



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंजिल 4th Floor, हड्डो भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20250871MN000000E4B9

क	फ़ाइल संख्या FILE NO.	S/49-156/CUS/MUN/2024-25
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)	MUN-CUSTM-000-APP-157-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	08.08.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Order-in-Original no. MCH/311/TD/AC/MCD/24-25 dated 30.07.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	08.08.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Maersk Line India Pvt Ltd., PD Plaza, 1st floor, Plot No.3 Sector- 9A, Tagore Road, Gandhidham Gujarat 370201



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 exported
(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 :				
	<table border="0"> <tr> <td style="vertical-align: top;">सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td style="vertical-align: top;">Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td style="vertical-align: top;">दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td style="vertical-align: top;">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 -				
(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 रुपए.				
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;				
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रुपए				
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;				
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रुपए.				
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees				
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड 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.				
	<p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



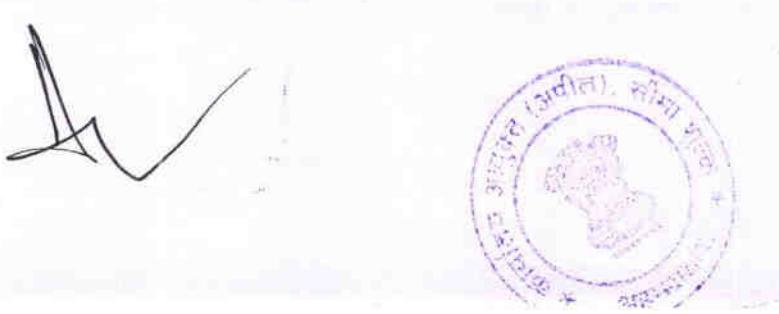
ORDER-IN-APPEAL

Appeal has been filed by M/s. Maersk Line India Pvt Ltd., PD Plaza, 1st floor, Plot No.3 Sector-9A, Tagore Road, Gandhidham Gujarat 370201, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/311/TD/AC/MCD/24-25 dated 30.07.2024 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Customs House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that M/s. Drashti Trading Co, having their registered office at Office No. 106- 107, 1st Floor, Rishabh Arcade, Opp. Ramleela Medan, Plot No. 83, Next to CGST Bhavan, Gandhidham-Kachchh are engaged in the business of Import and Export. They imported 05 containers of TIMBER TEAK WOOD ROUGH SQUARE from ECUADOR vide BL No. 1KT968085 dated 18.01.2024 in 05 containers under Invoice No. 7710391183. Smt. Diksha Dipak Doshi on behalf importer M/s. Drashti Trading Co, has filed a complaint under CPGRAM- registration number CBOEC/E/2024/0001742 dated 12.03.2024 against shipping line M/s. Maersk Line India Pvt. Ltd and requested the Commissioner of Customs, Mundra Customs, to take necessary action against the shipping line M/s. Maersk Line India Pvt. Ltd, who have always raised CFS Nomination Charges Invoice in the Name of "Additional Import Service" i.e. 15,000/- + GST (For One 20 Feet Container) and also forced them to pay the CFS nomination charges.

2.1 Based on the said complaint, the Adjudicating Authority has issued a letter to M/s. Maersk Line India Pvt. Ltd vide F. No. CUS/MCD/MISC/50/2024 dated 13.03.2024 seeking them to reply in this matter within 03 days of receipt of the said letter and subsequently M/s. Maersk Line India Pvt. Ltd vide their letter dated 15.03.2024 has submitted their reply stating that:

- (i) There is no restriction under the Customs Act, Rules, Circulars or Notifications, thereunder, restraining carriers from levying a charge on importers for moving containers to non-empanelled CFS of the carrier.
- (ii) They as a carrier levy this charge because when a container is moved to a non-empanelled CFS, the said container will have to be tracked by



them additionally and separately. It is for this additional tracking which they have to undertake, they levy this charge. Since, they incur additional charges, the charge is levied and thus, it is not unfair or a profitable levy.

- (iii) The Handling of Cargo in Customs Areas Regulations, 2009 (HCCAR) as quoted does not apply to carriers, HCCAR is applicable to CFS/ICD only.
- (iv) The Facility Notice relied upon is not a Rule/Circular/Notification within the meaning of Section 141(2) of the Customs Act. Hence, it cannot be the basis by which the provisions of the Customs Act can be sought to be enforced. The Facility Notice is only a guideline, and it is not a compulsory statutory mandate to be complied with.
- (v) For this purpose, they rely upon Judgment of CESTAT Mumbai in CMA CGM Agencies India Private Limited VS. Commissioner of Nhava Sheva 2014 (309) ELT 504.
- (vi) Hence, activity conducted by them on levying extra charge is no manner illegal or unlawful. Thus, they requested to drop / dismiss the complaint without initiating any action.

2.2 Therefore, a Show Cause Notice has been issued to M/s. Maersk Line India Pvt. Ltd, to show cause and explain to the Assistant Commissioner of Customs(MCD), Mundra, as under:

- (i) Why penalty should not be imposed under Section 117 of the Customs Act, 1962 on failure on part of the above, in violation of Handling of cargo in Customs Areas Regulation, 2009(HCCAR 2009) and Sea Cargo Manifest and Transhipment Regulations, 2018 by way of dis-honouring of public notice issued by the Customs Department.

2.3 Consequently, the Adjudicating Authority passed the following order:

- i. He imposed penalty of Rs. 4,00,000/- (Rupees Four lakhs only) on the



appellant under Section 117 of the Customs Act, 1962.

