal and genuine so far as the issue involved in the present case was "only" pertaining to the so-called levy of such costal duty on such quantity of fuel oil lub oils etc. consumed during sea voyage started form port of Mundra to port of Ship Breaking, Alang. Not for any commercial activity involvedThe Appellant submitted that the dispute is involved whether such costal duty was required to levied or not. For this levy of coastal duty, the Central Government has statutorily proved in the chapter XII of the Customs Act, 1962. In the present case, the Appellant had never requested to use the vessel under reference for carrying out "Coastal Goods" for loading /unloading for coastal goods read with provisions of Section 93 of the Customs Act, 1962. In the present case, the master of the vessel had never declared that "such costal goods, if any, where to be cleared for utilizing between the territorial ports situated within he territorial area of sea water to one Indian Port to another Indian port.

2.2 The Appellant further submitted that they had had filed the required IGM before, the proper customs authority SBY, Alang. In this IGM, they had also produced Annexure - III wherein "such imported goods imported for home consumption" are always being "manifested in the IGM itself". A copy of this Form- III in the appeal itself On perusing of this annexure, it has clearly been established by your Appellant that the said ship had exclusively imported for home consumption as required under Section 46 of the Customs Act, 1962. But, your Appellant had never requested to allow such stock of bunker to be used for home consumption exclusively. In other words, it is to say and submit that they had never prayed/requested to utilize the subject vessel for utilizing between on Indian port to another to load/unload the goods if any from one Indian port to another Indian port.

2.3 The Appellant further submitted that the learned Additional Commissioner has erred in law and on facts in holding that the vessel, which has sailed from Mundra Port in ballast condition did not carry any cargo or passengers and was not engaged in commercial activity, and therefore, treated as a foreign going vessel (No any request for conversion from the Master/Owners as well as from the local agents)

2.4 The Appellant further submitted that the statutory definition of "goods" under Section 2 (22) of the Act expressly includes "vessels." Thus, once a vessel itself is treated as goods' under the Act, the benefit of exclusion under Section 87 extends even to a vessel imported for the purpose of beaching and breaking. Accordingly, the fuel oil, lubricating oil and other consumables used during the voyage from Mundra to Alang fall squarely within the ambit of Section 87 and

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are not liable to duty.

2.5 The Appellant further submitted that the learned authority further failed to appreciate that the statutory definition of "goods" in Section 2(22) of the Customs Act, 1962 expressly includes "vessels." Once the vessel itself is considered as 'goods' under the Act, there is no justification to deny the benefit of Section 87 merely on the ground that it was proceeding in ballast or not engaged in carriage of cargo or passengers. The exclusion under Section 87 is available to all foreign-going vessels, including those imported for beaching and breaking, as long as the consumables are used during the voyage between two Indian ports. Consequently, the fuel oil, lubricating oil and other consumables utilized by the vessel during its voyage from Mundra to Alang are squarely covered under Section 87 and are not liable to duty.

2.6 The Appellant further submitted that the vessel was imported for the specific purpose of Ship Recycling, classifiable under Chapter Heading 8908 00 00. Its movement in ballast condition between two Indian ports was solely in continuation of its voyage to the designated Ship Recycling Yard, without undertaking any commercial operation or activity of carriage of cargo or passengers. In such circumstances, the vessel itself is treated as "cargo" for the purpose of import and this character does not change merely because it sailed between Indian ports for beaching. Therefore, the consumable used during this voyage continue to fall within the exclusion provision of the Section 87 of the Customs Act, 1962.

2.7 The Appellant further submitted that the Bill of Entry was filed manually (As same is not covered in EDI System) as mandated at the relevant time to the SRY Alang Customs, Customs Division, Bhavnagar for further Approval and assessment from the Head Quarter- Jamnagar as filed Manually. The Appellant further submitted that they were required to present such manual bill with regard to be so called costal duty, then it was the responsibility of proper customs officers to get a produce (undertaking, if any) towards wrongfully assessment of customs duty but in present case they had never executed such guaranteed bond if any. As the department failed to disclose facts and circumstances o sentence that so called un wanted levy of customs duty.

