प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
सीमा शुल्क भवन, आल इंडीया रेडीऑ के बाजु मे, नवरंगपुरा ,अह्मदाबाद 380009
दुर भाष (079) 2754 46 30 फैक्स (079) 2754 23 43
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, AHMEDABAD
CUSTOMS HOUSE, NEAR ALL INDIA RADIO, NAVRANGPURA, AHMEDABAD 380009
PHONE: (079) 2754 46 30 FAX (079) 2754 23 43

निबन्धित पावती डाक द्वारा / **By SPEED POST A.D.**

फा. सं./F. No.: VIII/10-14/Commr./O&A/2023-24

DIN-20260971MN0000E1C32D

आदेश की तारीख/Date of Order : 02.09.2026
जारी करने की तारीख/Date of Issue : 02.09.2026

द्वारा पारित/Passed by:- **Shri Manish Kulhary, Commissioner**

मूल आदेश संख्या :

Order-In-Original No: AHM-CUSTM-000-PR.COMMR-10-2026-2027 dated 02.09.2026 in the case of M/s Van Oord India Pvt. Ltd. 201, 2nd Floor, Central Plaza, 166, C.S.T. Road, Kalina, Santa Cruz East, Mumbai, Maharashtra – 400098.

1 जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।

1. This copy is granted free of charge for private use of the person(s) to whom it is sent.

2. इस आदेश से असंतुष्ट कोई भी व्यक्ति इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार, सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, दुसरी मंज़िल, बहुमाली भवन, गिरिधर नगर पुल के बाजु मे, गिरिधर नगर, असारवा, अह्मदाबाद-380 004 को सम्बोधित होनी चाहिए।

2. Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Asarwa, *Ahmedabad* – 380004.

3. उक्त अपील प्रारुप सं. सी.ए.3 में दाखिल की जानी चाहिए। उसपर सीमा शुल्क (अपील) नियमावली, 1982 के नियम 3 के उप नियम (2) में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियाँ में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। अपील से सम्बंधित सभी दस्तावेज भी चार प्रतियों में अग्रेषित किए जाने चाहिए।

3. The Appeal should be filed in Form No. C.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Customs (Appeals) Rules, 1982. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the

order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.

4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं, चार प्रतियों में दाखिल की जाएगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलगन की जाएंगी (उनमें से कम से कम एक प्रमाणित प्रति होगी)।

4. The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)

5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।

5. The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.

6. केंद्रिय सीमा शुल्क अधिनियम,1962 की धारा 129 ऐ के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।

6. The prescribed fee under the provisions of Section 129A of the Customs Act,1962 shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

7. इस आदेश के विरूद्ध सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण में शुल्क के 7.5% जहां शुल्क अथवा शुल्क एवं जुरमाना का विवाद है अथवा जुरमाना जहां शीर्फ जुरमाना के बारेमे विवाद है उसका भुकतान करके अपील की जा शकती है।

7. An appeal against this order shall lie before the Tribunal 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".

8. न्यायालय शुल्क अधिनियम, 1870 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर उपयुक्त न्यायालय शुल्क टिकट लगा होना चाहिए।

8. The copy of this order attached therein should bear an appropriate court fee stamp as prescribed under the Court Fees Act, 1870.

Sub: Show Cause Notice No. VIII/10-14/Commr./O&A/2023-24 dated 04.09.2023 issued by the Commissioner, Customs, Ahmedabad in the case of M/s Van Oord India Pvt. Ltd. 201, 2nd Floor, Central Plaza, 166, C.S.T. Road, Kalina, Santa Cruz East, Mumbai, Maharashtra – 400098 & Shri Umesh Kale, Technical Administrator/Logistics Executive of M/s. Van Oord India Private Limited, Mumbai.

Brief facts of the case:

M/s. Van Oord India Private Limited, Mumbai (IEC No. 0302072195), having registered office at 201, 2nd Floor, Central Plaza, 166, C.S.T. Road, Kalina, Santacruz East, Mumbai, Maharashtra - 400098 (hereinafter referred to as "the Importer" or "the Noticee" for the sake of brevity) is a leading international contractor specializing in dredging, marine engineering and offshore projects (oil, gas and wind).

2. The specific intelligence developed by the Officers of Directorate of Revenue Intelligence, Jamnagar Regional Unit indicated that M/s. Van Oord India Private Limited, Mumbai(IEC NO. 0302072195), having registered Office at 201, 2nd Floor, Central Plaza, 166, C.S.T. Road, Kalina, Santacruz East, Mumbai, Maharashtra - 400098 (hereinafter referred to as "the Importer") have imported two old and used Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322) with consumables on re-export basis at Hazira Port by wrongly availing the benefit under Notification No.72/2017-Customs dated 16.08.2017. On verification of the data, it was found that M/s. Van Oord India Private Limited, Mumbai (IEC No. 0302072195) had filed following two Bills of Entry by wrongly availing exemption under Notification No.72/2017-Customs dated 16.08.2017 at Hazira Port.

Table-1

Bill of Entry No.& Date	**Description of goods**	**Assessable Value of the goods**	**Duty paid**
7960728/ 07.09.2018	TEMP.IMP.ON RE-EXPORT BASIS ONE UNIT USED TUG "COASTAL RAMBLER" NETHERLANDS, BUILT 2004 IMO NO:9304904 (AS PER INVOICE)	21,58,88,879	5,93,694
8712607/ 02.11.2018	TEMP IMP.ON RE-EXPORT BASIS OLD & USED TUG COASTAL VOYAGER IMO NO 9660322 (AS PER INVOICE)	43,41,11,438	11,93,806
	Total	65,00,00,317	17,87,500

4. Notification No.72/2017-Customs dated 16.08.2017 provides exemption to Machinery, equipment or tools, falling under Chapters 84, 85, 90 or any other Chapter of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). Therefore, it appeared that the subject goods viz. Old and used Tugs are not Machinery, equipment or tools and hence cannot be termed or classified as Machinery, equipment or tools.

5. In the above said two Bills of Entry, the Importer claimed and availed exemption of 95% of BCD, applicable SWS & full IGST under Notification No.72/2017-Customs dated 16.08.2017. The Importer claimed and availed benefit of Sl.No.553 of Notification No.50/2017 Customs, dated 30.06.2017 for Basic Customs Duty and paid effective rate of 5%. For IGST, the Importer opted Sl.No.248 of Schedule-I of Notification No. 01/2017-Integrated Tax (Rate), dated 28.06.2017 which suggested applicable rate of 5% IGST, but by virtue of Notification No.72/2017-Customs dated 16.08.2017, they had wrongfully availed exemption from payment of applicable IGST also.

