



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD

चौथी मंजिल 4th Floor, हड्डको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road, नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20250571MN0000888DOB

क	फाइल संख्या FILE NO.	S/49-51/CUS/AHD/2024-25
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-45-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
द	दिनांक DATE	27.05.2025
इ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	O.I.O. No. 114/AC/Dahej/Refund/2023-24 dated 01.03.2024 passed by the Assistant Commissioner, Custom House, Dahej.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	27.05.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. GAIL (India) Ltd., GAIL Bhawan, 16, Bhikaji Cama Place, New Delhi - 110066.
1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है. This copy is granted free of cost for the private use of the person to whom it is issued.	
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :	

(क)	बैगेज के रूप में आयातित कोई माल.				
(a)	any goods imported on baggage.				
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.				
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.				
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.				
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.				
3.	<p>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 :</p> <p>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 :</p> <p>(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.</p> <p>(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.</p> <p>(ख) सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो</p> <p>(b) 4 copies of the Order - In - Original, in addition to relevant documents, if any</p> <p>(ग) पुनरीक्षण के लिए आवेदन की 4 प्रतियां</p> <p>(c) 4 copies of the Application for Revision.</p> <p>(घ) पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मर्दों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां, यदि शुल्क, मांगा गया व्याज, 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/-</p> <p>(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/-.</p>				
4.	<p>मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं</p> <p>In respect of cases other than those 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 :</p> <table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-				
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -				

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

ORDER-IN-APPEAL

1. M/s. GAIL (India) Ltd., GAIL Bhawan, 16, Bhikaji Cama Place, New Delhi - 110066 (hereinafter referred to as 'GAIL' or the 'appellant') has filed the present appeal under Section 128 of the Customs Act, 1962, against the O.I.O. No. 114/AC/Dahej/Refund/2023-24 dated 01.03.2024 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Custom House, Dahej (hereinafter referred to as 'the adjudicating authority')
2. Facts involved in the appeal, in brief, are that the appellant was engaged in import of Liquefied Natural Gas ('LNG') falling under Customs Tariff Item No. 27111100 for which they have filed a Bill of Entry No. 2041092 dated 13.02.2019 with Custom House, Dahej Port, Dist. Bharuch. The subject BoE was assessed provisionally under Section 18 of the Customs Act, 1962, on the basis of proforma invoice. Subsequently, on production of final invoice and other documents, the said BoE was finally assessed. As per the final assessment, the appellant has paid excess duty of **Rs.25,40,986/-**, because the Delivery Ex-Ship quantity was lower than the Bill of Lading quantity for which the provisional assessment was made.
3. The provisional assessment appeared to be finalized in the EDI System on 25.11.2022, but it was communicated to the appellant vide letter F.No. CH/DJ/Misc./212/22-23 dated 11.07.2023 issued by the Superintendent of Customs, Dahej (hereinafter referred to as 'the impugned letter dated 11.07.2023'). Further, in the impugned letter dated 11.07.2023, the 'Date of Final Assessment in EDI System' for the said BoE No. 2041092 has been shown as '13.12.2022'. Vide the impugned letter dated 11.07.2023, the Duplicate Importer copy (in original) of the finally assessed Bill of Entry No. 2041092 dated 13.02.2019 (among total 32 Bills of Entry), has been returned to the appellant. Thereafter, the appellant has filed a claim for refund of the excess duty paid by them with the office of the adjudicating authority 04.12.2023.
4. It appeared that the refund claim was filed beyond the period of one year from the date of final assessment and thereby it was hit by limitation of time as per Section 27(1B)(c) of the Customs Act, 1962. Therefore, a Show Cause Notice dated 20.02.2024 has been issued to the claimant for rejection of refund claim. The said SCN has been adjudicated vide the impugned order. The adjudicating authority has observed that assessment of the said Bill of Entry has been finalized in EDI System on 25.11.2022, whereas the refund claim has been filed on 04.12.2023 and thus, the refund claim filed after a period of 374 days from the date of finalization of assessment in EDI System. He further observed that as per Section 27(1B)(c), the limitation of one year should be computed from the date of adjustment of duty after final assessment and therefore, the contention of the claimant that one year limitation period should be calculated from the date of communication of finally assessed Bill of Entry i.e. from 11.07.2023, is not legal as per the provisions.
5. The adjudicating authority referred the Final Order No. FO/C/A/11824/2023-CU[DB] dated 25.08.2023 passed by the CESTAT in the case of **GAIL (India) Ltd. Vs. Commissioner of Customs, Ahmedabad**, wherein it has been held that the date of service of finalization of provisional assessment is the relevant date for the purpose of filing refund claim. However, he observed that the said Final Order has not attained finality, as Department has preferred an appeal against the said order.

