सत्यमेव जयते

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-20260671MN000000BF9B

क	फ़ाइल संख्या FILE NO.	F.No. S/49-14 to 28/CUS/JMN/APR/2025-26
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	JMN-CUSTM-000-APP-002 to 016-26-27
ग	पारितकर्ता PASSED BY	SHRI VISHWAJEET SINGH Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	08.06.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	15 Final Assessment Orders, as mentioned in Table-1 of this Order
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	08.06.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT/RESPONDENT:	M/s. Reliance Industries Ltd., EXIM Cell, CAB, West Wing, 1st Floor, Motikhavdi, Jamnagar. (email: Alok.Prasad@ril.com Srini.Ganesan@ril.com)

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

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 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.	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 (यथासंशोधित) में निर्धारित फीस जोअन्य रसीद,फीस,दण्ड,जब्तीऔर विविध मदों के शीर्षके अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र),जैसा भी मामला हो,से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां. यदि शुल्क,मांगा गया ब्याज,लगाया गया दंड की राशिऔर 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 अपीलियअधिकरण, 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 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 के10 % 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.**	

सीमाशुल्क (अपील), अहमदाबाद

ORDER-IN-APPEAL

Fifteen appeals have been filed by M/s. Reliance Industries Ltd., Motikhavdi, Jamnagar (hereinafter referred to as 'the appellant' or 'the importer') in terms of Section 128 of the Customs Act, 1962, on 15.04.2025 against the Final Assessment Orders (hereinafter referred to as 'the impugned final assessment orders') passed by the Assistant Commissioner of Customs, Custom House-Sikka, Jamnagar (hereinafter referred to as 'the adjudicating authority'), as mentioned below:

Table-1

Sr. No.	Appeal No. .../JMN/ 25-26	Final Assessment Order No. .../FAO/ CHS/ 24-25 & Date	Date of Communication as per CA-1	Corresponding Bill of Entry No. & Date
1	14/25-26	251/24-25 dt. 13.02.2025	21.02.2025	F-76 dt. 27.06.2006
2	15/25-26	252/24-25 dt. 13.02.2025	21.02.2025	F-79 dt. 30.06.2006
3	16/25-26	253/24-25 dt. 13.02.2025	21.02.2025	F-114 dt. 29.07.2006
4	17/25-26	242/24-25 dt. 11.02.2025	14.02.2025	F-67 dt. 13.06.2006
5	18/25-26	243/24-25 dt. 11.02.2025	14.02.2025	F-56 dt. 30.05.2006
6	19/25-26	244/24-25 dt. 11.02.2025	14.02.2025	F-58 dt. 02.06.2006
7	20/25-26	246/24-25 dt. 11.02.2025	14.02.2025	F-72 dt. 21.06.2006
8	21/25-26	245/24-25 dt. 11.02.2025	14.02.2025	F-55 dt. 30.05.2006
9	22/25-26	269/24-25 dt. 20.02.2025	03.03.2025	F-376 dt. 02.02.2007
10	23/25-26	275/24-25 dt. 03.03.2025	06.03.2025	F-234 dt. 13.11.2006
11	24/25-26	261/24-25 dt. 17.02.2025	21.02.2025	F-165 dt. 15.09.2006
12	25/25-26	224/2024-25 dt. 07.02.2025	14.02.2025	F-73 dt. 21.06.2006
13	26/25-26	278/2024-25 dt. 03.03.2025	06.03.2025	F-390 dt. 10.02.2007
14	27/25-26	268/2024-25 dt. 20.02.2025	03.03.2025	F-408 dt. 20.02.2007
15	28/25-26	270/2024-25 dt. 20.02.2025	03.03.2025	F-377 dt. 05.02.2007

VishwajeetSingh

2. The issues involved in all these appeals are similar, therefore, for the sake of brevity, particulars of the appeal listed at Sr.No. 1 of Table-1 is being considered as lead matter and discussed herein under.

3. Facts of the cases, in brief, are that the appellant filed 15 Bills of Entry during the period of **May-2006 to February-2007** for import of Petroleum Crude Oil in bulk classified under Customs Tariff Item 27090000. The Bills of Entry were filed considering the quantity shown in respective Bill of Lading and provisional price. The imported goods were assessed @ 5% Basic Customs Duty ('BCD') and National Calamity Contingent Duty ('NCCD') @ Rs 50 PMT and applicable Cess on BCD and NCCD. There is no dispute regarding applicate rates of duties.

4. The Bills of Entry were provisionally assessed for want of original documents, final price and test result etc. and the appellant had paid the provisionally assessed duty. Though original documents have been received, Test reports from the Chemical Examiner, CRCL, Kandla, had not been received. So, the in-house test reports have been called from the appellant and considered. The Bills of Entry have been finally assessed as per respective Final Assessment Orders as detailed in Table–1 above considering the Ship's Ullage Quantity at the Port of Discharge, as reflected in the Surveyor's Report. Whereas, the appellant's contention was that the Bills of Entry was required to be finally assessed considering Bills of Lading quantity instead of ship's ullage quantity. The quantities mentioned in the Ship's Ullage report were different from the quantities shown in respective Bill of Lading.

5. In the Final Assessment Orders, the decision of Hon'ble Supreme Court issued on 02.09.2015 in the case of *Mangalore Refinery & Petrochemicals Ltd Vs C.C., Mangalore* [2015 (323) ELT 433 (SC)] has been relied upon. Circular Nos. 34/2016-Customs dated 26.07.2016 and earlier Circulars have also been considered.

