



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.
दूरभाष क्रमांक Tel. No. 079-26589281
DIN-20250571MN0000000DE2

क	फ़ाइल संख्या FILE NO.	S/49-104/CUS/AHD/2024-25
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-46-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	27.05.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Letter F.No. CH/907/Misc/2023-24 dated 09.05.2024 issued by Superintendent of Customs, Custom House, Surat.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	27.05.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. GAIL (India) Ltd., GAIL Bhawan, 16, Bhikaji Cama Place, New Delhi - 110066.
1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है. This copy is granted free of cost for the private use of the person to whom it is issued.	
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं. Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.	
	निम्नलिखित सम्बन्धित आदेश/Order relating to :	

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



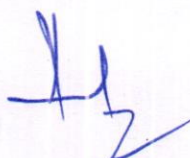
ORDER-IN-APPEAL

(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.
(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 हजार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10 % अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10 % अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
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.



ORDER-IN-APPEAL

1. M/s. GAIL (India) Ltd., GAIL Bhawan, 16, Bhikaji Cama Place, New Delhi - 110066 (hereinafter referred to as the 'GAIL' or 'the appellant') has filed the present appeal under Section 128 of the Customs Act, 1962, against the Letter F.No. CH/907/Misc/2023-24 dated 09.05.2024 issued by Superintendent of Customs, Custom House, Surat (hereinafter referred to as the 'impugned letter') issued by the Superintendent of Customs, Custom House, Surat.
2. Facts involved in the appeal, in brief, are that the appellant was engaged in import of Liquefied Natural Gas ('LNG') falling under Customs Tariff Item No. 27111100 for which they have filed Bills of Entry No. 5067317 dated 16.08.2021 and No. 5429983 dated 14.09.2021 (hereinafter referred to as 'the impugned Bills of Entry') with Magdalla Port, Surat. The impugned Bills of Entry were assessed provisionally. The imported LNG was to be Re-gasified (known as 'RLNG') and then meant for supply to power generating companies. The appellant was availing exemption from Customs duty as per Sr.No. 10 of Notification No. 52/2017-Cus dated 30.06.2017. One of the conditions for availing the said exemption, is that the importer is required to produce a utilization certificate from the power generating company to the effect that the RLNG has been utilized for generating and supplying electrical energy. The appellant has submitted such end use certificate / utilization certificate, which shows the utilized quantity after deducting 0.66% quantity from the quantity imported under respective Bills of Entry. So, it appeared that the appellant was not eligible for the said exemption for the 0.66% quantity, which has not been utilized for power generation.
3. According to the appellant, the Assistant Commissioner of Customs, Surat, while finalizing the assessment of impugned Bills of Entry, disallowed the said exemption to the extent 0.66% quantity. The Superintendent of Customs, Surat, vide the impugned letter dated 09.05.2024, communicated the final assessment of impugned Bills of Entry to the appellant. Thereafter, the appellant came to know that the department has disallowed the exemption for the said 0.66% quantity and resultantly, amount of refund, on account of finalization of provisional assessment, has been reduced by the department.
4. Being aggrieved, against the final assessment of the impugned Bills of Entry, as communicated to the appellant vide the impugned letter dated 09.05.2024, the appellant has filed the present appeal on 02.07.2024. In the Form C.A.-1, the date of communication of the impugned letter dated 09.04.2024 has been shown as 24.05.2024. Thus, the appeal has been filed within normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962. As the appeal has been filed against communication of final assessment and no demand has been raised, pre-deposit under the provisions of Section 129E is not required. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal on merits.
5. The appellant has filed the present appeal, mainly on the following **grounds of appeal**:
 - 5.1 The department had disallowed exemption of duty on 0.66% of LNG imports merely relying utilization certificates of power companies. A brief note on procedure and techniques for re-gasification of LNG was is annexed, which would explain the continuous process of conversion of LNG into RLNG. The 0.66% quantity loss is only in such conversion process



and not due to supply to other commercial user. The claim of exemption on custom duty on said 0.66% conversion loss is claimed by GAIL as because;

i. None of the notifications states that the custom duty would be payable at the point of RLNG supplied.

ii. In other words, the entire LNG cargo imported for supply to power generating companies are exempted at the point of unloading of such cargoes. After unloading, the said LNG is converted into RLNG which relates to 0.66% transit loss.

