



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN: - 20260371MN0000000B4C

क	फ़ाइल संख्या FILE NO.	S/49-90 & 91/CUS/JMN/25-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	JMN-CUSTM-000-APP-467 & 468-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	As per Table A of the order
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Compass Shipping Agency, 308, Prithvi Plaza, Opp. Ghogha Circle, Bhavnagar-364 001.
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 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष 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.	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 :
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 -	
(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 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 हज़ार 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 हज़ार 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

Two appeals have been filed by M/s. Compass Shipping Agency, 308, Prithvi Plaza, Opp. Ghogha Circle, Bhavnagar-364 001. (hereinafter referred to as "the appellant") in terms of Section 128 of the Customs Act, 1962 against assessment of Bills of Entry (Details as per Table-A) (hereinafter referred to as "the impugned orders") assessed by the Assistant Commissioner of Customs, Bhavnagar (hereinafter referred to as "the assessing authority").

Table A

Sr. No	Appeal No	Bill of Entry No & date	Name of Vessel	Name of Indian Port from where the Vessel Arrived at Alang
01	S/49-90/CUS/JMN/2025-26	6338605-A dated 28.10.2024/21.03.2025	MSC Alexa	Hazira
02	S/49-91/CUS/JMN/2025-26	8612299-A dated 21.03.2025	Tug MV Advantis Virgo	Mumbai

2. Facts of the case, in brief, are that the appellant was appointed as Shipping Agent by the owner of the vessel to discharge customs clearance formalities for vessels as detailed in Table A above (hereinafter referred to as "the said vessels"). The said vessels arrived at Alang Anchorage for breaking purpose from various Indian Ports as detailed in Table A above and the boarding of the said vessels were carried out on different dated. A survey was carried out for the bunker consumption during the last port call in India of said Vessels after beaching of the vessel by the independent surveyor. Even the master and Chief Engineer of the said vessels had also given details/certificate of bunker consumption from last port call of India to Alang. On the basis of these details, the Shipping Agent filed the Manual Bills of Entry on different dated as detailed in Table A above and self-assessed the Value of Bunker & Provision/Store and Customs duty payable thereon in the said Bills of Entry and paid the same. The appellant was of the view that neither bills of entry nor payment of customs duty was required to be filed/made for the bunker & provisions/stores consumed during the voyage from last port call of India to the Alang Ship Breaking Yard by the said vessels, as per prevailing practice and to deliver the vessel



to importer for breaking well in time at the behest of the department/officer so as to make payment of duty of customs.

3. Being aggrieved with the filing of the Bills of Entry and payment of Customs duty on Bunker & Provision/Store consumed from last port call of India to Alang, the appellant has filed the present appeal against the assessment made in the Bills of Entry and mainly contended that;

- The impugned vessel was foreign going vessel and never converted in to coastal vessel in the matter so not liable to pay any duty of customs not to speak of duty of customs as assessed on the goods Bunker/Provisions/Stores as mentioned in the Bills of Entry, it would like to submit that it is admitted facts on record that the bills of entry is not self-assessed as provided under Section 17(1) of the Customs Act, 1962 but finally assessed by the proper officer as provided under the Customs Act, 1962.
- The appellant further submits that it is not the case of the department that the said vessel was converted into coastal run. It is admitted facts on record that the said vessel was foreign going vessel within the meaning of Section 2(21) of the Customs Act, 1962 and never converted into coastal run after arriving at any port of India or from the last call of port of India or use in coastal run but voyage from last call of port of India to Alang was for scrapping / breaking of the vessel at Alang Ship Breaking Yard. This fact is also not in dispute. So vessel remained Foreign Going Vessel till she reached at Alang Ship Breaking Yard for breaking. Section 2(21) of the Customs Act, 1962 is as under:

Section 2(21) "foreign-going vessel or aircraft" means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes -

- any naval vessel of a foreign Government taking part in any naval exercises;*
- any vessel engaged in fishing or any other operations outside the territorial waters of India;*
- any vessel or aircraft proceeding to a place outside India for any purpose whatsoever*

- Appellant submits that it may please be appreciated that the said definition also provides the touching any intermediate port in



India and many foreign going vessel's voyages are from one port in India to another port in India may be with carriage of goods or without carriage of goods and for such journey no vessel is required to pay duty of customs on usage of Fuel, Provisions, stores etc. as vessel remain foreign going vessel only. The duty of customs is being collected only on usage of fuel, provisions, stores etc only when the vessel is converted from foreign going vessel to coastal run vessel and not in any other case.