6. Being aggrieved with the finalization of provisionally assessed Bills of Entry on the basis of Ship's Ullage quantity at the port of discharge, as reflected in the Surveyor's Report, the appellant has filed the present appeals, mainly on the following grounds:

Vishwajeet Singh

6.1 The delay of almost 19 years in finalizing the provisional assessment is unreasonable and vitiates the finalization of assessment and the same is therefore liable to be set aside on this ground itself. In support of the aforesaid ground, the appellant relied upon the decision of the Hon'ble High Court in the case of ***Bihar Foundry & Castings Ltd v UOI - 2024-T10L-543-HC***, in which the Hon'ble High Court has held that finalization of provisional assessments after 6 to 9 years is vitiated by unreasonable delay and barred by limitation. The Hon'ble High Court has held that it is settled law that where no limitation period is prescribed, a reasonable period of limitation applies. The Hon'ble High Court has held that as per Para 3.1 of Chapter 7 of CBIC Manual of Instruction, reasonable period for finalization of provisional assessment is 6 months and that the said CBIC Instruction is binding on the department. The Hon'ble High Court has accordingly held that though no limitation period is specified in Section 18 of the Customs Act 1962 for finalization of the provisional assessment, the finalization of provisional assessment has to be done within a reasonable period of limitation of 6 months and that accordingly, finalization of provisional assessment after 6 to 9 years is barred by limitation. That in the Appellant's case the delay in finalization of the provisional assessment is about 19 years and therefore, in view of the law laid down by the Hon'ble High Court, such finalization after about 19 years has to be held to be barred by limitation. The appellant also relied upon the following decisions:

(i) Raghuvar (India) Ltd. [2000 (118) ELT 311 (SC)]

(ii) Pratibha Syntex Ltd. [2013 (287) ELT 290 (Guj)]

6.2 That without prejudice to the aforesaid Grounds, in any event, after the enactment of the Customs (Finalization of Provisional) Assessment Regulations, 2018, the assessment should have been finalized within 2 months from the coming into force of the said Regulations. Reliance is placed in this behalf on the decision of the Hon'ble Punjab and Haryana High Court in the case of ***Harkaran Dass Vedpal v UOI- 2019 (368) ELT 545***. The Appellant is clearly prejudiced in effectively defending its case since documents pertaining to actual quantity landed from the vessel would not be traceable after so many years and therefore it would be in violation of principles of natural justice to finalize the assessments after so many years. Further, but for the said delay, the assessments would have been finalized in accordance with Circular No. 6/2006-Cus dated 12-1-2006,

Vishwajeet Singh

which was in the Appellant's favour and which was in force at the time of import. The delay has therefore clearly prejudiced the Appellant's defence.

6.3 The appellant further submitted that the adjudicating authority had not appreciated that the Hon'ble Tribunal in the case of *CC Vs Hindustan Petroleum Corporation Ltd [2000 (121) ELT 109]* and upheld by the Supreme Court in *Commissioner Vs National Organic Chemical Industries Ltd [2002 (142) ELT A280 (SC)]*, that the ship's Ullage quantity is not relevant for assessment as it does not represent the actual quantity unloaded and imported into India. The adjudicating authority should have held that the Ship's ullage quantity represents the quantity at the point of time before discharge from the ship and does not represent the quantity actually received in the hands of the importer.

6.4 That without prejudice to the aforesaid grounds, in any event, the adjudicating authority erred in not appreciating that even if the quantity as per the ship's ullage survey report is to be taken to be the quantity actually imported, the price payable and actually paid by the Appellant for the same is only the price as per the invoice of the foreign supplier. The Appellant has not paid any amount over and above the Invoice price. Thus, the Invoice price is the transaction value of the quantity actually imported and even if it is to be assumed that the quantity actually imported is that as per the ship's ullage survey report, the transaction value of the same is the Invoice price only which was payable and actually paid by the Appellant to the foreign supplier. For the purpose of assessment of duty, the transaction value i.e. the price actually paid to the foreign supplier alone is relevant.

6.5 That reliance placed by the adjudicating authority on decision in Mangalore Refinery and Petrochemicals Ltd v CCE - 2015 (323) ELT 433 (SC) is misplaced. The said decision nowhere lays down that duty is to be assessed on the ship ullage quantity. On the contrary, the said decision lays down that the duty has to be assessed on the quantity of goods unloaded from the ship and actually received in India. The quantity actually received in India cannot be Ship Ullage quantity which represents the quantity on the ship at the point of time prior to discharge and unloading of the goods and not the quantity actually unloaded and received in India. The adjudicating authority erred in not appreciating that the said decision in Mangalore Refinery and Petrochemicals Ltd, relates to a situation

Vishwajeet Singh

where the quantity of goods actually received in India was less than the Bill of Lading quantity and the Hon'ble Supreme Court held that the differential quantity which was not received and not imported into India was not liable to duty since there was no import of the same. The said decision does not lay down that where the ship ullage quantity is marginally in excess of Bill of Lading quantity, duty has to be paid on value higher value than the transaction value. Where the price paid to the supplier is not increased proportionate to the marginal excess in Ship ullage quantity and the transaction value remains unchanged, question of paying duty on a higher value proportionate to the marginal excess in Ship ullage quantity does not arise.

6.6 That reliance placed by the adjudicating authority on Circular No. 34/2016-Customs dated 26-7-2016 for holding that duty is to be paid on Ship ullage quantity is misplaced. The adjudicating authority erred in relying on Para 7 of Board's Circular No. 96/2002-Customs dated 27-1-2002 and Para 4 of Circular No. 34/2016-Customs dated 26-7-2016 which provide that where bulk liquid cargo is cleared directly on payment of duty without being pumped in shore tank, assessment may continue to be done as per ship's ullage survey report at the port of discharge. He erred in not appreciating that the Supreme Court decision in *Mangalore Refinery and Petrochemicals Ltd v CCE - 2015 (323) ELT 433 (SC)* nowhere lays down that assessment has to be done as per ship's ullage survey report. The stipulation in the said Circulars is therefore not based on the said Supreme Court decision.