6. Shri Umesh Kale, Technical Administrator/Logistics Executive of M/s. Van Oord India Private Limited, in his statement dated 15.05.2023 admitted that the goods i.e. two Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322), imported under Bills of Entry No.7960728/07.09.2018 & 8712607/02.11.2018 do not fall under the category of Machinery, equipment or tools as mentioned in Notification No. 72/2017-Customs dated 16.08.2017 and therefore, the exemption claimed by them was not available on the goods imported under above said two Bills of Entry. He was also shown the documents such as Registration Certificate, sheets mentioning Technical Specification, Charter Party Agreement in respect of both the tugs and admitted that the goods were actually Tugs which did not fall under the category of Machinery, equipment or tools as mentioned in Notification No.72/2017-Customs dated 16.08.2017.

7. Thus, it appeared that the Importer had wrongfully availed the exemption under Notification No.72/2017-Customs dated 16.08.2017 and thereby availed ineligible exemptions in respect of BCD, SWS and IGST respectively on the import of two old and used Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322) with consumables on re-export basis, which had rendered the imported Tugs liable for confiscation in terms of Section 111(o) of the Customs Act, 1962. The Importer contravened the provisions of the Customs Act, 1962, by wrongly availing the benefit of Notification No.72/2017-Customs dated 16.08.2017. Shri Umesh Kale, Authorized person of the Importer admitted to have wrongly availed the benefit of exemption Notification and by wrongly availing the benefit of exemption Notification, violated various provisions of the Customs Act, 1962. It therefore, appeared that the action plan to evade the duty was prepared by or on the direction of Shri Umesh Kale and, thereby, undue benefits under Notification No.72/2017-Customs dated 16.08.2017 had been taken by the Importer. He 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(o) of the Customs Act, 1962 in respect of goods imported by wrongly availing the benefit of exemption Notification No.72/2017-Customs dated 16.08.2017. By these acts and omissions, he had rendered himself liable for penalty under Section 112(a) & 112(b) of the Customs Act, 1962. Further, as he had also violated the provisions of Section 17, 46 and 50 of the Customs Act, 1962 he was also liable to penalty under Section 117 of the Customs Act, 1962. Since he had knowingly made, signed or used or caused to be made, signed or used declarations, statements and/or documents and presented the same to the Customs authorities, which were false and incorrect in as much as they did not represent the true, correct and actual nature of the imported goods he was also liable for penalty under Section 114AA of the Customs Act, 1962.

8. The duty evaded by the Importer by wrongly claiming benefit of Notification No. 72/2017-Customs dated 16.08.2017 was:

Table-2

Sr. No.	**Item Description**	**Duty Payable**	
		B/E No.7960728/ 07.09.2018 Tug - COASTAL RAMBLER	**B/E No. 8712607/ 02.11.2018 Tug - COASTAL VOYAGER**
1	Assessable Value (in Rs.)	21,58,88,879	43,41,11,438
2	BCD @ 5% (in Rs.) (Importer has opted Sl. No. 553 of Notification No. 50/2017-Cus, dated 30.06.2017 in the Bills of Entry)	1,07,94,444	2,17,05,572
3	Social welfare surcharge @10% on BCD (in Rs.)	10,79,444	21,70,557
4	Total Customs Duty (in Rs.)	1,18,73,888	2,38,76,129
5	Value for IGST (in Rs.)	22,77,62,767	45,79,87,567
6	IGST @5% (in Rs.) (Importer has opted Sl.No.248 of Schedule-I of Notification No. 01/2017-Integrated Tax (Rate), dated 28.06.2017)	1,13,88,138	2,28,99,378
7	Total Duty Payable (in Rs.).	2,32,62,026	4,67,75,507
8	BCD & SWS already paid as per Importers' assessment (in Rs.)	5,93,694	11,93,806
9	Differential Duty yet to be paid (in Rs.)	**2,26,68,332**	**4,55,81,701**
10	Total Duty to be paid in respect of both the Bills of Entry	**6,82,50,033**	

9. A show cause notice was issued to the importer as to why:-

(i) The Bills of Entry bearing Nos.7960728/07.09.2018 and 8712607/ 02.11.2018 filed for import of two old and used Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322) with consumables on re-export basis should not be reassessed and the benefit of Notification No. 72/2017-Customs dated 16.08.2017 should not be denied;

(ii) The differential Duty, as mentioned in Table-2, amounting to **Rs.6,82,50,033/-** should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 alongwith applicable interest under Section 28AA ibid;

(iii) The goods i.e. two old and used Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322) with consumables on re-export basis imported under Bills of Entry bearing Nos. 7960728/07.09.2018 and 8712607/02.11.2018 valued at **Rs.65,00,00,317/-** should not be held liable for confiscation under the provisions of Section 111(o) of the Customs Act, 1962;

(iv) Penalty should not be imposed upon them under Section 112(a) & 112(b) of the Customs Act, 1962 for goods mentioned at (iii) above and Penalty should not be imposed upon them under the provisions of Sections 114A, 114AA and 117 of the Customs Act, 1962.

(vi) Also, as to why Penalty should not be imposed on Shri Umesh Kale, Technical Administrator/Logistics Executive of M/s. Van Oord India Private Limited, under Sections 112(a) & 112(b), Section 114AA and Section 117 of the Customs Act, 1962.

10. The Principal Commissioner of Customs vide OIO No. AHM-CUSTM-000-PR.COMMR-38-2024-25 dated 08.08.2024 relied on Hon'ble Delhi Tribunal identical case in the case of Shipping Corporation of India Ltd. vs. Commr. of Cus. (Import), Mumbai reported in 2014 (312) E.L.T. 305 (Tri. - Mumbai), and also Hon'ble Chennai Tribunal in the case of International Seaport Dredging Ltd. vs. Commr. of Cus., Tiruchirapalli reported in 2019 (366) E.L.T. 723 (Tri.- Chennai) wherein it was held that tugboats imported are not machinery, equipment or tools, as these were specifically covered under Chapter Heading 8904 and were not entitled to the benefit of Notification No.72/2017-Cus dated 16.08.2017.