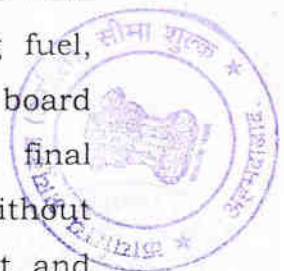
- Appellant submits that as per the provisions of Section 87 of the Customs Act, 1962 any imported stores on board a vessel may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft. "Stores" is defined at Section 2(38) of the Customs Act, 1962, which read as under:

"SECTION 87. Imported stores may be consumed on board a foreign-going vessel or aircraft. — Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft."

Section 2(38) "stores" means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

Thus, as per the above provisions of Section 87 read with Section 2(28) no duty was payable on stores including fuel, provisions etc. when same were imported and consumed on board a foreign going vessel. Therefore, even otherwise, final assessment of customs duty on the said goods is without jurisdiction and liable to be quashed. Thereby payment and collection of interest and penalty too are without authority of law.

- Appellant submits that it may please be appreciated that when it is not disputed the status of vessel as foreign going vessel, the Customs Act nowhere provides to collect customs duty on fuel, stores, provisions etc. on voyage of foreign going vessel from one port in India to another port of India. Such duty can be collected only when such vessel converted into coastal run and used for carrying cargo one port in India to another port in India. If the final assessment made by the learned Assistant Commissioner is



considered as correct then all the foreign going vessel when touches intermediate ports, duty of customs is required to be collected on the fuel, stores, provisions etc. but same is not being done at all.

- Appellant submits that Hon'ble Apex Court, Hon'ble High Court and Hon'ble CESTAT amongst other following decisions have held that no customs duty is payable on consumption of fuel for voyage of vessel from one port of India to another port of India when vessel is foreign run vessel. The appellant relied upon the following decisions in this regard:

(i) JAIN MARINE SERVICES Versus COMMISSIONER OF CUSTOMS, JAMNAGAR - 2009 (240) E.L.T. 723 (Tri. - Ahmd.)

(ii) COLLECTOR OF CUSTOMS & C. EX. Versus SOUTH EAST ASIA SHIPPING CO. LTD - 1989 (43) E.L.T. 479 (Tribunal)

(iii) THE GREAT EASTERN SHIPPING CO. LTD. v. UNION OF INDIA AND ANOTHER MISC. PETITION NO. 172/69, DECIDED ON 10-2-1973 - Bombay High Court

(iv) [Collector v. South East Asia Shipping Co. Ltd. - 1996 (82) E.L.T. A155 (S.C)]

(v) COLLECTOR OF CUSTOMS, AHMEDABAD Versus SHIPPING CORPORATION OF INDIA LTD. - 1987 (29) E.L.T. 182 (Tribunal)

(vi) ASEAN CABLESHIP PVT. LTD. Versus COMMISSIONER OF CUSTOMS, COCHIN - 2020 (374) E.L.T. 597 (Tri. - Bang.)

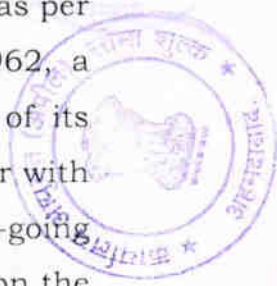


Shri P. D. Rachchh, Advocate, appeared for personal hearing in virtual mode on 15.01.2026. He reiterated the submissions made at the time of filing appeal.

5 I have carefully gone through the appeal memorandum as well as records of the case, submissions advanced by the appellant during personal hearing as well as the documents and evidences available on record. The issue to be decided in the present appeals is whether the assessment made in the Bills of Entry for bunker and ship stores consumed during the voyage from a port within India to Alang Ship Breaking Yard, when the vessel was still a foreign-going vessel and not converted into a coastal run, in the facts and circumstances is legal and proper or otherwise.