5.2 The issue of claiming of exemption on 0.66% quantum of gas "conversion loss" is no longer res-integra as the same has been settled:

a) Firstly, by CESTAT, New, Delhi in Service Tax Appeal No.52946 of 2016 and 52980 of 2016 wherein, the claim of exemption by M/s. Petronet LNG Limited (PLL) (which converts LNG into RLNG) has been upheld on the ground that the said quantum had not been utilized for any commercial gain and it is technologically impossible to convert 100% LNG into RLNG.

b) Secondly, the Commissioner (Appeals), Pune while deciding GAIL's case by order dated 21.07.2017 had also allowed such loss by holding that it is technologically impossible for re-gasification of 100% LNG into RLNG and subsequently the respective Revenue Department had also completed the final assessment u/s.18(2) of the said Act.

It is important to note herein that the aforesaid two decisions had attained finality as those orders were never assailed to any higher Court and have been accepted by Government of India. Therefore, the claim of duty by the custom department on account of 0.66% conversion loss is nothing but reopening the issue which has been settled by the competent forum and accepted by Government of India.

5.3 The Department, while finally assessing the BOEs, had only relied to utilization certificates by Power Companies as required under procedure prescribed in Notification 2017. Thereafter, Department decided that the quantity of 0.66% of LNG claimed as transits/conversation loss has not been supplied to the power generating companies and therefore, the said quantity of LNG is subject to custom duty. However, the Department had failed to appreciate the fact that the gas which is intended to be supplied to the power generating companies are imported in liquid form (as LNG) and thereafter, the same is supplied to the power generating companies in gaseous form (as RLNG). Thus, the loss incurred in 0.66% is technical loss and the same is not unknown to Department while dealing in cases of Hydrocarbons. The Ministry of Finance, through Department of Revenue, had issued various circulars by allowing various losses including conversion losses and transit losses in general for petroleum products while levying fiscal liability. The exemptions on such losses has also been allowed by Hon'ble Bombay High Court in case of HPCL vs Union of India, 2012 (286) ELT 505 (Bom.). Therefore, the subject final assessment by denial of exemption of duty on 0.66% of LNG claimed as conversion loss without having any evidence to show that such 0.66% quantum of LNG has been utilized for any commercial gain, is required to be set aside,



6.1 The appellant has also mentioned that the issue of claiming of exemption on 0.66% quantum of gas "conversion loss" is no longer res-integra as the same has been settled. The Commissioner (Appeals), Pune-II, while deciding GAIL's case by **Order-In-Appeal No. PUN-CT-APP II-000-95 to 106-17-18 dated 21.07.2017**, had also allowed such loss by holding that it is technologically impossible for re-gasification of 100% LNG into RLNG. Subsequently, the final assessments u/s 18(2) of the said Act has also been completed. The appellant submitted that the aforesaid decision had attained finality as that order was never assailed to any higher Court and have been accepted by Government of India.

6.2 The appellant has submitted an application dated 13.05.2025 for early hearing of this appeal. In the said application, it has been mentioned that in another case of GAIL before the Commissioner (Appeals-II), Central Tax, Pune, the learned appellate authority vide **Order-In-Appeal No. PUN-CT-APP II-(RKD)-051 to 058-2023-24 dated 28.07.2023** has quashed the final assessment order, which raised a demand of duty on 0.66% loss of RLNG. Thereafter, the Assistant Commissioner of Customs, Dapoli Division, vide Order No. 01/AC-CUS/DPL/DABHOL/GAIL/2025-26 dated 23.04.2025, has finally re-assessed the Bills of Entry by not deducting any duty on 0.66% quantity of RLNG from the refund amount. They have submitted a copy of the said re-assessment order.