2.8 The Appellant further submitted that at the relevant time, the Minor Port was not operating under the ED System and no online payment facility was in force. All Customs duty and other Government payments were mandatorily required to be made only through a physical TR-6 Challan issued by the Proper Customs Officer. In our case, no such TR-6 Challan was issued by the Local

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Customs authorities. Without the duly signed and stamped TR-6 Challan from the Superintendent, the Bank could not accept the duty payment under any circumstances. Despite our repeated reminders, the Manual Bill of Entry was neither duly assessed in time nor was any TR-6 Challan provided to us for making the duty payment. The delay, therefore, is entirely attributable to the Local Customs office and not to the Appellant.

2.9 The Appellant further submitted that the proper office who is responsible for the assessment of duty under Section 17 if the Customs Act, 1962 and the relevant sub sections thereof, failed to carry out the mandatory verification and proper assessment of the manual Bill of Entry. Despite their repeated requests and proper assessment of the manual Bill of Entry. Despite their repeated requested and issuance of 13 written reminders seeking assessment and a duly signed challan for payment of duty, the local Customs Authorities did not provide the signed challan. Consequently, delay in finalizing the assessment and facilitating duty payment is solely attributable to the Bhavnagar Customs Office and not to the Appellant. (Copies of all the reminders enclosed).

2.10 The Appellant further submitted that being a matter involving Government revenue and national interest. the Appellant has already voluntary deposited said duty amount of 34,54,852/- towards said Duty in order to avoid any further financial implications, despite the issue being disputed in the present case. The demand for interest on the said duty is wholly unjustified, as the delay in assessment and issuance of the TR-6 Challan is solely attributable to the Local Customs authorities and not to the Owners or their Agents. The Appellant cannot be penalized for delays that occurred entirely on the part of the Departmental delay. The Appellant cannot be penalized for administrative delay attributable to the Department.

2.11 The Appellant further submitted that interest under Section 28AA is not leviable unless the demand is raised under Section 28, Section 28AA applies only when duty is recoverable under Section 28 pursuant to non-levy, short-levy, non-payment, short-payment or erroneous refund.

2.12 The Appellant further submitted that in the present case, the department has failed to produce any material corroborative evidences that your Appellant had request to convert the vessel under reference into "coastal run vessel". The department himself had determined the so called coastal duty which had been paid up at the material time to avail any further monetary recurring effect and simultaneously your Appellant had from time to time submitted that your Appellant was not required to pay up the so called costal duty totally to the tune

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of Rs. 34,54,852/-, but paid up the same to avoid further unwarranted correspondences. Therefore, the impugned order deserves to be dropped.

2.13 The Appellant further submitted that during the course of deciding the above referred pre-notice consultation and the regular SCN dated 10.06.2025. your Appellant had categorically submitted that your Appellant was not required to be paid the so called paid up coastal duty which had been paid reserve our right to avail the judicial procedures. The Hon'ble Tribunal in the following cases, the Hon'ble Tribunal has clearly held that no such costal duty is required to be collected from a person who has not at all requested/prayed to covert the vessel under reference into the nature and style as "coastal run vessel".

(i) Final Order No. 10562/2025 dated 16.07.205 passed in the case of M/s. Bhavnagar Shipping Agency v/s Commissioner of Customs, Ahmedabad.

(ii) Final Order No. 11391/2024 dated 21.06.2024 passed in the case of M/s. Lotus Daship Private Limited V/s Commissioner of Customs, Jamnagar.

These case laws are squarely applicable in the present case. Therefore, pray to take on record these settled case laws and pray to set aside the impugned order.