5.1 It is observed that the appellant was appointed as a Shipping Agent by the owner of the vessels to undertake customs clearance formalities in respect of the vessels detailed in Table A above. The said vessels arrived at Alang Anchorage for the purpose of breaking from various Indian ports, as specified in Table A, and were boarded on different dates. It is further observed that, subsequent to beaching of the vessels, a survey was carried out by an independent surveyor to ascertain bunker consumption from the last port of call in India. In addition, the Master and Chief Engineer of the respective vessels furnished certificates/details regarding bunker consumption for the voyage from the last Indian port to Alang. Based on the aforesaid survey reports and certificates, the Shipping Agent filed Manual Bills of Entry on different dates, as detailed in Table A above. The appellant self-assessed the value of bunkers and provisions/stores and discharged the applicable customs duty thereon through the said Bills of Entry.

5.2 The appellant has contended that neither the filing of Bills of Entry nor the payment of customs duty was warranted in respect of bunker fuel and provisions/stores consumed during the voyage from the last port of call in India to the Alang Ship Breaking Yard by the subject vessels. In support of the above, the appellant has submitted that the vessels in question continued to qualify as "foreign-going vessels" within the meaning of Section 2(21) of the Customs Act, 1962 and were never converted into coastal vessels at any point of time, either upon arrival at any Indian port or thereafter. It has been emphasized that the voyage undertaken from the last port of call in India to Alang was exclusively for the purpose of scrapping/breaking of the vessels and did not amount to engagement in coastal trade. The appellant has further argued that, as per the definition contained in Section 2(21) of the Customs Act, 1962, a vessel may touch intermediate ports in India during the course of its voyage, and such movement from one Indian port to another whether with or without carriage of goods does not alter its status as a foreign-going vessel. Consequently, for such voyages, no customs duty is leviable on the consumption of fuel, provisions, or stores, as the vessel continues to retain its character as a foreign-going vessel. It has also been contended that, in terms of Section 87 of the Customs Act, 1962, imported stores on board a vessel may be consumed without payment of duty so long as the vessel remains a foreign-going vessel. Accordingly, the bunker fuel and provisions/stores consumed during the relevant voyage are not liable to customs duty.



5.3 I find considerable merit in the contentions advanced by the appellant that the subject vessels had proceeded to Alang solely for the purpose of scrapping/breaking at the Alang Ship Breaking Yard. It is an undisputed fact on record that the vessels, at the material time, continued to operate as foreign-going vessels and were never converted into coastal vessels at any stage of their voyage. In this regard, it is pertinent to note that the mere movement of a vessel from an Indian port to Alang for the purpose of breaking does not, by itself, alter its character from that of a foreign-going vessel to a coastal vessel, unless there is a specific and conscious conversion. In the present case, no such conversion has been done. In view of the above, the benefit of Section 87 of the Customs Act, 1962 squarely applies, which provides, inter alia, that imported stores may be consumed on board a vessel without payment of duty so long as the vessel retains the status of a foreign-going vessel. Consequently, the bunker fuel and provisions/stores consumed during the voyage from the last port of call in India to the Alang Ship Breaking Yard cannot be subjected to customs duty. Accordingly, the appellant was neither required to file a Bill of Entry in respect of such bunker fuel and stores, nor liable to discharge any customs duty thereon.

5.4 In this regard I rely upon the decision in the case of Bhavnagar Shipping Agency Versus Commissioner of Customs, Ahmedabad, FINAL ORDER NO. 10562/2025 dated 16.07.2025 wherein the Hon'ble Tribunal has held that that the vessel in question was a foreign 'going vessel' and goods consumed during its voyage from last port of call to Alang should have been exempted from Customs duty. Therefore, there is no question of demanding Customs duty as the entire payment of Customs duty was not legally necessary. The relevant paras of the decision are as under:



6. I agree with the contention of the learned Counsel for the appellant that the nature of the voyage whether it was 'foreign run' or it was reverted to coastal run, should not depend upon the filing of Bill of Entry as it was allegedly presented on direction of the Customs officers. The appellant claims that they went ahead with the process of Bill of Entry and payment of Customs duty in order to speed up the process of import of vessel which was legally not payable. I am of the view that the goods which are consumed by the vessel in question, MV TABA, was a 'foreign going vessel' and it was not on 'coastal run' during its voyage between two Indian ports i.e. Cochin to Alang and therefore, the goods consumed by it are excluded from the levy of

Customs duty as per Section 87 of the Customs Act, 1962. The learned Commissioner erred in holding that the appellant is liable to pay differential duty alongwith applicable interest since the nature of the vessel is the 'coastal run' from Cochin to Alang. It appears that the Commissioner (Appeals) has only relied on the fact that the appellant filed Bill of Entry and paid the Customs duty and the Commissioner failed to take into consideration other relevant facts.