6. In view of the above, the adjudicating authority has rejected the refund claim by holding that it was hit by the limitation of time as prescribed under Section 27 of the Customs Act, 1962.

7. Being aggrieved, the appellant has filed the present appeal on 29.04.2024. In the Form C.A.-1, the date of communication of the impugned Order-In-Original dated 01.03.2024 has been shown as 06.03.2024. Thus, the appeal has been filed within normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962. As the appeal has been filed against partial rejection of refund claim and no demand has been raised vide the impugned order, pre-deposit under the provisions of Section 129E is not required. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal on merits.

8. The appellant has filed the present appeal under the provisions of Section 128 of the Customs Act, 1962, mainly on the following **grounds of appeal**:

- (i) That the department while rejecting the refund application of GAIL had failed to appreciate that Assessing Officer had only relied Sec.27(1B)(c) of said act to hold that limitation period of one year would be counted from "date of adjustment" and Assessing Officer had counted EDI system date (i.e. 25/11/2022) instead of official intimated date (13/12/2022) or intimation date (i.e. 17/07/2023). It is *firstly* submitted that EDI system date is not reflecting either in Sec.18 or Sec.27 of said act. Thus, such EDI system date is also not a statutory date which is relied by Assessing Officer. Secondly, in the present case "date of assessment" is 13/12/2022 only which is intimated under official communication by Superintendent of Customs. Thus, even u/s.27(1B)(c) of said act, the "date of assessment" is 13/12/2022 and the application dt. 01/12/2023 received by Department on 04/12/2023 is well within the period of one-year limitation. Moreover, there is no explanation given by department for not accepting "date of assessment" as 13/12/2022 which they have themselves intimated under official communication. Thereby meaning GAIL had filed refund application within time from "date of assessment" and therefore the impugned OIO is bad in law and department is required to refund excess duty with interest.
- (ii) That the department while rejecting the refund application of GAIL had failed to appreciate that even for the sake of argument also if EDI system date 25/11/2022 is also date of assessment, then implicitly the communicated date 13/12/2022 in department's letter dt. 11/07/2023 would amount to intimating re-assessment date, i.e. 13/12/2022 though not worded accordingly, and, thereby the limitation period would start from such re-assessed date. Thereby meaning GAIL had filed refund application within time from "date of re-assessment" and therefore the impugned OIO is bad in law and department is required to refund excess duty with interest.
- (iii) That the department while rejecting the refund application of GAIL had failed to appreciate that Assessing Officer had only contended that importer is having access to ICEGATE (Indian Custom Electronic Gateway) which reflects EDI system date of assessment. It is *firstly* submitted that even today also the ICEGATE system does not show any EDI system date of assessment. A copy of screenshot of ICEGATE for subject BOE is annexed. *Secondly*, even the Assessing Officer has failed to show the evidence of EDI system date of assessment reflecting in ICEGATE in the OIO. Moreover,

neither EDI system nor ICEGATE system has any legal/statutory recognition under Custom Act 1962 and thereby such systems are only additional mode for communication and administration for stakeholders. But such systems cannot be sole ground for rejection of any valid claim. Thereby meaning GAIL had filed refund application within time from communicated "date of assessment" and therefore the impugned OIO is bad in law and department is required to refund excess duty with interest.