(i) Therefore, the benefit of Notification No.72/2017-Customs dated 16.08.2017 claimed by M/s. Van Oord India Pvt. Ltd was denied and the demand of Differential Customs Duty amounting to Rs.6,82,50,033/- along with interest was confirmed for the import of two old and used Tugs viz. two old and used Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322) under Bill of Entry Nos.7960728/07.09.2018 and 8712607/ 02.11.2018 respectively by M/s. Van Oord India Pvt. Ltd., under Section 28(4) of the Customs Act, 1962 read with Section 28(8) of the Customs Act, 1962.

(ii) He also held the old and used Tugs viz. two old and used Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322) under Bill of Entry Nos.7960728/07.09.2018 and 8712607/ 02.11.2018 respectively valued at Rs. 65,00,00,317/- liable for confiscation under Section 111(o) of the Customs Act, 1962 and gave the option to redeem the goods on payment of Fine of Rs.6,50,00,000/- under Section 125 of the Customs Act, 1962.

(iii) He also imposed penalty of Rs.6,82,50,033/- plus penalty equal to the applicable interest under Section 28AA of the Customs Act, 1962 payable on the Duty demanded and confirmed above on M/s. Van Oord India Pvt. Ltd under Section 114A of the Customs Act, 1962.

(iv) refrained from imposing any penalty on M/s. Van Oord India Pvt. Ltd., under Section 112(a)& (b) of the Customs Act,1962.

(v) imposed a penalty of Rs.5,00,000/- on M/s. Van Oord India Pvt. Ltd under Section 114AA of the Customs Act,1962 but refrained from imposing any penalty on M/s. Van Oord India Pvt. Ltd under Section 117 of the Customs Act,1962.

(vi) imposed a penalty of **Rs.5,00,000/- each** on Shri Umesh Kale, Technical Administrator/Logistics Executive of M/s. Van Oord India Private Limited under Section 112(a)(ii) of the Customs Act, 1962 and under Section 114AA of the Customs Act, 1962 but refrained from imposing any penalty on Shri Umesh Kale, Technical Administrator/Logistics Executive of M/s. Van Oord India Private Limited under Section 117 of the Customs Act,1962.

11. The importer preferred an appeal before the Hon'ble CESTAT, Ahmedabad, who vide Final Order No.11039-11040/2025 dated 13.11.2025 partly allowed the appeal of the importer by way remand by rendering that:

(i) tugboats imported by the importer were not machinery, equipment or tools under Chapter 84, 85 & 90, as these were specifically covered under Chapter Heading 8904, and therefore, two tugs imported by the importer were not entitled to the benefit of Notification No.72/2017-Cus. dated 16.08.2017.

(ii) concurred with the view of the Adjudicating Authority on confiscation of two seized tug boats valued Rs.65 Crores and held that the importer was entitled to the drawback benefit under Section 74 of the Customs Act, 1962.

(iii) that quantum of redemption fine to be imposed in lieu of confiscation should be governed by the amount of benefit that would have been accrued to the importer and directed the Adjudicating Authority to first compute the differential duty payable by the importer after allowing the drawback benefit to them and then decide the quantum of redemption fine.

(iv) penalty under Section 114A to be imposed on the importer as per the differential duty payable.

(v) Set aside the penalties imposed by the adjudicating authority under Section 114AA on both importer and Shri Umesh Kale.

(vi) imposed a penalty of Rs. One Lakh instead of Rs.5 lakhs by the adjudicating authority on Shri Umesh Kale under Section 112(a)(ii) of the Customs Act,1962.

REMAND PROCEEDINGS

12. In pursuance to the Hon'ble CESTAT, Ahmedabad, Final Order No.11039-11040/2025 dated 13.11.2025, I take up the adjudication on the following issues. Since, the issue of entitlement of Notification No.72/2017-Cus dated 16.08.2017 and the consequent confiscation of the two seized tug boats has been upheld by the Hon'ble CESTAT, the only issue remain to be adjudicated is the computation of differential duty after allowing the drawback benefit to the importer and then decide the quantum of redemption fine and also penalty under Section 114A of the Customs Act, 1962.

PERSONAL HEARING

13. Upholding the principles of natural justice, a personal hearing [in virtual mode] was granted to the importer on 30.06.2026. Shri B. Venugopal, Advocate appeared on behalf of both the noticees, the importer and Shri Umesh Kale, Logistic Executive of the importer and submitted that the matter may be decided on the basis of Hon'ble CESTAT, Ahmedabad, Final Order No.11039-11040/2025 dated 13.11.2025 and requested for a lenient view on the penalty and also requested 10 additional days to file their submissions.

WRITTEN SUBMISSIONS

14. M/s. Van Oord India Private Limited and Shri Umesh Kale, Technical Administrator/Logistics Executive of M/s.Van Oord India Private Limited submitted their additional written submission vide mail dated 09.07.2026, wherein they interalia stated as under:

(i) that in terms of the proviso under Section 28(1)(a) of the Customs Act, 1962, before the issue of a show cause notice the proper officer shall hold pre-notice consultation with the person chargeable with the duty or interest in such manner as may be prescribed and invited attention to the Pre-notice Consultation Regulations, 2018, and cited the decision of the Hon'ble High Court of Delhi In the case of Gulati Enterprises vs. C.B.I. & C as reported in (2023) 2 Centax 98 (Del) and Victory Electric Vehicles International Pvt. Ltd. as reported in (2022) 1 Centax 29 (Del), and stated that since Pre-notice Consultation has not been done by the Department, with Van Oord and Umesh Kale, which has caused prejudice to the respondents and to that extent the present proceedings have been vitiated by not complying with the statutory provisions;