6.1 I find sufficient force in the arguments of the learned Counsel for the appellant that the vessel in question MV TABA, was a foreign 'going vessel' and goods consumed during its voyage from Cochin to Alang should have been exempted from Customs duty. Therefore, there is no question of demanding differential Customs duty as the entire payment of Customs duty was not legally necessary. Therefore, the demand of differential duty cannot be sustained and should be set-aside.

6.2 I agree with the law laid down in the judgment in the case of Lotus Danship Pvt. Limited vs. C.C. Jamnaga (Prev.) – 2024 (6) TMI 1015 – CESTAT Ahmedabad that the vessel in question M.V. Anupama functioned as a daughter vessel to lighten the mother vessels (super-tankers) which had brought cargo from abroad and which, because of their big size, were unable to come alongside of Indian ports. The vessel functioned only to continue and complete the task of the mother vessels that of bringing cargo from abroad and unloading them at Indian Ports. There is no evidence that during this period, the vessel picked up any Indian cargo from one Indian port to unload it at another Indian port.

I also agree with decision in the case of Phoenix Marine Services vs. Commissioner of Central Excise & Service Tax, Jamnagar – 2024 (4) TMI 384 – CESTAT Ahmedabad in which it has been held that in the present case the tug had originally arrived at Bedi ports from overseas port laden on mother vessel. Mother vessel was unable to complete the delivery of the said tug at Alang owing to requirement of deeper draught which was not available at the ship breaking yard at Alang. The said tug had arrived from foreign port and it was treated as a 'foreign going vessel'. There is no dispute over the fact that the said tug had not performed any coastal voyage or undertaken any coastal operation. Therefore, the fuel consumed during their trans-shipment from Bedi port to Alang cannot be considered as dutiable.



I also agree with the law laid down by this Tribunal in the case of *C.C. Ahmedabad vs. Nandan Exim Limited – Final Order No. A/11597/2023 dated 24.07.2023* that benefit of exemption which is otherwise available, has to be allowed in spite of the fact whether it was claimed at the time of import or not. The government cannot retain such excess payment of CVD amount with them which is not required to be paid by importer in law and the maxim 'ignorance of law is no excuse', applies to both sides.

7. In view of above observations, I have come to the conclusion that the demand of differential duty of Customs amounting to Rs. 96,136/- is not tenable. The learned Commissioner erred in holding that appellant is liable to pay differential duty alongwith applicable interest since the nature of voyage is 'coastal run' from Cochin to Alang and the learned Commissioner has ignored other facts and just relied on the appellant's submission of Bill of Entry and payment of Customs duty and wrongly came to the conclusion that it ceased to be in the nature of 'foreign going vessel' and can be considered in the nature of 'coastal run'. I also find that there seems to be no intention of the appellant to evade payment of Customs duty. Therefore, penalty imposed on the appellant under Section 114A of the Customs Act, 1962 is not sustainable and is liable to be set-aside and the appeal is liable to be allowed.

8. Consequently, the appeal is allowed. The demand of differential Customs duty amounting to Rs. 96,136/- alongwith interest is set-aside. Penalty of Rs. 96,136/- imposed under Section 114A of the Customs Act, 1962 is also set-aside."

