



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,

चौथी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN - 20260271MN000000E8E7

क	फ़ाइलसंख्या FILE NO.	S/49-405/CUS/JMN/2024-25
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	JMN-CUSTM-000-APP-440-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.02.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Final Assessment Order No 1092/SBY/2024-25 dated 29.08.2024 and corrigendum dated 25.02.2026 issued from F. No. SBY/99/2014-15
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	26.02.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s Salasar Balaji Ship Breakers Pvt. Ltd., Plot No. 67, Ship Recycling Yard, Alang, Dist. Bhavnagar.



- यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.
This copy is granted free of cost for the private use of the person to whom it is issued.
- सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय,

	(राजस्वविभाग) संसदमार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods imported on baggage.
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे 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)	सीमा शुल्क 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 नियम आवली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उसके 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 मदसं. 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 दस्तावेजों 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 सीमा शुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षक के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs. 1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मदसं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमा शुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमा शुल्क, 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 :
सीमा शुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench

	दूसरीमंज़िल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन, सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-	
	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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररूपए.	
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो; पाँचहज़ाररूपए	
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो; दसहज़ाररूपए.	
(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)	इसआदेशकेविरुद्धअधिकरणकेसामने, मांगागएशुल्कके 10% अदाकरनेपर, जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं, पादंडके 10% अदाकरनेपर, जहांकेवलदंडविवादमेंहै, अपीलरखाजाएगा।	
(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.	उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएगलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-	
(a)	in an appeal for grant of stay or for rectification of mistake or for any other purpose; or	
(b)	for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	



ORDER-IN-APPEAL

M/s Salasar Balaji Ship Breakers Pvt. Ltd., Plot No. 67, Ship Recycling Yard, Alang, Dist. Bhavnagar (hereinafter referred to as "the appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against the Final Assessment Order No 1092/SBY/2024-25 dated 29.08.2024 and corrigendum dated 25.02.2026 issued from F. No. SBY/99/2014-15 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner, Customs Division, Bhavnagar (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, facts of the case are that the appellant had imported vessel MV ROUND for breaking up and filed Bill of Entry No. SBY/99/2014-2015, dated 09.07.2014 for clearance of the said vessel for home Consumption under Section 46 of the Customs Act, 1962 along with relevant documents. Since the appellant did not have the original copies of MOA, Commercial Invoice and Bill of Sale, they requested to assess the Bill of Entry provisionally and submitted PD bond for the same. They have paid customs duty assessed provisionally. The Bill of Entry was assessed provisionally for want of original documents and test result.

2.1 Vessels coming for breaking up are being classified under CTH 8908. The appellant has classified the vessel in CTH 8908. However, the Fuel and Oil contained inside/ outside the Engine Room Tanks and its classification was under dispute. The dispute regarding classification of Fuel and Oil lying in Bunker Tanks Inside/ outside Engine Room i.e. whether under CTH 2710 or under CTH 8908 along with vessels for breaking up has been settled by Hon'ble Supreme Court in its Order dated 05.04.2023 passed in Civil Appeal No. 5318-5342/2009, Hon'ble Supreme Court has upheld the common Order No. A/11792-11851/2025 dated 17.10.2022/01.12.2022 passed by CESTAT and also validated the view expressed by the CESTAT therein.

2.2 The adjudicating authority vide the impugned order following the common Order No. A/11792-11851/2022 dated 17.10.2022/01.12.2022 passed by CESTAT, Ahmedabad and also following the earlier FAO No. 2430352/SBY/2023-24 dated 24.07.2023 has held that fuel & oil contained in Bunker Tanks inside / outside Engine Room are liable to be classified under CTH 8908 along with the vessel, as covered under para 2(b) of circular no. 37/96-Cus. Dated 03.07.1996. The remaining fuel and oil i.e. fuel and oil not contained in Bunker Tanks or Engine Room Tanks are liable to be classified under its respective heading in Chapter 2710 and finally assessed the subject Bill of Entry.