6.7 The appellant further submitted that neither of the said Circulars was in force at the time of the present import and hence cannot apply to the present import. The said stipulation in Para 4 of Circular dated 26-7-2016 cannot apply retrospectively for the past period. The import in the present case was made in May 2006, when Circular No.6/2006-Cus dated 12-1-2006 was applicable. As per the said Circular No.6/2006-CUS which was in force at the time of import, in all cases where customs duty is leviable on ad valorem basis, the assessment of bulk liquid cargo should be based on invoice price, which is the price paid or payable for the imported goods, i.e., transaction value, irrespective of quantity ascertained through shore tank measurement or any other manner. As laid down by the Hon'ble Supreme Court in the case of *Suchitra Components Ltd v CCE 2007 (208) ELT 321 (SC),* a Circular which is adverse to the importer cannot apply

Vishwajeet Singh

retrospectively. The Hon'ble Tribunal has in the case of ***Asian Solvochem P. Ltd v CC -2023 (7) TMI 217- CESTAT AHMEDABAD*** held that for imports prior to 26-7-2016, the applicable Circular will be Circular No. 6/2006 and not Circular No. 34 of 2016.

6.8 That without prejudice to the aforesaid grounds, in any event, the adjudicating authority erred in not appreciating that it is settled law that quantity as per ship's ullage survey report does not represent the quantity actually unloaded and imported in India. Therefore, Circular No. 96/2002-Cus and Circular No. 34/2016-Cus, which provide for assessment of duty based on the quantity as per the ship's ullage survey report is bad in law. He accordingly erred in following the said Circulars.

6.9 Assuming while denying that the Ship Ullage quantity can be taken as the quantity actually imported, marginal excess in Ship Ullage quantity cannot result in liability to higher duty when price paid to supplier is not increased proportionately.

6.10 That in the present case, the quantity as per the Ship's Ullage Report at port of discharge is marginally higher than the Bill of Lading quantity i.e. by 0.18% (less than 1%). Hon'ble Tribunal, in the following decisions, held that in the case of Liquid Bulk Cargo, tolerance limit of up to 3% or 5% is acceptable for marginal difference (excess) between Bill of Lading quantity and quantity actually unloaded in India; and no duty is payable on such marginal excess:

(i) Asian Solvochem P. Ltd v CC - 2023 (7) TMI 217-CESTAT AHMEDABAD

(ii) Welspun Corp Ltd v CC - 2019 (370) ELT 874

(iii) Payal Polypast P. Ltd v CC - 2015 (317) ELT 477

6.11 The appellant further submitted that the adjudicating authority erred in ordering payment of interest on the alleged differential duty. He erred in not appreciating that the provision for payment of interest on finalization of assessment, was inserted for the first time in Section 18 (3) of the Customs Act 1962 with effect from 13-7-2006, whereas in the present case the goods were imported in May 2006 prior to the insertion of the said provision for interest. It is

Vishwajeet Singh

settled law as laid down by the Hon'ble Gujarat High Court ***Reliance Industries Ltd v UOI - 2015 (326) ELT 664 (Guj)*** that where the provisional assessment is made prior to 13-7-2006, interest is not payable on finalization of the Bill of Entry, even is such finalization is made after 13-7-2006.

7. Vide letter Ref: RIL/FA/PH/2026 dated 17.02.2026, received on 18.02.2026, the appellant has submitted, inter alia, that the following principal Issues arise in the present Appeals:

a) Whether the finalization of provisional assessments of the Bills of Entry after 18-20 years is vitiated by unreasonable delay and is therefore liable to be set aside on this ground itself in view of the law laid down in the case of the Hon'ble High Court in the case of Bihar Foundry & Castings Ltd v UOI and ors - 2024-TIOL-543-HC.

b) Whether in any event, in respect of 4 Bills of Entry, for which Show Cause Notices for finalization were issued in 2007 and 2008 and decided in Appellant's favour by Orders passed in 2018, fresh proceedings for finalization of assessment in 2022 are barred by constructive res judicata.

c) Whether, in any event, on merits, in the case of import of Liquid Bulk Cargo viz. Petroleum Crude Oil, the quantity as per Ship Ullage measurement at Port of Discharge cannot be taken to be the quantity imported for assessment of duty as it does not represent the actual quantity unloaded in India.

d) Whether, in any event, when the quantity ascertained as per Ship Ullage measurement at Port of Discharge is only marginally in excess of the Bill of Lading and Invoice quantity by **0.01% to 1.14% (less than 1.14%)**, whether extra duty on such marginal excess is payable, when the transaction value remained unchanged.

7.1 The appellant further submitted that during the period **May 2006 to February 2007**, the Appellant imported at the Port of Sikka, 15 consignments of Petroleum Crude Oil and sought clearance thereof by filing the 15 Bills of Entry. In respect of 4 Bills of Entry, out of the aforesaid 15 Bills of Entry, two Show Cause Notices dated 29-11-2007 and 11-2-2008 were issued to the Appellant which

Vishwajeet Singh

proposed addition of ship demurrage charges to the assessable value of the goods and which called upon the Appellant to show cause why the provisional assessments should not be finalised by adding ship demurrage charges to the assessable value. The 4 Bills of Entry out of the aforesaid 15 Bills of Entry covered by the said two Show Cause Notices are as follows:

Table-2

Show Cause Notice dated 29-11-2007	
Bill of Entry No.	**Date**
F-376	02-02-2007
F-377	05-02-2007
Show Cause Notice dated 11-02-2008	
Bill of Entry No.	**Date**
F-234	13-11-2006
F-390	10-02-2007