2.14 The Appellant further submitted that they are coming over the litigation under reference arisen on account of issuance of the above referred SCN dated 10.06.2025. read with the impugned order dated 10.06.2025. On perusing of this order, it has clearly been found that the Additional Commissioner of Customs, Jamnagar had confirmed the Coastal duty under Section 28(1) of the Customs Act, 1962. But, this order appears not to be true, correct and genuine read with the SCN dated 10.06.2025 read with such unwarranted charges appears to had been raised under the provisions of Chapter V of the Customs Act, 1962 which is far away from the wrongful issuance of the SCN. Your Appellant had clearly established on material evidences that your Appellant had never requested to convert the vessel under reference into "coastal run vessel, but always remain in the nature and capacity as "foreign going vessel only" and arrived/beached at the port of the Alang in the capacity and style as foreign going vessel only. Therefore, the impugned order deserves to be set aside out rightly.

2.15. In view of the above detailed submissions, your Appellant pray to:

(i) Set aside the impugned order,

(ii) Grant consequential relief as prayed for in the circumstance that your Appellant had never requested to convert vessel under reference "into coastal

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run vessel" as contemplated under the provisions of Chapter XII of the Customs Act, 1962.

2.14 In view of the foregoing facts and submissions, the Appellant respectfully prays that the Hon'ble Appellate Authority may kindly:

1. Quash the confirmation of coastal duty of Rs.34,54,852/- side the impugned order confirming the alleged Coastal Duty under Section 28(1) of the Customs Act, 1962; and
2. Quash the demand of interest of Rs. 8,17,569/- raised under Section 28AA of the Customs Act, 1962
3. Hold that Section 28AA is not applicable to provisional assessment cases.
4. Hold that no interest is payable in absence of finalization of provisional assessment under Section 18 of issuance of demand under Section 28 in as much as infect Chapter V and Chapter XIII of the provisions of Customs Act, 1962.
5. Grant such other conscience relief(s) as may be deemed fit in the interest of justice.

3. PERSONAL HEARING:

Opportunity of personal hearing was granted to the Appellant. Shri N K Marua, authorized representative of Appellant appeared for personal hearing on 22.09.2026 wherein he re-iterated written submission filed during the appeal. He requested to allow the Appeal.

4. DISCUSSION AND FINDINGS:

4.1 The date of the impugned order is 28.11.2025 and the date of filing appeal by the Appellant is 22.01.2026. Thus, the appeal has been filed within the period of sixty days prescribed under Section 128 of the Customs Act, 1962 and is accordingly taken up for decision on merits.

4.2 I find that the Appellant has already paid the full amount of Customs duty 1. 34,53,852/- there the statutory requirement under Section 129 E of the Customs Act, 1962 stands fulfilled.

4.3 The Customs(Preventive), Jamnagar was requested for submission of comments of the appeal filed by the Appellant vide letter dated 03.09.2026 but no comments have been received by this office till date therefore, I am taking up the issue for decision based on the facts of the case and documentary evidence available on record.

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4.4 I have carefully examined the records of the case, the oral and written submissions made by the Appellant, the provisions of the Customs Act, 1962, and the binding precedents of the Hon'ble Customs, Excise and Service Tax Appellate Tribunal (CESTAT). The core dispute revolves around whether a foreign-flagged vessel arriving in India for ship-breaking, which travels from one Indian port to another in "ballast" (empty) condition, automatically converts into a "coastal vessel," thereby attracting Customs duty on the bunkers and stores consumed during this voyage, and consequently, whether interest under Section 28AA is leviable on such duty. Thus following issued are required to be decided in the present appeal

(i) Whether the Appellant is liable to pay Customs Duty of Rs. 34,53,852/- (Thirty Four Lacs Fifty Three Thousand Eight Hundred Fifty Two only) under Section 28(1) of the Customs Act, 1962.'

(ii) Whether the Appellant is liable to pay interest amount of Rs. 8,17,569/- on the delayed payment of Customs duty as above under Section 28AA of the Customs Act, 1962.