3. Being aggrieved with the impugned Order, the appellant has filed the present appeal contending as under;

- The appellant had imported an old and used ship MV ROUND in pursuance of MOA dated 30th June, 2014. Subsequent to the importation of the ship under reference the Appellant had presented a bill of entry bearing No. SBY/99/2014-15 dated 09.07.2014 for home consumption. The proper Customs officer had subsequently grant permission for home consumption.
- At the time of presentation of bill of entry there was an issue pending to be decided before the higher authority right from the Adjudicating Authority and before the Appellate Authority. The dispute was that whether remaining stock of bunker was to be termed as integral part of the vessel or otherwise lastly the Hon'ble Tribunal Ahmedabad vide their Order dated 01.12.2022 has please to grant consequential relief in as much as finally held that the remaining stock of bunkers was required to be assessed to duty under the provision of Chapter sub Heading No. 8908.00 instead of under wrongful classification of the disputed stock of bunker which has wrongly been clarified under Chapter heading No. 2710.00 of Customs Tariff Act, 1975.
- On perusing of the above referred FAO dated 29.08.2024, the assessing officer had finally assessed to duty as mentioned in the impugned order itself. On perusing this order the assessing officer had grossly erred in passing the impugned order in as much as passed the impugned order by gross violation of "Principle of Natural Justice". Therefore, it is clearly established that impugned order is appears to have been passed as "Ex-parte.
- In addition to above the it is to say and submit that the appellant had not "imported the disputed stock of bunker exclusively " But the imported stock of disputed stock of bunker was nothing but to be held as remaining stock of bunker, provisions stores etc which were nothing but "integral part of vessel only" and accordingly required to be classified under Chapter sub Heading No. 8908 instead of under Chapter Heading No. 2710 of Customs Tariff Act, 1975. Therefore, the impugned order appears not to have been passed in pursuance of the statutory provisions of Section 17, Section 46 speaks about the disclosing of "imported goods for home consumption" read with manifested in the respective Import General Manifest (IGM) as was required to be presented under section 30 of Customs Act, 1962. If these all provisions are interpreted according to the 1962 legal language used therein, than it is clearly seen that the Appellant had only imported ship under reference only for breaking purpose and "not imported the disputed stock of bunker exclusively.



However, the assessing officer had erred in ascertaining the "assessable value" as contemplated under Section 14 of Customs Act, 1962. In the present case the assessing officer had erred in assessing the disputed stock of bunker by considering the assessable value in "US Dollar. This act of assessing officer in not proper correct and legal and also appears to have been violated the "FIFA" and thus appears that the assessing officer had violated the concept of "FIFA". But in fact this concept may not be inviolable in the present case being the settled issue in pursuance of the settled case law on which basis the impugned order appears to have been passed.

- In view of the above submissions, we have clearly establish that the impugned order appears to have been passed by gross violating principle of natural justice and the Annexure A & B attached to the impugned order appears not to appears to had been true and correct as these calculation appears to had been made "ex parte and too not considered the order dated 01.12.2022 passed by Hon'ble Tribunal Ahmedabad.
- The appellant pray to set aside the impugned order, and remand back the case to the Adjudicating Authority for deciding a fresh by observing principle of natural justice.

4. Personal hearing was granted to the appellant on 25.02.2026, in response the appellant vide letter dated 21.02.2026 submitted written submission and requested to take the same on record and prayed to decide the present appeal accordingly. The appellant vide the written submission reiterated what has been mentioned in the grounds of appeal.

5. Before going into the merits of the case, it is observed that the appeal has been filed beyond normal period of 60 days but within the condonable period of 30 days as stipulated under Section 128(1) of the Customs Act, 1962. Appellant has requested for condoning the delay in filing the said appeals on the ground that there was delay in taking decision to file the appeal. Thus there is delay in filing the appeal. Therefore, taking a lenient view to meet the ends of justice, I allow the appeal as admitted condoning the delay in filing the appeal beyond the normal period of 60 days under proviso to the Section 128(1) of the Customs Act, 1962.