The aforesaid two Show Cause Notices were adjudicated by Two Orders-in-Original dated 5-4-2018, by which the said Show Cause Notices were dropped and the said Bills of Entry were ordered to be finalized without addition of ship demurrage charges. Accordingly, in respect of the said 4 Bills of Entry, there cannot be fresh proceedings for finalization of assessment on new ground later in 2025. Such fresh proceedings in 2025 are clearly barred by constructive res judicata. Reliance is placed in this behalf on the following decisions which lay down that when a Show Cause Notice is issued, it must cover all grounds and there cannot be multiple proceedings, with new grounds being raised at subsequent stage, as same would be barred by the principle of *constructive res judicata*:

- R.M.Bhat v CCE - 2005 (188) E.L.T. 493 (Tri. - Mumbai)
- Steel Authority of India Ltd - 1988 (33) E.L.T. 363 (Tribunal)
- Orient Arts & Crafts v CC - 2003 (155) E.L.T. 168 (Tri. - Mumbai)
- Solitaire Machine Tools Ltd v CCE - 2008 (222) ELT 404
- CCE v Siddharth Tubes Ltd - 2004 (170) ELT 331

7.2 In view of the above submissions, the appellant has requested to set aside the impugned final assessment orders with consequential relied.

Vishwajeet Singh

8. Ms. Shilpa Balani, Advocate on behalf of the appellant, vide email dated 21.05.2026 submitted a compilation of Judgments. The appellant, vide letter Ref: RIL/FA/PH-2/2026 dated 25.05.2026, received on 26.05.2026, also submitted physical copies of the said compilation.

9. One set of the appeal memorandums were forwarded to the adjudicating authority for comments vide this office letters dated 10.06.2025. However, no reply thereof has been received.

ADMISSION OF APPEALS

10. The respective dates of communication of the impugned final assessment orders have been shown in the above Table-1. Whereas, all the 15 appeals have been filed on 15.04.2025 in this office. Thus, all the appeals have been filed within normal period of 60 days, as prescribed under Section 128(1) of the Customs Act, 1962. The appellant has also submitted E-payment transaction receipts towards payment of pre-deposit for filing appeal, as prescribed under Section 129E of the Customs Act, 1962. Particulars of duty involved in the appeal and pre-deposit paid by the appellant, as mentioned in their appeal memorandum, are as under:

Table-3

Sr. No.	Appeal No. of JMN filed on dt. 15.4.2025	Final Assessment Order No. .../FAO/CHS/ 24-25 & Date	Corresponding Bill of Entry No. & Date	Differential duty involved (Rs.)	Pre-deposit paid (Rs.)
1	14/25-26	251/24-25 dt. 13.02.2025	F-76 dt. 27.06.2006	16,87,552	1,26,566
2	15/25-26	252/24-25 dt. 13.02.2025	F-79 dt. 30.06.2006	8,78,786	65,909
3	16/25-26	253/24-25 dt. 13.02.2025	F-114 dt. 29.07.2006	42,24,582	3,16,844
4	17/25-26	242/24-25 dt. 11.02.2025	F-67 dt. 13.06.2006	78,101	5,858
5	18/25-26	243/24-25 dt. 11.02.2025	F-56 dt. 30.05.2006	86,224	6,467
6	19/25-26	244/24-25 dt. 11.02.2025	F-58 dt. 02.06.2006	9,49,403	71,205
7	20/25-26	246/24-25 dt. 11.02.2025	F-72 dt. 21.06.2006	2,96,438	22,233

Vishwajeet Singh

8	21/25-26	245/24-25 dt. 11.02.2025	F-55 dt. 30.05.2006	5,34,149	40,061
9	22/25-26	269/24-25 dt. 20.02.2025	F-376 dt. 02.02.2007	3,75,704	28,178
10	23/25-26	275/24-25 dt. 03.03.2025	F-234 dt. 13.11.2006	2,17,033	16,277
11	24/25-26	261/24-25 dt. 17.02.2025	F-165 dt. 15.09.2006	1,59,930	11,995
12	25/25-26	224/2024-25 dt. 07.02.2025	F-73 dt. 21.06.2006	11,43,935	85,795
13	26/25-26	278/2024-25 dt. 03.03.2025	F-390 dt. 10.02.2007	3,99,175	29,938
14	27/25-26	268/2024-25 dt. 20.02.2025	F-408 dt. 20.02.2007	8,60,636	64,548
15	28/25-26	270/2024-25 dt. 20.02.2025	F-377 dt. 05.02.2007	6,105	458
			TOTAL	**1,18,97,753**	**8,92,332**

As the appeals received on 15.04.2025 have been filed within the prescribed time and on payment of pre-deposit, these 15 appeals have been admitted and being taken up for disposal.

<u>PERSONAL HEARING</u>

11. A Personal Hearing in this matter was held in virtual mode on 21.05.2026, which has been attended by Ms. Shilpa Balani, Advocate, M/s. A. S. Dayal & Associates along with Shri. Srinivasan Ganesan, DGM, M/s. Reliance Industries Ltd. They reiterated the submissions made at the time of filing of appeal. They have also referred the additional written submissions sent on 18.02.2026 and compilation of Judgments sent by the Advocate vide email dated 20/21.05.2026. They requested that the impugned final assessment orders be set aside mainly on the following grounds:

(a) Finalization of provisional assessments of the Bills of Entry after 18- 20 years is vitiated by unreasonable delay and is therefore liable to be set aside on this ground itself in view of the law laid down by High Court in the case of *Bihar Foundry & Castings Ltd v. UOI and Ors- 2024-TIOL-543-HC*.