4.5 Regarding Issue (i): Liability to pay Customs Duty of Rs. 34,53,852/- under Section 28(1) of the Customs Act, 1962. To determine the liability of duty on bunkers and stores consumed, it is imperative to ascertain the legal status of the vessel *MSC FEDERICA* during its voyage from Mundra to Alang. In this regard it is important to refer to Section 2(21) of the Customs Act, 1962 which defines foreign-going vessel. The relevant Section is reproduced below for ready reference: -

(21) "foreign-going vessel or aircraft" means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes -

(i) any naval vessel of a foreign Government taking part in any naval exercises;

(ii) any vessel engaged in fishing or any other operations outside the territorial waters of India;

(iii) any vessel or aircraft proceeding to a place outside India for any purpose whatsoever;

Further it is also important to refer to Section 87 of the Customs Act which is reproduced below for ready reference

SECTION 87. Imported stores may be consumed on board a foreign-going vessel or aircraft. — Any imported stores on board a vessel or aircraft (other than

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stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft

The above statutory provision explicitly grants an exemption to foreign-going vessels, allowing imported stores to be consumed on board without payment of duty.

4.6 Further it is also important to refer to statutory framework related to coastal run which are as under:-

- **Coastal Goods (Section 2(4)):** Goods, other than imported goods, that are transported in a vessel from one port in India to another.
- **Chapter XII (Sections 92 to 99):** This chapter governs coastal trade. A foreign vessel cannot spontaneously engage in a coastal run; it must operate under strict Customs supervision to ensure domestic goods aren't mixed with international cargo to evade taxes.

Therefore, I would like to refer to Chapter XII of the Customs Act, 1962 (Sections 92 to 99) which governs the provisions relating to coastal goods and vessels carrying coastal goods. The statutory provisions are reproduced below for ready reference.

- SECTION 92. Entry of coastal goods. — (1) The consignor of any coastal goods shall make an entry thereof by presenting to the proper officer a bill of coastal goods in the prescribed form.
- (2) Every such consignor while presenting a bill of coastal goods shall, at the foot thereof, make and subscribe to a declaration as to the truth of the contents of such bill.
- SECTION 93. Coastal goods not to be loaded until bill relating thereto is passed, etc. — The master of a vessel shall not permit the loading of any coastal goods on the vessel until a bill relating to such goods presented under section 92 has been passed by the proper officer and has been delivered to the master by the consignor.

4.7 Thus, from the above definition and statutory provisions it can be seen that under the Customs Act, 1962, a "coastal run" for a foreign-flagged vessel refers to a specific voyage where the vessel temporarily suspends its "foreign-going" status to transport domestic "coastal goods" from one port in India to another Indian port.

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4.8 The Conversion Process: For a foreign vessel to legally undertake a coastal run, a formal conversion process must occur:

1. **Application:** The Master or shipping agent must apply to the Proper Officer of Customs to temporarily convert the vessel to a coastal vessel.
2. **Duty on Bunkers:** Under Section 87 of the Act, foreign-going vessels are allowed to consume ship's stores and bunker fuel duty-free. However, when converted to a coastal run, the vessel is no longer engaged in international trade. The agent must pay Customs duty on the estimated quantity of bunkers and provisions that will be consumed during the coastal voyage.
3. **Loading:** The vessel loads domestic goods at one Indian port and discharges them at another.
4. **Reversion:** Once the coastal run is complete, the vessel can apply to revert to foreign-going status.

The "Ballast" Distinction (Empty Voyages) A critical legal distinction is that merely sailing from one Indian port to another does not automatically trigger a "coastal run."

- If a foreign vessel discharges its international cargo at an Indian port and travels completely empty (**in ballast**) to a second Indian port—whether to load new export cargo, undergo repairs, or be beached for ship-breaking—it is **not** on a coastal run.
- Because it is not carrying "coastal goods," it retains its statutory status as a foreign-going vessel.
- Therefore, the bunker fuel consumed during this empty transit remains completely exempt from Customs duty.