6. I have gone through the facts of the case available on record, grounds of appeal and submissions made during personal hearing. It is observed that the appellant had imported vessel MV ROUND for breaking up and filed Bill of Entry No. SBY/99/2014-2015 dated 09.07.2014 for clearance of the said vessel for home Consumption under Section 46 of the Customs Act. 1962 along with relevant documents. Since the appellant did

not have the original copies of MOA, Commercial Invoice and Bill of Sale, they requested to assess the Bill of Entry provisionally and submitted PD bond for the same. They have paid customs duty assessed provisionally. The Bill of Entry was assessed provisionally for want of original documents and test result. Vessels coming for breaking up are being classified under CTH 8908. The appellant has classified the vessel in CTH 8908. However, the Fuel and Oil contained inside/ outside the Engine Room Tanks and its classification was under dispute. The dispute regarding classification of Fuel and Oil lying in Bunker Tanks Inside/ outside Engine Room i.e. whether under CTH 2710 or under CTH 8908 along with vessels for breaking up has been settled by Hon'ble Supreme Court in its Order dated 05.04.2023 passed in Civil Appeal No. 5318-5342/2009, Hon'ble Supreme Court has upheld the common Order No. A/11792-11851/2025 dated 17.10.2022/01.12.2022 passed by CESTAT and also validated the view expressed by the CESTAT therein. The adjudicating authority vide the impugned order following the common Order No. A/11792-11851/2022 dated 17.10.2022/01.12.2022 passed by CESTAT, Ahmedabad and also following the earlier FAO No. 2430352/SBY/2023-24 dated 24.07.2023 has held that fuel & oil contained in Bunker Tanks inside / outside Engine Room are liable to be classified under CTH 8908 along with the vessel, as covered under para 2(b) of circular no. 37/96-Cus. Dated 03.07.1996. The remaining fuel and oil i.e. fuel and oil not contained in Bunker Tanks or Engine Room Tanks are liable to be classified under its respective heading in Chapter 2710 and finally assessed the subject Bill of Entry.

6.1 I have gone through the impugned order and observe that no personal hearing was granted before issuance of the impugned order. I am of the considered view that a reasonable opportunity of being heard is required to be provided. The appellant has also submitted that they had not been provided with an opportunity of hearing before passing of the impugned order. Therefore, requirement of natural justice was not satisfied. Thus, the impugned order has been issued in violation of the principles of natural justice. Since no personal hearing was given to the appellant, there is no finding of the adjudicating authority on the contentions raised by the appellant. Therefore, I find that remitting of the case for passing speaking orders after providing the appellant with an opportunity for personal hearing becomes *sine qua non* to meet the ends of justice. Accordingly, the case is required to be remanded back, in terms of sub-section of (3) of Section 128A of the Customs Act, 1962, for passing speaking order by the adjudicating authority by following the principles of natural justice. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs - 2004(173) ELT 117 (Guj.),



judgment of Bombay Hon'ble High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels P. Ltd. – [2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. – Del)] holding 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.

7. In view of the foregoing, the appeal is allowed by way of remand to the adjudicating authority for passing a reasoned and speaking order, after affording the appellant an adequate opportunity of personal hearing. The adjudicating authority is directed to examine all relevant facts, documents, and submissions placed on record during the appeal proceedings. Based on such examination, fresh orders shall be issued expeditiously, strictly in accordance with the principles of natural justice and the applicable legal provisions. It is clarified that, while passing this order, no findings or views have been expressed on the merits of the case or on the submissions made by the appellant. These shall be independently examined and considered by the adjudicating authority in accordance with law.

7. In view of above, the appeal filed by the appellant is allowed by way of remand.

सत्यापित/ATTESTED
अधीक्षक/SUPERINTENDENT
सीमा शुल्क(अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.

By Registered Post A.D.

F. No. S/49-405/CUS/JMN/2024-25 / 5928

Dated -26.02.2026

To,

1. M/s Salasar Balaji Ship Breakers Pvt. Ltd.,
Plot No. 67, Ship Recycling Yard, Alang, Dist. Bhavnagar,

Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Commissioner of Customs, Customs, Jamnagar.
3. The Deputy/Assistant Commissioner of Customs, Customs Division, Bhavnagar.
4. Guard File