(ii) that Coastal Rambler was imported on a temporary basis under B.E. No. 7960728 dtd. 7.9.2018 for the said ONGC Dredging Project; that the vessel is registered in Netherlands and was built in 2004; that the Tug was cleared on payment of duty of Rs. 5,93,694 and Van Oord executed a Bank Guarantee No. 811-02-0077210 dated 15.9.2018 given by DBS Bank, Mumbai for an amount of Rs. 2,27,00,000/-; that the validity of bank guarantee was valid upto 15.12.2018. On the basis of the request made by the Importer, the validity of the BG was extended upto 15.3.2019; that Bank Guarantee was issued by the DBS Bank Ltd., Mumbai Branch, and the validity of the re-export bond was also extended upto 15.3.2019 and the differential duty and interest has been paid by Van Oord which has been accepted by the Customs Department; that the Coastal Rambler completed its operations in terms of the contract entered into with ONGC on or around 24.12.2018; that after completing the dredging operations the Tug Coastal Rambler was exported under the cover of S.B. No. 9866006 dated 24.12.2018 which was filed for re-export along with Export Invoice No. 343382/C.Rambler/1-REXP dtd.19.12.2018; that the Dy. Commissioner of Customs, Custom House, Hazira issued a Certificate dated 24.12.2018 to the effect that Coastal Rambler has been converted from Coastal Run to Foreign Run on 26.12.2018 at 16:50 hours at Adani Hazira Port. Port clearance No. F-677/18-19 dated 26.12.2018 was also issued by the Supdt. Custom House, Hazira; that the Original Bank Guarantee No. 811-02-0077210 dtd. 15.9.2018 and 5.12.2018 which was valid upto 15.3.2019 for an amount of Rs. 2,27,00,000/- was released by the Supdt. of Customs, Custom House, Hazira vide letter F.No.CH/Hazira/BG/1068/18-19 dtd. 28.1.2019 addressed to the Bank Manager, DBS Bank Ltd., Mumbai - 400 021;

(iii) that the Coastal Voyager was imported on a temporary basis under B.E. No. 8712607 dtd. 2.11.2018 for the said ONGC Dredging Project; that the vessel is registered in Netherlands and was built in 2012; that the Tug was cleared on payment of duty of Rs. 11,93,806; that Van Oord executed a Bank Guarantee No. 811-02-0077719 dated 13.11.2018 given by DBS Bank, Mumbai for an amount of Rs. 4,55,82,000.00/-; that the validity of bank guarantee was valid up to 12.02.2019; that Coastal Voyager completed its operations in terms of the contract entered into with ONGC on or around 18.12.2018 and after completing the dredging operations the Tug Coastal Voyager was exported under the cover of S.B. No. 9709245 dated 18.12.2018, along with Export Invoice No. 343382/C.Voyager/1-RE dtd. 17.12.2018. The export value was declared at Rs. 40,15,59,437.50 FOB; that the Dy. Commissioner of Customs, Custom House, Hazira issued a certificate dated 18.12.2018 to the effect that Coastal Voyager has been converted from Coastal Run to Foreign Run on 19.12.2018 at 17:30 hours at Adani Hazira Port. Port clearance No. F-662/18-19 dated 21.12.2018 was also issued by the Supdt. of Custom House, Hazira; that the differential duty has been paid by the Importer at the rate of 5% / 15% as the case may be, in terms of Not. No.50/2017-Cus dated 30.6.2017 as amended by Not. No.6/2018-Cus dated 2.2.2018 vide Sl.No.553; that in the instant case, since the re-export of Coastal Rambler took place on 24.12.2018 i.e., after a period of three months from the date of importation, the differential duty at 15% was required to be paid in terms of Not. No.72/2017-Cus dated 16.8.2017. This has been paid by Van Oord;

(iv) that the words "Machinery, equipment or tools" mentioned in Not. No. 72/2017-Cus dtd.16.08.2017 have not been defined and in the absence of a statutory definition of the words "Machinery, Equipment or Tools, the said goods (Tugs) are required to be classified as to how the said goods are understood or described in commercial parlance. Further, the classification of the said goods would also depend on their functions and the use for which they are put to as available in the technical dictionaries; that in this connection they referred and relied upon the following definitions of the word "Equipment":

(a) Foreign Trade Policy 2015-2020, Para 9.08 defines Capital Goods as follows:'

"Capital Goods": means any plan, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, including those required for replacement, refrigeration equipment, power generating sets, machine tools, equipment and instruments for testing, research and development, quality and pollution control.

(b) The Law Lexicon by P. Ramanatha Aiyer

Equipment: A ship was part of the 'equipment' of the business of the ship owner whose ship carries Ore/bulk/Oil. – Coltman vs Bibby Tankers Limited (1987) 3, All ER 1068, 1071 (HL).

(c) Section 2(22) of the Customs Act, 1962 defines goods as follows:

"Goods" includes, Vessels; Aircrafts; and Vehicles Stores; Baggage; Currency and negotiable instruments; and any other kind of movable property"

(d) Lawinsider.com gives the following definitions, for 'Movable Property', 'Goods' and 'Equipment'.

Movable property means property of every description except immovable property.

Goods mean all the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

Equipment is all "equipment' as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest, in any of the foregoing.

(iv) that they also referred and relied upon the literature provided by the International Association of Dredging Companies in which it has been clearly mentioned that 'Tugs' would come within the meaning of Auxiliary Equipment. Auxiliary Equipment includes a wide variety of equipment that are not dredgers, but are integral to supporting dredging operations; that for the international dredging contracts, trailing suction hopper dredgers and cutter suction dredgers form the foundation of their dredging fleets; that practically speaking, however, dredging projects also require an ample number of floating auxiliary equipment; that those include:

- Multicats
- Heavy lifting crane vessels

- Workboats
- Tenders
- Towboats, tugboats
- Stationary or self-propelled barges
- Anchor pontoons, floating line pontoons
- Booster stations
- Crew boats
- Survey vessels.

(vi) that it can be seen from the above definitions that the word 'Equipment' has a wide connotation and the impugned goods, viz., Tug 'Coastal Rambler' and Tug 'Coastal Voyager' which are auxiliary equipment necessary for dredging, and have been imported temporarily into India for carrying out dredging operations against a contract awarded by ONGC to Van Oord; that to put it differently, 'Coastal Rambler' and Tug 'Coastal Voyager' were imported into India temporarily for providing dredging services to ONGC in Adani Hazira Port; that in terms of definitions given above the impugned goods, viz., Tug 'Coastal Rambler' and Tug 'Coastal Voyager' were providing services to ONGC and as such would fall within the definition of 'Equipment';

(vii) that in the light of the above definitions Van Oord submits that in the absence of a definition in the tariff or fiscal entry with an explanation or a definition, the understanding of the said goods in common trade parlance for the said goods is required to be taken into consideration for determining the classification of a 'good'; that the basic character, function and use of the said goods including for rendering services are relevant factors while determining the classification of a product;