(b) In respect of 4 Bills of Entry, for which Show Cause Notices for finalization were issued in 2007 and 2008 and decided in Appellant's favour by Orders

Vishwajeet Singh

passed in 2018, fresh proceedings for finalization of assessment in 2022 are barred by constructive res judicata.

(c) In the case of import of Liquid Bulk Cargo during 2007 - 2008, the relevant circular was 6/2006 dated 12.01.2006 as per which the assessment of bulk liquid cargo should be based on invoice price, which is the price paid or payable for the imported goods, i.e., transaction value, irrespective of quantity ascertained through shore tank measurement or any other manner.

(d) The quantity as per the Ship's Ullage Report at port of discharge is marginally higher than the Bill of Lading quantity by 0.01% to 1.14% (less than 1.14%). It is well settled by the following judgements that in the case of Liquid Bulk Cargo, tolerance limit of up to 3% or 5% is acceptable for marginal difference (excess) between Bill of Lading quantity and quantity actually unloaded in India and no duty is payable on such marginal excess. In this connection, they referred to the judgement of ***Asian Solvochem P. Ltd v CC - 2023 (7) TMI 217-CESTAT AHMEDABAD.***

DISCUSSION AND FINDINGS

12. I have carefully gone through the written submissions and oral submissions made by or on behalf of the appellant viz. M/s. Reliance Industries Ltd., Jamnagar.

13. At the outset, I find that the issues involved in the present **15 appeals** are also similar in Customs Appeal No. 10264 of 2024 & Others, **total 52 appeals** filed by M/s. Reliance Industries Ltd. before Hon'ble CESTAT, Ahmedabad. The said appeals on similar issue in reference to various **other Bill of Entries**, had been earlier decided by Hon'ble **CESTAT vide Final Order No. 10395-10446/2025 dated 03.06.2025**. Extracts from the said Final Order are given below:

"5. We find that on merits the issue involved is whether the quantity to be assessed shall be as per the Ship Ullage Quantity at the port of discharge as referred to in the surveyor report or as per the bill of lading quantity. On this issue, we find that the matter has been covered vide final order No. 12380/2023 dated 21.10.2023 wherein this Tribunal relying upon the decision of Hon'ble Supreme Court in the case of Mangalore Refinery and Petrochemicals Ltd. vs CCE reported in 2015 (323) ELT 433 (SC) had upheld the decision of Commissioner (Appeals). While dismissing appeals of the

Vishwajeet Singh

the decision of Commissioner (Appeals). While dismissing appeals of the present appellant, it held that assessment has to be done at ship ullage surveyor report at the port of discharge and had dismissed the appeal filed by the appellants. We find that there is no reason for us to depart from the earlier decision of this Tribunal which is in favour of Revenue. We accordingly, hold that as per this decision as far as merits is concerned even for the impugned period, the issue will be decided on the basis that it is the ullage quantity at the discharge port and not the bill of lading quantity that will be the decisive factor. We are also fortified in our view by CBIC Circular No. 96/2002 Customs dated 26.07.2002 as well as Circular No. 34/2016 dated 26.07.2016 which provide the contemporaneous exposito view of the Board's understanding on this issue, we find, therefore, no reason to depart from the same. The appellant has also pointed out that variation in quantity found was within the norms. This aspect needs further findings of the department by examining if variation was within any permissible authoritative norms, if fixed by the department or found in any authoritative literature in the light of submissions made by the appellants.

5.1 It has brought us now to the peripheral issue of whether there was delay in finalizing the provisional assessment, as has been stated by the appellant. It has been argued that the bills of entry were finalized after 16 years of unreasonable delay, despite the Chemical analysis report being available for the show cause notices issued in year 2007 and 2008. The department's contention is that there were 13 Bills of Entry which were only relating to inclusion of demurrage charges, which were eventually decided separately in favour of the party by dropping the proceedings vide two orders-in-original both dated 05.04.2018. These were unrelated to the issue in hand which is related to provisional assessment which were on the basis of quantity and chemical analysis of the product. That both the series of show cause notices were on different legal propositions and there was no bar on issuance of either. The advocate for the appellant however is of the view that res-judicata will apply in relation to these 13 Bills of Entry out of 52 which were subjected to provisional assessment like any other. In 2018, adjudication has been done in respect of provisionally assessed 13 Bills of entry which were for the reason of demurrage. The same Bills of Entry cannot now be subjected to re-adjudication for the reason of res-judicata.

Vishwajeet Singh

It is also stated by the appellants that there is an inordinate delay for finalizing the remaining provisional assessments, which have vitiated the proceedings as they were not allowed their right to defend. He sought to rely on the decision of Bihar Foundry & Castings Ltd. vs UOI & Ors. reported at 2024-TIOL-543-HC that reasonable period of limitation has to be read in, when nothing has been prescribed in the statute for the proposition. The learned Advocate has emphasized this with the support of decisions in the case of i) Raghuvar (India) Ltd. 2000 (118) ELT 311 (SC) and ii) Pratibha Syntex Ltd. 2013 (287) ELT 290 (Guj.). It was also stated by him that the test reports were received in the year 2006 & 2007 and the requisite documents were also submitted in the year 2006 & 2007 and thereafter also, there was a delay of 16 years in finalizing the provisional assessments. He also states that the decision of Hon'ble High Court in Bihar Foundry and Casting Ltd. vs UOI & Ors. as reported in 2024-TIOL-543-HC was now available, therefore, the decision of Shakti Beverages Ltd. vs CC relied upon by the Commissioner (Appeals) and as reported in 2003 (153) ELT 445 (Tribunal) cannot be given precedent and also the decision of Shakti Beverages was rendered when Customs (Finalization of provisional assessment) Regulation 2018 was not in force, whereas on the date when the same were finalized, the said regulation was in force. Regulation 5 of the said Regulation stipulates a time of 2 months from the date of test reports. We find that there is a force in the arguments of delay advanced by the learned advocate. We find that the learned Adjudicating authority has relied upon the decision of Shakti Beverages which is not beyond the High Court's decision in Bihar Foundry (cited supra) and the fact that the Customs (Finalization of Provisional Assessment) Regulations, 2018 have come into existence on the date when assessments were finalized. Also that the decision of the Hon'ble High Court in the matter of Bihar Foundry cited (supra) was not looked into in details by the learned adjudicating authority.