- (iv) That the department while rejecting the refund application of GAIL had failed to appreciate that date of service/knowledge about any event (date of assessment in present case) is an integral part of limitation period counting. The said aspect is legally acknowledged in Sec.12 of Limitation Act 1963 where the period between date of any order (i.e. date of assessment in EDI system) and date of receipt of certified copy (i.e. date of actual knowledge) is excluded in computation of limitation period. In present case, the EDI system may have recorded "date of assessment" as 25/11/2022 but it actually came in knowledge of GAIL only on 17/07/2023 when department's letter dt. 11/07/2023 was received which communicated actual date of assessment (i.e. 13/12/2022). Thus, the contention of Assessing Officer that limitation period would start would start from EDI system date and not from date of service is contrary to Limitation Act itself. Thereby meaning GAIL had filed refund application within time from communicated "date of assessment" and therefore the impugned OIO is bad in law and department is required to refund excess duty with interest.
- (v) That the department while rejecting the refund application of GAIL had failed to appreciate that the said legal position of computing limitation period from date of actual service is already settled in case of **Hindustan Times Ltd.** 1991 (56) ELT 856 (Tribunal) and in case of **Hind Offshore Pvt. Ltd.** 2022 (6) TMI 1090 – CESTAT-Mumbai and in case of **Indian Oil Corporation Ltd.** 2014 (308) ELT 169 and in case of **GAIL vs Commissioner of Custom Ahmedabad**, Final Order dt. 25/08/2023. The Assessing Officer had only rejected to follow such judicial binding precedents only because same have not attained finality and has been challenged by Department. But the Assessing Officer has failed to appreciate that as per judicial proprietary the order of higher forum has binding effect as long as it is either stayed or set aside by competent forum. Whereas in all cited cases there has been no stay of orders under challenge and thus Assessing Officer has committed a judicial breach in not following settled principle of law and being violative of Article 14 of Constitution of India. Therefore, the impugned OIO is bad in law and department is required to refund excess duty with interest.

Personal Hearing:

9. Personal Hearing in this case was held on 13.05.2025, which was attended by Shri. Mandeep Singh, CM-F&A, GAIL; Shri. Sumit Nangia, CM-F&A, GAIL and Shri. Akshat Khare, Advocate. They reiterated the written submissions made by them.

10. They also submitted **additional written submissions** dated 13.05.2025, in which it has been mentioned that in another case of GAIL, the Hon'ble CESTAT (Ahmedabad), vide order dated 25/08/2023 in Custom Appeal No. 12326 of 2018 had been pleased to hold that the limitation for filing refund would only start from the date of communication. Further, the said decision was also upheld by Hon'ble High Court of Gujarat, vide order dated 13/06/2024 in Tax Appeal No. 211 of 2024.

Findings:

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

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

Issue-2: On which date the assessment has been finalized in this case. Whether, on 25.11.2022 as per the views of the adjudicating authority **or** on 13.12.2022, as mentioned at Sr.No.12 of the impugned letter dated 11.07.2023 issued by the Superintendent of Customs, Dahej.

Findings on Issue-1:

12. I have seen the copy of the Bill of Entry No. 2041092 dated 13.02.2019 submitted by the appellant in which the computer printed figures of provisional assessment have been modified by hand-written figures of final assessment; and there are signatures of Customs Officers with rubber-stamps on bottom of the Bill of Entry. I observe that all the three Customs Officers, i.e. Inspector, Superintendent and Assistant Commissioner, have put signatures without writing any date with their signatures. From the ICEGATE portal, the date of finalization of provisional assessment for the said BoE cannot be ascertained. So, it is not forthcoming from the said Bill of Entry that on which date, it has been finally assessed. However, in the impugned letter F.No. CH/DJ/Misc./212/22-23 dated 11.07.2023 addressed to the appellant, the date of final assessment has been shown as '13.12.2022' at Sr.No.12 for the subject Bill of Entry. There is no other document available on record, which shows the date of communication of final assessment to the appellant. Under this situation, I agree with the contention of the appellant that they were unaware about finalization of assessment of the subject Bill of Entry, till receipt of the impugned letter dated 11.07.2023.

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

"9. Merely because the Custom Department has uploaded the final assessment orders on portal is not sufficient compliance of intimation to the assessee as it is a condition sine qua non to file the refund claim within one year as per section 27(1B)(c) of the Act from the date of finalization provided such order of assessment is communicated to the assessee. Therefore, the Tribunal has rightly taken into consideration the various documents intimating the respondent assessee about the finalization of provisional assessment communicated by the respondent in para No. 6 of the order which is quoted hereinabove.