(viii) that the impugned goods are entitled to the benefit of exemption in terms of Not. No. 72/2017-Cus. Dtd. 16.8.2017, since the said goods (Tugs) have been imported into India for rendering dredging services; that in the In the instant case, the Department have not cited or placed on record any specific evidence to show that the impugned goods do not come within the meaning of 'Equipment' and therefore are not entitled to the benefit of Not. No. 72/2017–Cus dated 16.8.2017, except citing the decisions in the case of International Seaport Dredging Ltd vs. Commr. of Cus. Tiruchirapalli – 2019(366) ELT 723 (Tri – Chennai) and Shipping Corporation of India Ltd. vs. Commissioner – 2014(312) ELT 305(Trib), which have not attained finality; that in the instant case keeping in mind the definitions cited supra and read harmoniously would clearly show that 'Tugs' come within the meaning of 'Equipment', as mentioned in Not. No. 72/2017-Cus Dtd. 16.08.2017; that they cited the decision of Hon'ble Supreme Court rendered in the case of Commr. Of Cus. (PREV), Gujarat vs. Reliance Petroleum Ltd. – 2008(227) E.L.T. (S.C.) wherein the Apex Court inter alia, held as "It is well established that in interpreting the meaning of words in a taxing statute, the acceptance of a particular word by the trade and its popular meaning should commend itself to the authority";

(ix) that in terms of Sec. 74 of the C.A., 1962 when any goods are capable of being easily identified which had been imported into India and upon which any duty has been paid on importation and are entered for export the proper Officer makes an order permitting clearance for exportation, 95% of such duty shall be paid as drawback subject to the conditions mentioned therein; that in the decisions cited by the Department itself, that if the fact of export of the imported goods is not disputed then the said goods would be entitled to get drawback if duty is paid at the time of importation; that in the instant case duty at of 5% or 15% as the case may be has been paid at the time of importation and for the balance duty, bank guarantees were executed and the same were cancelled after the export of the two tugs, viz., Tug 'Coastal Rambler' and Tug 'Coastal Voyager' were re-exported after completion of the dredging operations in terms of the Contract with ONGC dtd 15.6.2018; that in this connection they referred and relied upon the following decisions:

- Birla VXL Ltd. vs. CCE, Chandigarh- 1998 (99) E.L.T.387 (Tri. – N. Delhi)
- IOC Ltd. vs. CCE, Calcutta-II – 2004 (178) E.L.T. 834 (Tri. Kol.)

That in the above two decisions it was, inter alia, held that when imported goods are re-exported they are not liable to duty in terms of the notification under which the said goods have been imported and were re-exported within the time limits stipulated in the said notification, subject to the entitlement as mentioned under Section 74 of the Customs Act, 1962, and the regulations made there under;

(x) that the two decisions relied by the Department have not attained finality; that it can be seen from the decisions cited by the Department, viz., Shipping Corporation of India Ltd. vs. Commr. of Cus. (Import), Mumbai – 2014 (312) E.L.T. 305 (Tri. - Mumbai) and International Seaport Dredging Ltd. vs. Commr. of Cus., Tiruchirapalli – 2019 (366) E.L.T. 723 (Tri.- Chennai), have not attained finality. Further, in both the cases, Tribunal as well as the High Court of Bombay have directed the Department to sanction drawback / refund of duty since the Tugs were re-exported.

(xi) that in the instant case the impugned Tugs viz., Coastal Rambler and Coastal Voyager were imported at Hazira Port for carrying out "Maintenance Dredging Around Wellhead Platform NTP-1 and Spoil Disposal offshore Against Tender No. Q16PC17005" under the cover of B.E. No. 7960728 / 7.9.2018 and B.E. No. 8712607 / 2.11.2018 and after completing first check and examination were re-exported under the cover of S.B. No. 9866006 dated 24.12.2018 and S.B. No. 9709245 dated 18.12.2018, respectively; that further it has been recorded that the Importer have complied with all conditions of Not. No. 72/2017-Cus and submitted all the relevant documents based upon which the original Bank Guarantees and Re-export Bonds were cancelled and returned to Van Oord. [Pg. No. 93 and 123]; that it is therefore the submission of the Noticees that in terms of Sec 128(1) of the Customs Act, 1962, the demand for the differential duty is barred by limitation since, the question of mis-declaration, collation or any wilful mis-statement or separation of facts does not arise in this case; that assuming without admitting that the benefit of Not. No. 72/2017-Cus dated 16.8.2017 has been claimed incorrectly, it is settled law that on that count penalties cannot be imposed on the importer;

(xii) that it is settled law that claiming an incorrect classification or the benefit of an ineligible exemption notification does not amount to making a false or incorrect statement because it is not an incorrect description of the goods or their value but only a claim made by the Importer and thus, even if the importer makes a wrong classification or claims ineligible exemption, he will not be liable to pay differential duty and interest thereon and penalties under Section 112(a), 114A and 114AA of the Customs Act, 1962; that in this connection cited the decision of Tribunal Hyderabad in case of CCE & ST Hyderabad II vs. Sandor Medicaids Pvt. Ltd - 2019 (367) E.L.T. 486 (Tri – Hyd) 2019(367) ELT A 318 (SC), and Lewek Altair Shipping Pvt. Ltd vs. CC Vijayawada - 2019 (366) E.L.T. 318(Tri – Hyd), Midas Fertchem Impex Pvt. Ltd. vs. Pr. Commr. of Customs (Import) N. Delhi – 2023(384) ELT 397 (TRI – DEL):

(xiii) that the demand, if any, beyond the period of limitation would not be sustainable in law, in as much as there was no suppression of facts, either in the description of the goods or their valuation; that the dispute is in respect of classification of the imported goods and the claim for concessional rate of duty under the relevant notification; that as submitted supra, no penalties are leviable when the dispute relates classification of the imported goods and the claim for concessional rate of duty; that in the instant case and on the basis of the judicial decisions cited supra and the ratio decidendi laid therein, penalties under Sec. 112(a), 112(b), 114A and 114AA and 117ibid are not leviable on the Importer (Van Oord); that for the same reasons the penalties proposed to be imposed on Shri Umesh Kale are also not sustainable in law.