6. Further, we find that the question of delay is always a question of fact and has to be looked into from the prism of as to whether any delay was attributed to the party also or was exclusively on the part of the department. In the later case, the appellants cannot be allowed to take the benefit of delay which is attributed to them. However, while we find prima facie delay has taken place but it is not forth coming whether it was exclusively due to

Vishwajeet Singh

inaction of the department or was contributed to some extent or the other, by the party also. This question of fact needs redetermination. We are therefore, remanding the matter back to the adjudicating authority to look into the matter afresh with all its factual matrix to arrive at the question of delay and to whom it was attributable. The party shall be free to make any submission in this regard on the point of delay with supporting documents or case laws. In case any delay on the part of the party is also indicated from the records then the adjudicating authority shall provide opportunity to the appellant to rebut the same, even by inspecting at the case records. Matter is therefore, remitted to the original authority to decide this limited question alongwith what quantifiable variation in weight as is permitted as per authoritative norms. Appeals are partly allowed as conditional remand."

(Final Order No. 10395-10446/2025 dated 03.06.2025)

14. In respect of the above-mentioned Final Order No. 10395-10446/2025 dated 03.06.2025, M/s. Reliance Industries Ltd. had filed a Miscellaneous Application No. 10429 of 2025 for **Rectification of Mistake**. The said application was partially allowed by Hon'ble CESTAT vide Miscellaneous Order No. 10569/2025 dated 20.08.2025. Extracts from the said Misc. Order are given below:

"3. We have heard the rival submissions. We agree with the contention of learned Advocate that reliance on Tribunal's order No. 12380 of 2023 dated 31.10.2023 which was recalled by the Tribunal vide its order dated 25.04.2024 is not correct. The mistake is rightly been pointed out. Regarding 13 bills of entry, we find that the learned Advocate had raised point on res judicata but further discussion was not made on that issue. Regarding non-consideration of various submissions made by the appellant, we feel that the issue and submissions were considered but specific finding in respect of each issue may not have been included in the order. We find force in the contention of the applicant and accordingly, allow the ROM application and recall the final order No. 10395-10446/2025 dated 3rd June, 2025 to the above extent.

4. Miscellaneous application partly allowed. Matter to come up on 26th August,2025."

(Miscellaneous Order No. 10569/2025 dated 20.08.2025)

Vishwajeet Singh

15. Thereafter, Hon'ble CESTAT has passed a **Final Order No. 10732-10783/2025 dated 15.09.2025** in Customs Appeal No. 10264 of 2024 & Others. Extracts from the said Final Order are given below:

"2.1 Matter was heard on 29.07.2025 and vide Misc. Order No. 10569/2025 dated 20.08.2025, this Bench agreed with the contention of the learned Advocate that reliance on Tribunal's order No. 12380 of 2023 dated 31.10.2023 which was recalled by the Tribunal vide its order dated 25.04.2024, was not correct. Regarding 13 bills of entry, this bench found that the learned Advocate had raised point on res judicata but further discussion was not made on that issue. Agreeing with the contention of the applicant, ROM application was partly allowed and the final order No. 10395-10446/2025 dated 3rd June, 2025 was recalled to the above extent.

... ...

5. We have gone through the rival submissions, various decisions, and other documents on record. The main issues before us at this stage apart from on the point of delay which has already been remanded are: i) whether the law of Mangalore Refinery and Petrochemicals Ltd. Vs CCE 2015 (323) ELT 433 (SC) has been duly applied and considered along with CBEC Circular in the order directed to be rectified and ii) whether 13 out of 52 bills of entry which were ordered to be assessed finally in the value of the goods, after dropping the proposal in the Show Cause Notice to include demurrage charges, result in finalization of these 13 bills of entry so as to attract the civil law concept of res-judicata or debar further finalization on any other issue by the department as per the provision of Customs Act, 1962, which is a sui-generis legislation?

... ...

7. We find substance in the submissions made by the Learned Advocate. We find that the concern is about three kinds of quantities in case of bulk liquid cargo i.e. the quantity as per bill of lading, quantity as per ship ullage report and quantity received in shore tank which may differ. We find that circular No. 06/2006-Cus dated 12.01.2006 refers to shore tank quantity only for the purpose of assessment at the specific rate, while

Vishwajeet Singh

maintaining that for assessment on ad-valorem basis transaction value to be considered and custom duty will be leviable on invoice. The Circular thus clearly relied upon shore tank measurement method only when specific rate of duty was in operation. The decision in the case of CC vs Hindustan Petroleum Corporation Limited 2000 (121) ELT 109 decided that it is the quantity which has come into shore tanks that makes the import as a taxable event. This decision was holding the field till decision of Mangalore Refinery and Petrochemicals Ltd. (cited supra) came and held that irrespective of whether duty is advalorem or on specific rate it makes no difference for the instance of importation. It thus clearly rejects bill of lading quantity as the imported quantity and notes that when the goods are destroyed, pilfered or lost enroute, no duty is leviable. ... ...