Findings:

7. I find that the issue raised by the appellant is similar to the issue involved in an earlier appeal of the same appellant filed with this office. In respect of the earlier **Appeal F.No. S/49-37/CUS/AHD/2022-23** filed by M/s. GAIL, I have passed an **Order-In-Appeal No. AHD-CUSTOM-000-APP-18-25-26 dated 25.04.2025**. In the said O.I.A., I have examined as to whether Customs duty is payable on the 0.66% quantity of LNG lost while converting LNG into RLNG or lost during transit. In that O.I.A., I have observed and held as under:

"15. I have referred the wordings of the Notification No. 52/2017-Cus dated 30.06.2017, which was prevailing at the time of imports in the present appeal, under which the exemption has been availed by the appellant. As per Sr.No.10 of the said Notification, Liquefied Natural Gas ('LNG') and Natural Gas, attract Nil rate of duty when imported by an importer for supply to a generating company, as defined in clause (28) of Section 2 of the Electricity Act, 2003, for generation of electrical energy, subject to the condition 3 mentioned therein. There is no dispute regarding fulfillment of the said condition 3 in the present case. I observe that the exemption / Nil rate is applicable for LNG imported for supply to power generating company. It is undisputed that the entire quantity of LNG was imported for supply to such power generating companies, but due to various reasons like conversion process loss, transit loss, inaccurate measurements etc., 0.66% quantity could not be supplied to power generating companies. In this regard, I rely upon the Order dated 08.10.2004 of Hon'ble Supreme Court of India in the case of **BPL Display Devices Ltd. Vs. Commissioner of Central Excise, Ghaziabad** [2004 (174) ELT 5 (SC)]. The said Order is as follows (underline supplied):

"The question in this appeal is whether the appellant is entitled to the benefit of Notification No. 13/97-Cus. as amended by Notification No. 25/99-Cus. These two Notifications provide for certain benefits to specified items if they are imported into India 'for use' in the manufacture of other items specified in the notifications.

2. It is not in dispute that the appellant had imported parts of picture tubes for manufacture of colour picture tubes. Both the input and the manufactured items are covered by the Notifications. It is also not in dispute that a small percentage of the imported parts were damaged in Transit and could not be used to manufacture picture tubes during the year 2000-2001. The appellant claimed the benefit of the aforesaid Notifications in respect of the entire lot of the parts imported relying, inter alia, upon the earlier decision of the Tribunal in *National Organic Chemical Indus. Ltd. v. Collector of Customs (Import), Mumbai, 2000 (126) E.L.T. 1072* which had held that the benefit of the Notifications could not be denied in respect of goods which were intended for use for manufacture of the final product but could not be so used due to shortage or leakage. The Notifications relied upon in the decision in *National Organic Chemical Indus. Ltd. (supra)* are substantially similar to the present Notification. The appeal preferred by the Department from the decision of the Tribunal was dismissed by this Court on 20th February, 2002 - *Commissioner of Customs v. M/s. National Organic Chemical Indus. Ltd. [C.A. No. 6764/99]*. The Tribunal, however, relied upon its earlier decision in the case of *Commissioner of Central Excise, Meerut v. M/s. BPL Display Devices Ltd.* reported in 2002 (147) E.L.T. 912 to hold against the appellant. This Court following the affirmation of the Tribunal's reasoning in *National Organic Chemicals Indus. Ltd. (supra)* on 20-2-2002, allowed the appellant's appeal. This appeal must therefore be necessarily allowed. We are of the view that no material distinction can be drawn between the loss on account of leakage and loss on account of damage. The words 'for use' used in similar exemption Notifications have also been construed by this Court earlier in the State of Haryana v. Dalmia Dabri Cement Ltd., 1987 (Suppl) SCC 679 to mean 'intended for use'. According to this decision the object of grant of exemption was only to debar those importers/manufacturers from the benefit of the Notifications who had diverted the products imported for other purposes and had no intention to use the same for manufacture of the specified items at any stage."

In the present also, the LNG was imported by GAIL for supply to power generating companies. GAIL is one of the Maharatna PSU owned by Govt. of India. There is no allegation against GAIL to the effect that they have illicitly diverted the 0.66% quantity. It is undisputed that the said 0.66% quantity has been lost while conversion or during transit or due to any other reasons, which were beyond the control of GAIL. Therefore, by applying ratio of the aforesaid Order of Hon'ble Supreme Court ***BPL Display Devices Ltd. (supra)***, I am of the considered view that Customs duty cannot be demanded for such 0.66% quantity even under the provisions of Section 28(1) of the Customs Act, 1962.