(xiv) that the impugned tugs where imported on re-export basis after payment of applicable duties; that after completion of dredging operations in terms of the contract entered into by them with ONGC, the said tugs were re-exported as mentioned supra and the Re-exports Bonds and Bank Guarantees executed by them were cancelled and returned to the importer, therefore the impugned goods are not available for confiscations under Section 111(o) of the Customs Act, 1962; that it is settled law that when goods are not available for confiscation, no redemption fine can be imposed in lieu of confiscation. In this connection Van Oord would like to refer to and rely upon the following decisions:

- Shiv Kripa Ispat Pvt. Ltd. v. CCE, Nashik – 2009 (235) ELT 623 (Tri.-LB)
- Associate Marketing Service v. CC, Airport -2006 (195) ELT 287 (Tri.-Chennai)
- Shiwalayan Spinning & Weaving Mills P. Ltd. v. CC, Amritsar- 2002 (146) ELT 610 (T)
- Chinku Exports v. CC, Calcutta- 1999 (112) ELT 400 (T)
- Affirmed by S.C. 2005 (184) ELT A36 (S.C.)
- Prudential Pharmaceuticals Ltd. v. CC-2001 (136) ELT 1057 (T)
- Shilpa Trading Co. V. CC, Bangalore- 2008 (224) ELT 453 (Tri. – Ban.)

DISCUSSION AND FINDINGS

15. I have carefully gone through the records of the case and the remand order passed by the Hon'ble CESTAT, Ahmedabad, vide Final Order No.11039-11040/2025, dated 13.11.2025.

16. The issue in brief was whether two tugs viz. "Coastal Rambler" and "Coastal Voyager" imported by the noticee were "Machinery, Equipment or Tools" and whether they were entitled for availing benefit of Notification No.72/2017-Cus. dated 16.08.2017. The noticee contended that these were "Auxiliary Equipment" and hence, covered within the definition of "Machinery, Equipment or Tools" which entitles them the benefit of above notification. The adjudicating authority vide OIO No. AHM-CUSTM-000-PR.COMMR-38-2024-25 disallowed the benefit of Notification No.72/2017- Cus. dated 16.08.2017 and confirmed the demand of Customs duty of Rs.6.82 crores under Section 28 of the Customs Act, 1962, imposed redemption fine under Section 125 of the Customs Act, 1962 and imposed penalties on the noticee and on the employees of the noticee company under Section 114A/114AA of the Customs Act, 1962. Aggrieved by the OIO No.AHM-CUSTM-000-PR.COMMR-38-2024-25 dated 08.08.2024 passed by the Principal Commissioner, Customs, Ahmedabad, the noticee preferred an appeal before the Hon'ble CESTAT.

17. I also find that the remand order passed by the Hon'ble CESTAT, Ahmedabad, vide Final Order No.11039-11040/2025, dated 13.11.2025 has decided the larger issue wherein:

(i) tugboats imported by the appellant are not machinery, equipment or tools under Chapter 84, 85 & 90, as these are specifically covered under Chapter Heading 8904, and therefore, two tugs imported by the appellant in this case are not entitled to the benefit of Notification No.72/2017-Cus. dated 16.08.2017.

(ii) concurred with the view of the Adjudicating Authority on confiscation of two seized tug boats valued Rs.65 Crores and held that the appellant is entitled to the drawback benefit under Section 74 of the Customs Act, 1962.

(iii) that quantum of redemption fine to be imposed in lieu of confiscation in this case should be governed by the amount of benefit that would have been accrued to the appellant and directed the Adjudicating Authority to first compute the differential duty payable by the appellant after allowing the drawback benefit to them and then decide the quantum of redemption fine.

(iv) penalty under Section 114A to be imposed on the appellant as per the differential duty payable.

(v) Set aside the penalties imposed by the adjudicating authority under Section 114AA on both the appellants.

(vi) imposed a penalty of Rs. One Lakh instead of Rs.5 lakhs by the adjudicating authority on Shri Umesh Kale (Appellant No.2), under Section 112(a)(ii) of the Customs Act,1962.

18. I find that, in their written submissions dated 09.07.2026, the noticee have reiterated several contentions which had been raised before the original adjudicating authority. To the extent such submissions seek to reopen the issues relating to eligibility to Notification No.72/2017-Customs dated 16.08.2017 and liability of the goods to confiscation, the same cannot be reconsidered in the present proceedings, these issues having already been decided by the Hon'ble CESTAT. However, the submissions insofar as they relate to computation of duty after allowing drawback and the consequential quantum of redemption fine and penalty are considered hereinafter.

19. Therefore, the limited issue to be decided in pursuance to the remand order passed by the Hon'ble CESTAT, Ahmedabad, vide Final Order No.11039-11040/2025, dated 13.11.2025 is :-

(i) the computation of differential duty to be recovered under Section 28 of the Customs Act, 1962 along with interest from the importer,

(ii) imposition of redemption fine under Section 125 of the Customs Act, 1962 and imposition of penalty under Section 114A of Customs Act, 1962 on the importer.

20. In order to compute and verify the differential duty calculations, a detailed verification report was sought from the jurisdictional Assistant Commissioner, Customs, Hazira Port, being the port of import. The Assistant Commissioner, Customs, Hazira Port after detailed verification sent their report vide letter dated 13.07.2026. The differential duty calculations shown as under:-

Sr No	Bill of Entry No	TUG	Assessable Value (in Rs.)	BCD @ 5% (in Rs.)	SWS @10% On BCD (in Rs.)	Total Customs Duty (in Rs.)	Value for IGST (in Rs.)	IGST @5% (in Rs.)	Total Duty Payable (in Rs.).
1	7960728 dated 07.09.2018	Coastal Rambler	21,58,88,879	1,07,94,444	10,79,444	1,18,73,888	22,77,62,767	1,13,88,138	**2,32,62,026**
2	8712607dated 02.11.2018	Coastal Voyager	43,41,11,438	2,17,05,572	21,70,557	2,38,76,129	45,79,87,567	2,28,99,378	**4,67,75,507**

21. I find that the rates of drawback on re-export of duty paid goods provided under Section 74 of the Customs Act, 1962 have been notified under Notification No.23/2008-Customs dated 01.03.2008, which provides:-

S.No	Length of period between the date of clearance for home consumption and the date when the goods are placed under Customs control for export	Percentage of import duty to be paid as Drawback
1.	**Not more than three months**	**95%**
2.	**More than three months but not more than six months**	**85%**
3.	More than six months but not more than nine months	75%
4.	More than nine months but not more than twelve months	70%
5.	More than twelve months but not more than fifteen months	65%
6.	More than fifteen months but not more than eighteen months	60%
7.	More than eighteen months	-NIL-

In the instant case, I find that the bill of entry No. 7960728 dated 07.09.2018 in case of the Tug, viz., Coastal Rambler were placed for export vide Shipping Bill No.9866006 dated 24.12.2018, and therefore, falls under the eligibility of Sr.No.2 above (3-6 months), which attracts 85% of import duty to be paid as drawback. In case of bill of entry No. 8712607 dated 02.11.2018 in case of the Tug, viz., Coastal Voyager were placed for export vide Shipping Bill No. 9709245 dated 18.12.2018, and therefore, falls under the eligibility of Sr.No.1 above (0-3 months), which attracts 95% of import duty to be paid as drawback.