4.9 I also find that the appellate tribunals (CESTAT) and courts have consistently ruled that without the carriage of coastal goods, a transit in ballast is not a coastal run, shielding the ship owner from domestic fuel duties. Further, I also find that a vessel is deemed to be on a coastal run only when it is engaged in carrying "coastal goods" (defined under Section 2(4) as goods, other than imported goods, transported in a vessel from one port in India to another).

4.10 The documentary evidence on record, including the Import General Manifest (IGM) and Port Clearance No. C/F-848 dated 24.06.2023, unequivocally establishes that the vessel arrived at Alang in "Ballast Condition." The Appellant did not load any coastal goods at Mundra, nor did they apply to the Proper Officer of Customs to convert the foreign-going vessel into a coastal vessel under Chapter XII. The mere transit of a vessel intended for breaking from one Indian

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port to another, without undertaking any commercial coastal trade, does not automatically strip it of its "foreign-going" status for the purpose of bunker consumption.

4.11 Therefore, based on the above discussion and findings I opine that the goods which are consumed by the vessel in question was a "foreign going vessel" and it was not a coastal run during its voyage between two Indian ports i.e. Mundra to Alang and therefore, the goods consumed by it are excluded from the levy of Customs duty as per Section 87 of the Customs Act. 1962.

4.12 I also find that the Appellant in their defense explicitly relied upon the decisions of the Hon'ble CESTAT in identical matters, specifically the cases of *Compass Shipping Agency*, *Bhavnagar Shipping*, and *Lotus Dan Ship*, wherein the Tribunal has consistently held that foreign-going vessels proceeding in ballast for ship-breaking to Alang from another Indian port do not attract duty on bunkers consumed during such transit. On perusing through the above judgment of the Hon'ble Tribunal I find that the case laws are cited by the Appellant are squarely applicable in the present case.

4.13. The Appellant deposited the amount of Rs. 34,53,852/- voluntarily purely to avoid detention of the vessel and demurrage costs. Since the vessel never converted to a coastal run, the bunker fuel consumed during the Mundra to Alang voyage remained exempt under Section 87. The demand confirmed by the Adjudicating Authority under Section 28(1) is devoid of statutory backing and is legally unsustainable. Further, I also find that there is no evidence that during the period, the vessel picked up nay Indian cargo from one Indian port to unload it at another Indian port.

4.14 Regarding Issue (ii): Liability to pay interest under Section 28AA of the Customs Act, 1962. Section 28AA of the Customs Act, 1962 stipulates that interest is payable when a person is liable to pay duty in accordance with the provisions of Section 28. It is a well-settled principle of jurisprudence that interest is an accessory to the principal amount. Where the demand for the principal duty itself is found to be non-est in law, the question of levying interest does not arise.

4.15 In the landmark judgment of *Pratibha Processors vs. Union of India*, the Hon'ble Supreme Court held that interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable. Since I have already concluded in para supra that the Appellant was never legally liable to pay the coastal duty on the bunkers, the delayed payment of this unwarranted amount cannot attract the penal provisions of

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interest under Section 28AA of the Customs Act, 1962. Therefore, no interest payable.

5. **::ORDER::**

In light of the elaborate findings above, I pass the following order:

1. The impugned Order-in-Original No. 16/Additional Commissioner/2025-26 dated 28.11.2025 passed by the Additional Commissioner of Customs (Preventive), Jamnagar, is set aside in its entirety.
2. The demand of Customs Duty amounting to Rs. 34,53,852/- and the corresponding demand for interest under Section 28AA are hereby quashed.
3. The appeal is allowed with consequential relief to the Appellant.



Vishwajeet Singh
22.10.2026.

(Vishwajeet Singh)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-303/CUS/JMN/JAN/ 2025-26

By Registered post A.D/Email

M/s Demo Shipping Services #302 D & I EXCELUS, Opp, Home School, Waghawadi Road, Bhavnagar.

Copy to,

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in).
2. The Commissioner, Customs (Prev), Jamnagar.
3. The Deputy/Assistant Commissioner, Custom Division, Bhavnagar
4. Guard File