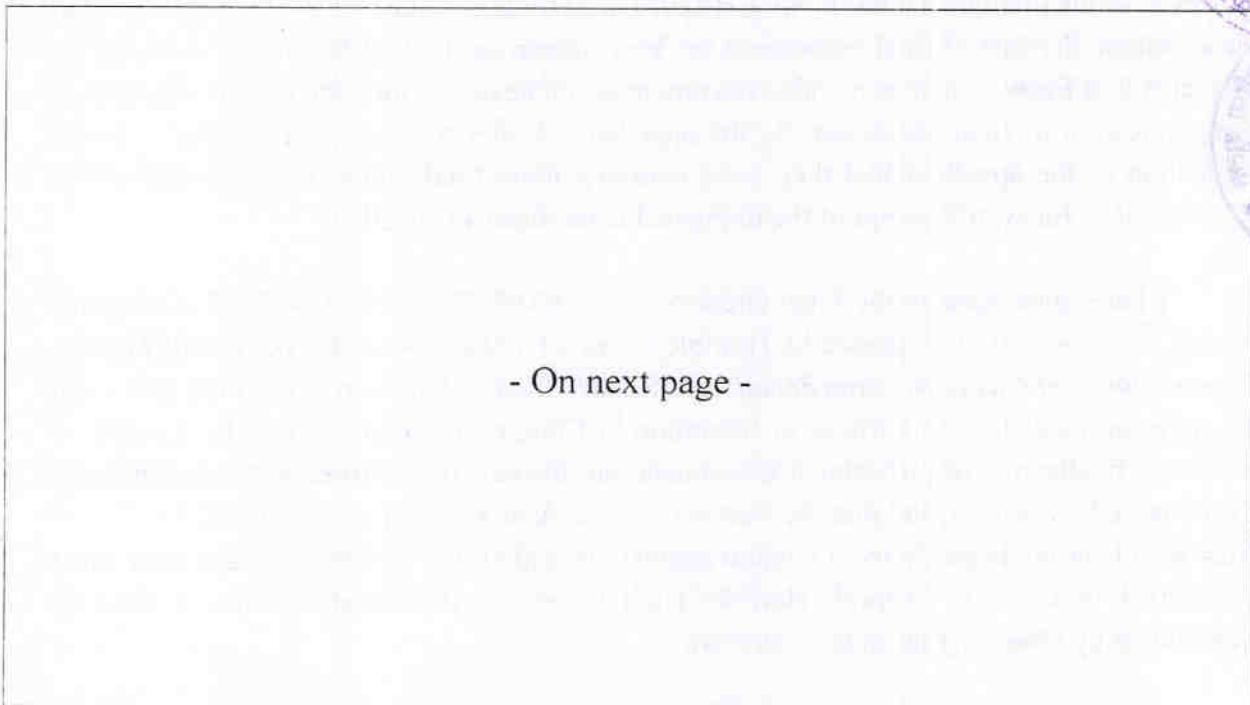
10. *In view of the above, we do not find any infirmity in the impugned order of the Tribunal and no question of law much less any substantial question of law arises therefore, the appeal being devoid of any merit, is accordingly dismissed."*

14. Further, I find that the Principal Commissioner of Customs, Ahmedabad, has filed a Special Leave Petition (C) Diary No. 59586/2024 with Hon'ble Supreme Court against the said Order of Hon'ble High Court. The said SLP is pending with Hon'ble Supreme Court without granting any Stay against the Order of Hon'ble High Court. As the Orders of jurisdictional CESTAT and jurisdictional High Court have not been stayed or overruled by higher forum, these Orders are binding on the lower authorities even though Department's SLP is pending with Supreme Court.

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

Findings on Issue-2:

16. I have gone through the impugned letter F.No. CH/DJ/Misc./212/22-23 dated 11.07.2023 issued by the Superintendent, Custom House, Dahej. A copy of the said letter has been reproduced below:



- On next page -

File No. GAIL/VDA/FNA/15/2024-O&M CR(VDA)(Um) (Computer No. 18503)
Attachment : Annexure-I.pdf

ANNEXURE - E

सहायक आयुक्त (सीमा शुल्क) का कार्यालय, कस्टम हाउस दहेज
OFFICE OF THE ASSISTANT COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE, DAHEJपहली भवित्व, शालिग्राम कॉम्प्लेक्स, बिरला कॉपर रोड, दहेज, तालुका-वागरा, ज़िला- भरुच (गुजरात)
1ST FLOOR, SHALIGRAM COMPLEX, BIRLA COPPER ROAD, DAHEJ, TALUKA-VAGRA, DISTRICT- BHARUCH (GUJARAT)
दरमाओं: 02641-256142 / PHONE: 02641-256142DIN No. 20230771MN000001590C
File No. CH/DJ/Misc./212/22-23

Dated: 11.07.2023

To,
M/s. Gail (India) Limited,
16, Bhikaji Cama Place,
R.K. Puram, New Delhi - 110066.