5.5 I also place reliance on the decision of the Hon'ble Tribunal in the case of *Phoenix Marine Services vs. Commissioner of Central Excise & ST, Jamnagar*, Final Order No. 10783-10787/2024 dated 09.04.2024, wherein, in an identical set of facts, the vessels had arrived at Alang for the purpose of ship breaking from an Indian port. The Hon'ble Tribunal, after due consideration, categorically held that at no stage were the vessels converted into coastal vessels and therefore not liable to pay customs duty on bunker and ship stores consumed during the voyage from an Indian port to Alang. In the said decision, it was further held that in terms of Section 87 of the Customs Act, 1962, which, inter alia, provides that imported stores may be consumed on



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board a vessel without payment of duty so long as the vessel retains the status of a foreign-going vessel, no duty liability would arise on such consumption. Accordingly, applying the ratio of the aforesaid decision to the present case, it is evident that the bunker fuel and ship stores consumed during the voyage from an Indian port to Alang cannot be treated as dutiable, inasmuch as the vessel continued to remain a foreign-going vessel throughout the relevant period. The relevant para is as under:

“7.

As per the above provision when the goods are permitted to be transited to any customs station, the same are liable for customs duty as such customs station at the destination, which in the present disputed matter was „Alang”. Accordingly the subject 5 tug vessels were imported at Alang and they were not on the coastal voyage from Bedi port to Alang as alleged by the revenue for demanding duty. We also find that the IGM of the said vessels was filed at Alang and thus, the subject 5 tug vessels become liable for custom duty only at Alang and no stage the subject vessels were converted into costal vessels. Therefore the fuel consumed during their transshipment from Bedi port to Alang cannot be considered as dutiable. As rightly claimed by the Appellant that the vessel was never converted to a coastal run and the dead vessel which was towed by the tug was actually imported cargo which was cleared on payment of duty after bill of entry was filed with Alang customs. The vessel had not been cleared for home consumption till it reached Alang. Therefore, we find considerable force in the contention of the appellants that the vessel was never converted into a coastal run and towing of a dead imported vessel not yet cleared for home consumption on its way to Alang via Bedi port did not change the character of the tug from foreign going vessel to a coastal vessel.

.....

11. *In the present matter we find that the tug had originally arrived at Bedi ports from overseas port laden on mother vessel. Mother vessel was unable to complete the delivery of the said tug at Alang owing to requirement of deeper draught which was not available at the ship breaking yard at Alang. The said tug had arrived from foreign port, it was treated as a foreign -going vessel. There is no dispute over the fact that the said tug had not performed any costal voyage or undertaken any coastal operation. Therefore the fuel consumed during their transshipment from Bedi port to Alang cannot be considered as dutiable.”*



5.6 In view of the foregoing discussion and in light of the judicial pronouncements referred to in the preceding paragraphs, I am of the considered opinion that so long as the character of the vessel remains

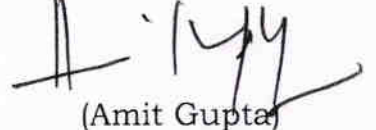


that of a foreign-going vessel and is not converted into a coastal vessel, customs duty on bunker fuel and ship stores consumed during the voyage from an Indian port to Alang is not leviable in terms of Section 87 of the Customs Act, 1962. Further, the case laws relied upon by the appellant, as discussed hereinabove, squarely support their contention and are required to be followed. Accordingly, in the present case, it is observed that the vessel sailed from an Indian port to Alang for the purpose of ship breaking and was not converted for coastal run at any stage. Therefore, the appellant was neither required to file a Bill of Entry nor liable to pay the customs duty assessed in respect of the subject Bills of Entry.

6. The appeals filed by the appellant is allowed with consequential relief, if any as per the law.

सत्यापित/ATTESTED

 अधीक्षक/SUPERINTENDENT
 सीमा शुल्क (अपील्स), अहमदाबाद.
 CUSTOMS (APPEALS), AHMEDABAD


 (Amit Gupta)

Commissioner (Appeals),
 Customs, Ahmedabad

By Registered Post A.D.

F. Nos. S/49-90,91/CUS/JMN/25-26

Dated:30.03.2026

To

- (1) M/s. Compass Shipping Agency,
 308, Prithvi Plaza, Opp. Ghogha Circle,
 Bhavnagar-364 001,
- (2) Shri P. D. Rachchh, Advocate,
 PR Associates, 901-B,
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Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House,
 Ahmedabad.
2. The Principal Commissioner of Customs, Customs(Prev), Jamnagar
3. The Additional Commissioner of Customs, Customs (Prev), Jamnagar.
4. The Assistant Commissioner, Customs Division, Bhavnagar
5. Guard File.