



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

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

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

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN - 20260171MN0000624597

क	फ़ाइलसंख्या FILE NO.	S/49-477/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-427-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	22.01.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Final Assessment Order No 1213/SBY/2024-25 dated 06.12.2024
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	22.01.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. LAKSHMI GREEN SHIP RECYCLERS LLP, Plot No. 57, Alang Ship Breaking Yard, Alang, Dist. Bhavnagar.
1.	यहप्रतिसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै. This copy is granted free of cost for the private use of the person to whom it is issued.	
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं.	



	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.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगेजकेरूपमेंआयातितकोईमाल.
(a)	any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो.
(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)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	कोर्टफीएक्ट, 1870केमदसं. 6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(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)	सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र) या रु. 1000/- (रूपएकहजारमात्र), जैसाभीमामलाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क, मांगागयाब्याज, लगायागयादंडकीराशिऔररूपएकलाखयाउससेकमहोतोएसेफीसकेरूपमेंरु. 200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु. 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 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी. ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं
	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, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ
	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	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,मांगेगएशुल्कके 10% अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके 10%अदाकरनेपर,जहांकेवलदंडविवादमेंहैं,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) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - 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. LAKSHMI GREEN SHIP RECYCLERS LLP, Plot No. 57, Alang Ship Breaking 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 1213/SBY/2024-25 dated 06.12.2024 issued from F. No. SBY/92/2014-15 (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 SUNNY AMAZON for breaking up and filed Bill of Entry No. SBY/92/2014-15, dated 30.06.2014 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. Further, the appellant has submitted original/notarized copies of Commercial Invoice, Bill of Sale and MOA for Final Assessment.

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;

- In the present case, it is admitted fact that the Appellant had purchased the subject vessel for breaking purpose only in pursuance of MOA agreed upon with the seller M/s. BEST OSEAS LTD. as per the MOA executed on dated 19.06.2014. This purchase indeed was the actual deal for importation of the old and used ship for breaking purpose which would have been directly purchased from the "seller" under cover of the proper documents i.e. Commercial Invoice, Bill of Sale etc. In the present case, the Appellant had imported the said vessel directly from M/S. BEST OSEAS LTD. at the total cost of USD 11,289,150.00. This was the "actual transaction value" as provided under Section 14 of the customs Act, 1926. As this agreed upon transaction value was actual payable transaction value. But, the assessing officer had grossly erred in considering the higher transaction value to the tune of USD 12,429,999.79 at the time of making provisional assessment of duty.
- Against the above nature of assessment, the Appellant had written a letter dated 29.08.2023 wherein the Appellant had categorically submitted that the higher side transaction value (as submitted above) was not the "actual transaction value", but should be to the tune of USD 11,289,150.00. However, this letter appears not to have been placed on record/not considered at the time of passing the impugned order dated 06.12.2024. Therefore, the impugned order appears to have been passed by gross violating the principle of natural justice.
- The subject bill of entry was assessed to duty provisionally pending as issue pending before the Appellate Authority regarding whether the remaining stock of bunker either lying inside of the engine room or outside the engine room are to be termed as "integral part of the vessel or not. Now the tribunal vide their order dated 17.10.2022/01.12.2022 has clearly held that the disputed stock of bunker was classifiable under CTH 8908.00 only. On the basis of this case law, it appears that the subject bill of entry has been finally assessed to duty as the said settled case law have been referred to in the present final assessment order. While making the final assessment order, the Appellant had not been granted any opportunity to be heard in person. Therefore, it appears that the impugned order appears to has been passed by gross violating the principle of natural justice i.e. to be termed as passed the order as "ex-parte". There are so many settled case laws are there if an appealable



order is passed without observing the principle of natural justice, the such order maybe termed as the impugned order passed in the capacity in the nature as "ex-parte". Under the above various grounds of appeal, the appellant pray to allow the present appeal with a pray to pass appropriate order to remand back the present case to decide again after observing the norms of principle of natural justice.

4. Shri Rahul Gajera, Advocate appeared for personal hearing on 07.08.2025 on behalf of the appellant. He reiterated the written submission made at the time of filing 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 the matter pertained to a transaction of the year 2014, considerable time was required to retrieve old records, compile relevant documents, and obtain legal advice, which resulted in a bona fide and unintentional 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 M V SUNNY AMAZON for breaking up and filed Bill of Entry No. SBY/92/2014-15 dated 30.06.2014 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. Further, the appellant has submitted original/notarized copies of Commercial Invoice, Bill of Sale and MOA for Final Assessment. 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.

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



સત્યાપિત/ATTESTED
[Signature]
અધીક્ષક/SUPERINTENDENT
સીમા શુલ્ક (અપીલ), અમદાવાદ.
CUSTOMS (APPEALS), AHMEDABAD.

[Signature]
(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

By Registered Post A.D.

F. No. S/49-477/CUS/JMN/2024-25
5471

Dated -22.01.2026

To,

1. M/s. LAKSHMI GREEN SHIP RECYCLERS LLP,
Plot No. 57, Alang Ship Breaking Yard,
Alang, Dist. Bhavnagar,

Copy to:

- ✓ 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