22. Now, the difference between total duty payable and eligible drawback benefit is as follow: -

Sr No	Bill of Entry No	TUG Name	Assessable Value (in Rs.)	Total Duty Payable (in Rs.)	Export made vide Shipping Bill No	Export made	Eligible Drawback in %)	Eligible (Drawback (in Rs.)	Difference between "Total Duty Payable "and" Eligible Drawback" (in Rs.) [col 5-9]
1	2	3	4	5	6	7	8	9	10
1	7960728 Dated 07.09.2018	Coastal Rambler	21,58,88,879	2,32,62,026	9866006 dated 24.12.2018	Between 3-6 Months	85%	1,97,72,722	**34,89,304**
2	8712607 Dated 02.11.2018	Coastal Voyager	43,41,11,438	4,67,75,507	9709245 dated 18.12.2018	Within 3 Months	95%	4,44,36,732	**23,38,775**
			TOTAL	**7,00,37,533**			**TOTAL**	**6,42,09,454**	**58,28,079**

Therefore, after allowing the admissible drawback benefit in terms of the directions of the Hon'ble CESTAT vide Final Order No.11039-11040/2025 dated 13.11.2025, the differential duty liability of M/s Van Oord India Pvt. Ltd. works out to ₹58,28,079/-.

23. The duty payment particulars for the said bill of entries as reported by the Assistant Commissioner, Customs, Hazira Port are: -

Bill of Entry No. & Date	TUG Name	Duty particulars			Interest			
		Duty paid at the time of import clearance (in Rs.)	Duty paid (in Rs.)	Total Duty paid (Rs.)	Challan No. & Date	Interest paid (in Rs.)	Challan No. & Date	Total interest paid (in Rs.)
7960728 dated 07.09.2018	Coastal Rambler	5,93,694/-	11,87,389/-	**34,89,305/-**	CUS/5220/18-19 dated 13.12.2018	48,797/-	CUS/5220/18-19 dated 20.12.2018	
		-	-		-	2,950/-	CUS/5285/18-19 dated 20.12.2018	
			17,08,222/-		Challan 828/2024-25 dated 31.07.2024	17,23,573/-	Challan 828/2024-25 dated 31.07.2024	
		-	-		-	842/-	Challan 835/2024-25 dated 01.08.2024	**17,76,162/-**
8712607 dated 02.11.2018	Coastal Voyager	11,93,806/-	11,44,969/-	**23,38,775/-**	Challan 827/2024-25 dated 31.07.2024	11,58,645/-	Challan 827/2024-25 dated 31.07.2024	
		-	-		-	565/-	Challan 834/2024-25 dated 01.08.2024	**11,59,210/-**

From the above payment particulars, I find that the differential duty liability determined at ₹58,28,079/- stands discharged by the importer through the duty payments made at the time of import and the subsequent payments detailed above. The amounts so paid are, therefore, liable to be appropriated against the differential duty confirmed in these proceedings.

24. The details of Interest calculation worked out by the jurisdictional Assistant Commissioner, Customs, Hazira Port are as below:

Sr. No	Bill of Entry No	Delay in respect of No of Days till 13.12.2018	Delay in respect of No of Days till 01.08.2024	Interest Payable @ 18% (for Differential Duty Paid on 13.12.2018) (Rs.)	Interest Payable @ 18% (for Differential Duty Paid on 01.08.2024) (Rs)	Total Interest Payable (Rs.)	Interest Paid till date vide various Challans (Rs)	Remaining Interest yet to be paid (Rs.)
1	7960728 dated 07.09.2018	98	2,156	57,385	18,16,238	18,73,623	17,76,162	**97,461**
2	8712607 dated 02.11.2018	-	2,100	-	11,85,748	11,85,748	11,59,210	**26,538**

25. Further, as regards the confiscation of the goods, since they are not physically available for confiscation, in such cases, redemption fine is imposable in light of the judgment in the case of **M/s. Visteon Automotive Systems India Ltd. reported at 2018 (009) GSTL 0142 (Mad)** wherein the Hon'ble High Court of Madras has observed as under:

> *The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act ....", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii).*

25A. I also find that Hon'ble High Court of Gujarat by relying on this judgment, in the case of Synergy Fertichem Ltd. Vs. Union of India, reported in 2020 (33) G.S.T.L. 513 (Guj.), has held inter alia as under: -

"
.
.

> ***174.** ...... In the aforesaid context, we may refer to and rely upon a decision of the Madras High Court in the case of M/s. Visteon Automotive Systems v. The Customs, Excise & Service Tax Appellate Tribunal, C.M.A. No. 2857 of 2011, decided on 11th August, 2017 [2018 (9) G.S.T.L. 142 (Mad.)], wherein the following has been observed in Para-23;*
> *"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance*

for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii)."

175. We would like to follow the dictum as laid down by the Madras High Court in Para-23, referred to above."

25B. As regards the quantum of redemption fine, I note that the Hon'ble CESTAT has specifically directed that the quantum of fine should be governed by the amount of benefit which would have accrued to the importer, after allowing the drawback admissible under Section 74 of the Customs Act, 1962. In the present case, after allowing drawback of ₹6,42,09,454/-, the residual duty incidence has been determined at ₹58,28,079/-. I have also taken into consideration the aggregate assessable value of the goods of ₹65,00,00,317/-, the nature of the contravention, the temporary character of the imports, the fact that both tugs were actually re-exported after completion of the contracted operations, and the overall duty benefit involved. Having regard to all these factors and the specific directions of the Hon'ble Tribunal, I consider redemption fine of ₹45,00,000/- (Rupees Forty-Five Lakhs only) to be just and reasonable.