16. Further, I observe that the Commissioner (Appeals), Central Tax, Pune-II, has allowed the appeals filed by the same appellant, i.e. GAIL, on similar issue by **Order-In-Appeal No. PUN-CT-APPII-000-95 to 106-17-18 dated 21.07.2017**. In the said O-I-A, the Commissioner (Appeals), Pune-II, has inter alia observed as follows:

"10. ... There being nothing on record to suggest that the appellant cleared any part of the production clandestinely and the appellant being a Public Sector Unit, where nobody has personal stake, I am of the considered view that the very nature of the activity of the appellant is such that a certain quantity of loss is bound to arise in the said conversion from LNG to RLNG and

transmission thereof from one point to other and thus, I am not inclined to deny the exemption to such trivial loss of 0.66% of the imported LNG which gets lost during the various process of regasification and transit. Accordingly, I find that the Appellants are eligible for exemption on the entire volume of imported LNG, unloaded from cargo including regasification process losses."

I find that the issue involved in the aforesaid Order-In-Appeal and in the present case is identical and therefore, there is no reason for not following the stand taken in the aforesaid O-I-A dated 21.07.2017 passed by the Commissioner (Appeals), Central Tax, Pune-II."

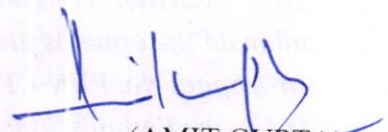
7.1 In view of the above discussion, I had set aside the Order-In-Original No. 46/MK/ADC/SRT/2021-22 dated 20.01.2022 passed by the Additional Commissioner of Customs, Custom House, Surat, and allowed the earlier appeal F.No. S/49-37/CUS/AHD/2022-23 filed by M/s. GAIL (India) Ltd. with consequential relief, if any, in accordance to law.

8. I find that the issue raised by the appellant in the present appeal is similar to the issue already decided by me in respect of the earlier appeal of the same appellant and so, the oral submissions made on behalf of the appellant before me during Personal Hearing in the earlier appeal have been considered for this appeal also.

9. However, I find that in the earlier appeal, though the issue involved was similar, a demand for Customs duty involved in the 0.66% quantity of LNG was raised and confirmed by the adjudicating authority under Section 28 of the Customs Act, 1962, by passing a speaking Order-In-Original. Whereas, in the present appeal, as mentioned by the appellant, the exemption from duty for the 0.66% quantity of LNG has been denied while finalization of provisional assessment. However, in the present case, the appellant has contended that neither any Personal Hearing was offered to them nor any speaking order has been passed by the assessing officer / adjudicating authority. Therefore, I am of the view that the final assessment of the impugned Bills of Entry needs to be set aside and the matter needs to be remanded to the adjudicating authority with a direction to finalize of provisional assessment without denying exemption for the 0.66% quantity of LNG lost during conversion of LNG to RNLG or during transit. In case, any other issue has been involved due to which the exemption has been denied, a speaking order shall be passed by the adjudicating authority after allowing opportunity of personal hearing to the appellant.

Order:

9. In view of the above discussion, I set aside the final assessments of the impugned Bills of Entry No. 5067317 dated 16.08.2021 and No. 5429983 dated 14.09.2021, as communicated to the appellant vide the impugned letter dated 09.05.2024 and direct the Deputy/Assistant Commissioner of Customs, Custom House, Surat, to finalize provisional assessments in above terms.


(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

F.No. S/49-104/CUS/AHD/2024-25

Date: 27.05.2025

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

To

M/s. GAIL (India) Ltd.,
GAIL Bhawan, 16, Bhikaji Cama Place,
New Delhi - 110066.
(email: info@gail.co.in , mandeep.singh@gail.co.in , snangia@gail.co.in)

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

Copy to:



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

The Pr. Commissioner of Customs, Ahmedabad.
(email: cus-ahmd-guj@nic.in ; rra-customsahd@gov.in)

3. The Deputy/Assistant Commissioner of Customs, Custom House, Surat. (email: customhousesurat@gmail.com)

5. Guard File.

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