7.2 We find that in case of bulk liquid cargo, some tolerance as has been pointed out by various case law cited by the appellant is required to be considered as to prescription of such a limit for this type of commodity before coming to final conclusion for charging import duty. The claim of the party that it is within the tolerance limits needs to be examined by the learned Adjudicating Authority on the basis of records as made available by the appellant. Since the matter is already remanded to lower authority on the point of delay, we remand this issue as well. We also answer that, it will be the law as emanating from the decision by Hon'ble Apex court and as per existing circulars that will govern the import "lex rei sitae tempore importationis" (latin) law at the time of importation applies being the lex importationis. ... ...

8. On the second issue regarding 13 bills of entry which were separately assessed out of 52 bills of entries, initially provisionally assessed as certain documents were required from the party and sample testing was required to be done and final pricing was to be done, we find that the separate show cause notices for including demurrage charges in the assessable value were also issued to the party which were eventually dropped in view of decision in the case of Mangalore Refinery cited supra and ordering that the assessment may be finalized. The department is not in appeal against this order. It is also not ascertainable from the available records as to whether consequent upon the above order(s) these

आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

Vishwajeet Singh

provisional assessments were finally assessed or not as the direction as per the order was to finalize assessment, accordingly. In view of this, the facts as stated above need to be checked only then it can be decided whether these 13 bills of entry were separately assessed finally or not. While remanding the matter, we remand this issue also to the appellate authority to ascertain if 13 bills of entry can be constituted to be separately assessed and therefore, cannot be finally assessed again with 52 bills of entry as pleaded by the advocate. All the provisions relating to provisional assessment and thereafter finalized as contained in Section 17 of the Customs Act, 1962, referred case laws on the point shall be duly considered by the appellate authority. With above observations, we are inclined to remand the matter. To sum up, our directions including in the earlier passed order are as follows:

(i) Plea of delayed finalization as raised by the party to be considered in the backdrop of the fact whether the same is or not considerably attributed to the party, as ordered earlier.

(ii) Relevant laws and Circulars including those applicable to assessments on ad-valorem as on date of import to be applied, considering that in the instant case shore tank quantity is not available and decision of Mangalore Refinery is silent about ship ullage quantity.

(iii) Tolerance limits if applicable to this kind of commodity imported in bulk as per various public notices/ case laws to be applied?

(iv) Alternate plea of benefit of 13 bills of entries to be allowed if on verification, it is found that these 13 bills of entries were separately assessed finally in compliance of orders of Deputy Commissioner issued in 2018,

9. With above directions, the matters are remanded. Appeals allowed by way of remand."

(Final Order No. 10732-10783/2025 dated 15.09.2025)

15.1 **As Hon'ble CESTAT has remanded majority of issues in respect of different 52 Bills of Entry of the same appellant to the adjudicating authority, I am of the**

Vishwajeet Singh

view that the present 15 appeals involving similar issues need also to be remanded to the adjudicating authority.

16. **Further, I find that M/s.** Reliance Industries Ltd. **has filed another Misc. Application No. C/MISC/10151/2026 on 26.03.2026** in Customs Appeal No. 10264/2024 before Hon'ble CESTAT, Ahmedabad. With reference to the CESTAT Final Order dated 15.09.2025, in the said Misc. Application, the appellant has mentioned, inter alia, that the issue regarding delay in finalization of Bills of Entry, Applicability of relevant laws and Circulars, Tolerance limits if applicable to import Liquid Bulk Cargo have been remanded to **Adjudicating Authority**; that however, in respect of 13 Bills of Entry which are hit by constructive res judicata, the issue has been remanded to the **Appellate Authority**, which appears to be an **inadvertent mistake**, which needs to be clarified by Hon'ble Tribunal. Therefore, the appellant has filed the said Misc. Application under Rule 41 of the CESTAT Procedure Rules 1982 seeking clarification about the authority to whom the issue in respect of 13 Bills of Entry is remanded by the said Order dated 15.09.2025. The appellant has prayed that the issue in respect of 13 Bills of Entry may also be remanded to the **adjudicating authority** to whom all other issues are remanded and the mention of the **appellate authority** in Order dated 15.09.2025 as being the authority to whom the issue in respect of the 13 Bills of Entry was remanded appears to be an **inadvertent mistake**. From the website of Hon'ble CESTAT, it can be seen that the Status of above-mentioned Misc. Application No. C/MISC/10151/2026 filed on 26.03.2026 in Customs Appeal No. 10264/2024 is still **Pending.**

17. I find that the issue involved in the said 13 Bills of Entry (which are not covered in the present order) is regarding ***constructive res judicata***. In this regard, the appellant contended before Hon'ble CESTAT that assessment of the said 13 Bills of Entry has already been ordered to be finalized without inclusion of demurrage charges and so, now it is not open for the Customs Department to raise another issues. I find that similar issue of ***constructive res judicata*** has also been raised for 4 Bills of Entry, out of 15 Bills of Entry covered in the present order. Particulars of the said 4 Bills of Entry are as follows:

Vishwajeet Singh

<u>**Table-4**</u>

Sr. No.	Appeal No. JMN	Bill of Entry No. & Date	SCN F.No. date	Order-in-Original No. & Date	Corresponding Final Assessment Order No. & Dt.
1	22/25-26	F-376 dt. 02.02.2007	VIII/48-Demand-21/T/2007-08 dated 29.11.2007	20/AC/CHS/2017-18 dated 05.04.2018	269/24-25 dt. 20.02.2025
2	28/25-26	F-377 dt. 05.02.2007			270/2024-25 dt. 20.02.2025
3	23/25-26	F-234 dt. 13.11.2006	VIII/48-Demand-28/T/2007-08 dated 11.02.2008	19/AC/CHS/2017-18 dated 05.04.2018	275/24-25 dt. 03.03.2025
4	26/25-26	F-390 dt. 10.02.2007			278/2024-25 dt. 03.03.2025