26. As regards penalty under Section 114A of the Customs Act, 1962, I find that the Hon'ble CESTAT has specifically directed that the penalty under Section 114A is to be imposed on the importer with reference to the differential duty payable after allowing the admissible drawback. Since the differential duty has been determined at ₹58,28,079/-, I hold that M/s Van Oord India Pvt. Ltd. is liable to penalty under Section 114A of the Customs Act, 1962 accordingly.

27. As regards, imposition of penalty on M/s Van Oord India Pvt. Ltd under the provisions of Section 114AA of the Customs Act, 1962, I find that the CESTAT's order has set aside penalty of Rs.5 lakh imposed by the original adjudicating authority under Section 114AA of the Customs Act, 1962, so I refrain from imposing any penalty on M/s Van Oord India Pvt. Ltd under the said Section.

28. As regards Shri Umesh Kale, the Hon'ble CESTAT has already reduced the penalty imposed under Section 112(a)(ii) of the Customs Act, 1962 from ₹5,00,000/- to ₹1,00,000/-. The said determination is binding in the present remand proceedings and accordingly the penalty under Section 112(a)(ii) stands at ₹1,00,000/-. I find that the CESTAT's order has also set aside penalty of Rs.5 lakh imposed by the original adjudicating authority under Section 114AA of the Customs Act, 1962 on Shri Umesh Kale, so I refrain from imposing any penalty on Shri Umesh Kale under the said Section.

29. In view of the above, I pass the following order:

::O R D E R::

(i) I allow the eligible drawback benefit of Rs.6,42,09,454/- (Rupees Six Crore, Forty-Two Lakh, Nine Thousand and Fifty-Four only) accrued for export of the two old and used Tugs viz. two old and used Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322).

(ii) I confirm the differential Customs Duty amounting to ₹58,28,079/- (Rupees Fifty-Eight Lakh Twenty-Eight Thousand and Seventy-Nine only), being the differential duty determined after allowing eligible drawback of ₹6,42,09,454/- against the total duty liability of ₹7,00,37,533/-, in respect of the two old and used tugs, namely Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322), imported under Bill of Entry Nos. 7960728 dated 07.09.2018 and 8712607 dated 02.11.2018 respectively, under Section 28(4) read with Section 28(8) of the Customs Act, 1962. I further appropriate the amounts of duty already paid by M/s Van Oord India Pvt. Ltd., as detailed in Para 23 above, against the aforesaid confirmed duty liability.

(iii) Interest at the appropriate rate shall be charged and recovered from M/s. Van Oord India Pvt. Ltd., under Section 28AA of the Customs Act,1962 on the duty confirmed at (ii) above. In case of Bill of Entry No.7960728 dated 07.09.2018, the interest of Rs.17,76,162/- has been paid by them against the interest payable Rs.18,73,623/-. I, therefore, appropriate the amount of Rs.17,76,162/- against the total interest payable and order to recover the remaining amount of Rs.97,461/- (Rupees Ninety-Seven Thousand and Four Hundred Sixty-One only) under the said Section. In case of Bill of Entry No.8712607 dated 02.11.2018, the interest of Rs. 11,59,210/- has been paid by them against the interest payable Rs. 11,85,748/-. I, therefore, appropriate the amount of Rs. 11,59,210/- against the total interest payable and order to recover the remaining amount of Rs. 26,538/- (Rupees Twenty-Six Thousand Five Hundred Thirty-Eight only) under the said Section.

(iv) I impose a penalty of Rs.58,28,079/- (Rupees Fifty-Eight Lakh, Twenty-Eight Thousand and Seventy-Nine only) on M/s Van Oord India Private Limited under Section 114A of the Customs Act, 1962 plus penalty equal to the applicable interest under Section 28AA of the Customs Act, 1962 payable on the Duty demanded and confirmed above. However, I give an option, under proviso to Section 114A of the Customs Act, 1962, to M/s Van Oord India Pvt. Ltd., to pay 25% of the amount of total penalty imposed, subject to the payment of total duty amount and interest confirmed and the amount of 25% of penalty imposed within 30 days of receipt of this order.

(v) I impose redemption fine of Rs.45,00,000/- (Rupees Forty-five Lakh only) on the confiscated two old and used Tugs viz. Tug Coastal Rambler (IMO 9304904) and Tug Coastal Voyager (IMO 9660322) under Bill of Entry Nos.7960728/07.09.2018 and 8712607/ 02.11.2018 respectively valued at Rs. 65,00,00,317/- (Rupees Sixty-Five Crore, Three Hundred and Seventeen only) under Section 125 of the Customs Act, 1962.

(vi) I order that the penalty imposed upon Shri Umesh Kale, Technical Administrator/Logistics Executive of M/s Van Oord India Private Limited, under Section 112(a)(ii) of the Customs Act, 1962 stands at ₹1,00,000/- (Rupees One Lakh only), as determined by the Hon'ble CESTAT, Ahmedabad vide Final Order No. 11039-11040/2025 dated 13.11.2025.

The Show Cause Notice No. VIII/10-14/Commr./O&A/2023-24 dated 04.09.2023 is disposed of in above terms.

मनीष
2/9/26

(Manish Kulhary)
Commissioner

DIN-20260971MN0000E1C32D

F. No. VIII/10-14/Commr./O&A/2023-24 **Date: 02.09.2026**

BY Speed Post /Hand Delivery/Email:
To,

1. M/s. Van Oord India Private Limited, 201, 2nd Floor, Central Plaza, 166, C.S.T.Road, Kalina, Santacruz East, Mumbai, Maharashtra - 400098.

2. Shri Umesh Kale, Technical Administrator/Logistics Executive
M/s. Van Oord India Private Limited, 201, 2nd Floor, Central Plaza, 166, C.S.T.Road, Kalina, Santacruz East, Mumbai, Maharashtra - 400098.

Copy to:

1. The Chief Commissioner of Customs, CCO, Customs, Ahmedabad.
2. The Additional Director General, DRI, Ahmedabad Zonal Unit, Unit No.15, Magnet Corporate Park, 100 Ft. Thaltej Hebatpur Road, Off. Sola Over Bridge, Ahmedabad – 380054.
3. The Additional Commissioner of Customs (TRC), Ahmedabad.
4. Deputy Director DRI, Regional Unit, Jamnagar for information please.
5. The Deputy/Assistant Commissioner of Customs, Hazira Port.
6. The Superintendent (System), Customs HQ, Ahmedabad in PDF format for uploading on the website of Customs Commissionerate, Ahmedabad.
7. Guard File.