Gentlemen,

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

Please refer to the above subject matter.

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

Sr.No.	Bill of Entry No.	BoE Date	Date of Final Assessment in EDI system
1	5482709	30.10.2019	12.12.2022
2	9607622	18.11.2020	13.12.2022
3	2722056	05.04.2019	12.12.2022
4	4854618	11.09.2019	13.12.2022
5	3750290	21.06.2019	13.12.2022
6	2819341	12.04.2019	13.12.2022
7	4162913	22.07.2019	13.12.2022
8	5274850	14.10.2019	13.12.2022
9	9807074	03.12.2020	13.12.2022
10	2591449	27.03.2019	13.12.2022
11	5760031	20.11.2019	13.12.2022
12	2041092	13.02.2019	13.12.2022
13	9196908	16.10.2020	13.12.2022
14	8694609	04.09.2020	13.12.2022
15	8661314	01.09.2020	13.12.2022
16	2304492	06.03.2019	13.12.2022
17	8934980	24.09.2020	13.12.2022
18	4810078	07.09.2019	13.12.2022
19	5583379	07.11.2019	13.12.2022
20	5094262	28.09.2019	13.12.2022
21	3041518	30.04.2019	07.02.2023
22	8333553	31.07.2020	07.02.2023
23	6782662	04.02.2020	09.01.2023
24	9364957	29.10.2020	13.12.2022
25	9889664	01.02.2019	25.11.2022
26	2251069	01.03.2019	25.11.2022
27	5877431	29.11.2019	13.12.2022
28	6284844	30.12.2019	13.12.2022
29	9733782	27.11.2020	13.12.2022
30	8999068	30.09.2020	13.12.2022
31	4529266	17.08.2019	13.12.2022
32	2185721	31.12.2020	13.12.2022

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

Yours faithfully,

Superintendent of Customs
Custom House, Dahej

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16.1 As mentioned at Sr.No.12 in the above letter 11.07.2023, the Bill of Entry No. 2041092 dated 13.02.2019 has been finally assessed in the EDI System on "13.12.2022". Whereas, the claimant has filed the refund claim on 04.12.2023, i.e. within one year from the date of finalization of provisional assessment. In the impugned order, it has been simply mentioned that the date of finalization in the EDI System is 25.11.2022, but it is nowhere mentioned that the date of final assessment in EDI System mentioned as "13.12.2022" in the impugned letter dated 11.07.2023 is wrong or otherwise. Under such circumstances and in absence of any contradictory evidence, I cannot hold that the refund claim filed on 04.12.2023 is time-barred

A/12

on the ground that subject BoE was finally assessed on 25.11.2022, whereas, the impugned letter dated 11.07.2023 clearly show the date of final assessment as 13.12.2022.

Order:

17. In view of the above discussion, I set aside the impugned O.I.O. No. 114/AC/Dahej/Refund/2023-24 dated 01.03.2024 passed by the Assistant Commissioner, Custom House, Dahej, and I allow the appeal filed by M/s. GAIL (India) Ltd. with consequential relief, in accordance with law.



(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

F.No. S/49-51/CUS/AHD/2024-25

Date: 27.05.2025

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

To

M/s. GAIL (India) Ltd.,

GAIL Bhawan, 16. Bhikaji Cama Place,
New Delhi - 110066.

(email: info@gail.co.in , mandeep.singh@gail.co.in , snangia@gail.co.in)

Shri. Akshat Khare, Advocate,
M/s. Moson Le Exports,
B/410, Satyamev Complex, Opp. Gujarat High Court,
S. G. Road, Sola,
Ahmedabad -380060.
(email: teamadvocate@mosonleexports.org)



Copy to:

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

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