17.1 I have gone through the copies of the two Orders-in-Original dated 05.04.2018, as mentioned in the above Table-4. I find that the proposal for inclusion of Ship Demurrage Charges in the assessable value has been dropped for the above-mentioned 4 Bills of Entry and **the adjudicating authority ordered to finalise the provisional assessment without adding the ship demurrage charges as per the applicable provisions of the Customs Act, 1962.** Thus, I observe that though there are orders to finalise provisional assessment, **neither the appellant nor the respondent has submitted any document to show that whether provisional assessment of the four Bills of Entry, as mentioned in Table-4, has actually been finalized or not on the basis of Orders-in-Original dated 05.04.2018 prior to issuance of impugned Final Assessment Orders on 20.02.2025 and 03.03.2025.** Under this situation, I am of the considered view that this issue also needs to be remanded to the adjudicating authority for giving specific findings on the contentions raised by the appellant.

17.2 At the cost of repetition, I note that the above-mentioned 4 Bills of Entry, as shown in Table-4, are different from the 13 Bills of Entry, as mentioned in the Final Orders dated 03.06.2025 and 15.09.2025 passed by Hon'ble CESTAT. Therefore, I am of the view that all the issues involved in the 15 appeals can be remanded to the adjudicating authority, i.e. Assistant Commissioner of Customs, Custom House Sikka.

Vishwajeet Singh

18. I find that the impugned 15 Final Assessment Orders have been issued by the Assistant Commissioner in the months of February-2025 and March-2025. Whereas, the above-mentioned Final Order No. 10395-10446/2025 dated 03.06.2025 and No. 10732-10783/2025 dated 15.09.2025 have been pronounced by Hon'ble CESTAT, Ahmedabad, after issuance of the impugned 15 Final Assessment Orders. So, the Assistant Commissioner had no opportunity to examine the issues and give findings in light of the directions given in the Final Orders dated 03.06.2025 and 15.09.2025 passed by Hon'ble CESTAT.

19. Under this situation, I am of the view that remitting the cases for passing fresh final assessment orders after considering the directions given by Hon'ble CESTAT on similar issues of the same appellant, becomes sine qua non to meet the ends of justice. Accordingly, these 15 appeals on all the issues are required to be remanded back to the adjudicating authority. The four issues involved on which the appeals are remanded have already been discussed hereinabove, but the same are mentioned below in brief:

(i) Plea of delay in finalization of provisional assessment to be considered in the backdrop of the fact whether the delay is considerably attributed to Customs Department or also attributable to the appellant.

(ii) Relevant laws and Circulars including those applicable to assessments on ad-valorem as on date of import to be applied, considering that in the instant cases shore tank quantity is not available and decision of *Mangalore Refinery* is silent about ship ullage quantity.

(iii) Tolerance limits (Bill of Lading Quantity Vs. Ship Ullage Quantity) if applicable to this kind of commodity imported in bulk, as per authoritative norms / case laws to be applied.

(iv) Whether assessment of 4 Bills of Entry, as mentioned in Table-4, has been actually finalized on the basis of Orders-in-Original dated 05.04.2018 or not, prior to issuance of impugned Final Assessment Orders in February & March 2025.

The adjudicating authority shall examine the facts of the case and decide each issue on the basis of the directions given in this Order as well as Final Order No.

Vishwajeet Singh

10732-10783/2025 dated 15.09.2025 passed by Hon'ble CESTAT, Ahmedabad, in respect of the same appellant. The appellant should submit written submissions covering all the issues to the adjudicating authority within a reasonable time with reference to this order and the adjudicating authority should follow principles of natural justice before issuance of Final Assessment Orders.

20. As regards powers of Commissioner (Appeals) to remand cases, I rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs – 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and orders of Hon'ble Tribunal in case of Prem Steels P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri. – Del)], wherein it has been held that Commissioner (Appeals) has power to remand the case under Section 35A(3) of the Central Excise Act, 1944 and Section 128A(3) of the Customs Act, 1962.

21. In view of the above facts, discussion and findings, I pass the following order:

ORDER

I set aside the 15 impugned final assessment orders passed in respect of import of bulk liquid cargo by M/s. Reliance Industries Ltd., Jamnagar, and remand the matters to the Assistant Commissioner of Customs, Custom House Sikka, Jamnagar, with direction to pass final assessment orders in terms of the directions given in this Order.

The appeals are allowed by way of remand.

Vishwajeet Singh
08.06.2026

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

F.No. S/49-14 to 28/CUS/JMN/2025-26 Date: 08.06.2026

By Speed Post / E-mail (As per Section 153(1)(b)&(c) of the Customs Act, 1962)

To
M/s. Reliance Industries Ltd.,
EXIM Cell, CAB, West Wing, 1st Floor,
Motikhavdi, Jamnagar.
(email: Alok.Prasad@ril.com Srini.Ganesan@ril.com)

Copy to: (By E-mail only)

1. **The Chief Commissioner of Customs, Ahmedabad.**
   (email: ccoahm-guj@nic.in)

2. **The Commissioner of Customs, Jamnagar.**
   (email: commr-cusjmr@nic.in rra-custjmr@nic.in)

3. **The Assistant Commissioner of Customs, Custom House – Sikka, Jamnagar, for information and necessary action. (email: ch-sikka@gov.in)**

4. **Ms. Shilpa Balani, Advocate, M/s. A. S. Dayal & Associates**
   (email: balanishilpa@gmail.com)

5. **Guard File.**

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