3. SUBMISSIONS OF THE APPELLANT:

Being aggrieved with the impugned order, the Appellant has filed the present appeal wherein they have submitted grounds which are as under:-

3.1 The appellant has submitted that the Adjudicating Authority has failed to consider that there is no restriction on the Appellant under the Customs Act, Rules, Circulars or Notification thereunder from levying CFS Nomination Charges. The Adjudicating Authority has failed to take into account the expenses that are incurred by the Appellant for keeping track of the containers in a non-empaneled Container Freight Station and has passed the impugned order mechanically without considering the submissions of the Appellant.

3.2 The Adjudicating Authority has failed to appreciate that the consignee was informed in advance with respect to the additional charges that might be imposed in the event of nomination of non-empanelled CFS and only after the same was agreed by the Consignee, the said services were rendered to the Consignee. It is pertinent to state at that relevant point of time, the importer agreed to pay the additional charges without any demur or protest. The Adjudicating Authority has failed to take into account the fact that the CFS nomination charges are the actual expenses that are incurred by the Appellant for keeping track of the containers and the same is not an unfair or a profitable levy for unjustly enriching the Appellant. The Adjudicating Authority has erred in applying the provisions of Handling of Cargo in Customs Area Regulations to the Appellant, since the Regulations applies only to Customs Cargo Service Providers and the Appellant will not fall within the ambit of Customs Cargo Service Provider and are governed only by the SCMTR, 2018.

3.3 The Adjudicating Authority has failed to take note that the Handling of Cargo in Customs Area Regulation, 2009 does not apply to carriers or the agents of the carriers. The provisions of HCCAR, 2009 apply only to the Customs Cargo Service Providers (CCSP). The carriers do not fall within the definition of the Customs Cargo Service Provider and hence no penalty can be imposed on the carriers for an alleged violation of the HCCAR, 2009. The Adjudicating Authority has failed to appreciate that if the containers are taken to a non-empaneled CFS, the Appellant has to track the containers by employing



sufficient manpower. Therefore, the additional charge levied is justified and the same is not in violation of the Customs Act or any Rules or Regulations framed thereunder. The Adjudicating Authority has failed to take into account that no penalty can be imposed for alleged violation of a Public Notice 51/2017. A Public Notice or a Facility Notice is not a Rule or Circular or Notification and is only a guideline issued for the purpose of internal administration. Therefore, imposition of penalty for alleged violation of a Public Notice is beyond the powers conferred under the statute.

3.4 The Impugned Order is bad and erroneous, as it relies upon the Public Notice No. 51/2017-18 dated 23.03.2018 issued by the Commissioner of Customs, Mundra. Whereas a Public Notice/Facility Notice is only for the purpose of internal regularization of the procedures to be adopted and they do not have the force of law and violation (if any) of the same is not subject to any proceedings under the Customs Act. The Adjudicating Authority has failed to appreciate that the Public Notice relied upon is not a Rules/Regulations/Notifications or Orders within the meaning of Section 141(2) of the Customs Act. Hence, it cannot be the basis by which the provisions of the Customs Act can be sought to be enforced.

3.5 The CESTAT Mumbai in CMA CGM Agencies India Private Limited VS. Commissioner of Nhava Sheva 2014 (309) ELT 504 has held that,

"3. The appellant is under obligation and duty bound to return the containers removed from the Port, back to the shipping line within a period of six months. For this purpose, the appellant has also entered a running Bond with the Customs Department to ensure that the containers taken out of the port (inland) are to be exported within a span of six months, failing which customs duty attracts on such imported containers, for which under terms of contract, the appellant become liable. Thus, in order to protect its interest, the appellant charges an amount of Rs. 2,500/- per container to ensure the return, as it has to employ additional resource of manpower to monitor the container which goes other CFS than the regular CFS of Shipping line. Further, in case the container is lost or untraceable subsequently, the appellant is liable for cost of the container other than import duty on the container along with fine and penalty...."



3.6 It is submitted that the same was reiterated by CESTAT Bombay in the case of United Arab Shipping Agency Co.(I) P.LTD. Vs. C.C.(Import), JNCH, Nhava Sheva 2014(310) E.L.T.933 (Tri Bom) and the same is extracted as follows:

Having considered the rival contentions and on perusing of copy of the Facility Notice No. 69/2011, I find that it nowhere refers to the Section 141(2) of the Customs Act. Further, in the facts and circumstances, I find that the show-cause notice is vague, as the gist of allegation and period is not found mentioned. The whole proceedings are vitiated for lack of proper show-cause notice. Thus, I hold that the notice is vague and I set aside the impugned order as well as the Order-in-Original imposing the penalty on the appellant. Thus, the appeal is allowed in favour of the appellant with consequential relief, if any.

3.7 The Adjudicating Authority without considering the judgements mentioned supra, has mechanically held that the said judgements are not applicable to the present case, despite the said judgements are direct authorities dealing with identical question of law and facts. The Impugned Order is erroneous and bad in law, there is no restriction under the Customs Act, Rules, Circulars or Notifications, thereunder, restraining carriers from leaving a charge on importers for moving containers to non-empanelled CFS of the carrier. Hence, no violation as alleged has been committed by the Appellant.

3.8 As per the judgment of the Delhi High Court in GLOBAL IMPEX VS. MANAGER, CELEBI IMPORT SHED 2023 (8) E.L.T. 324 (Del.) it has been held that collecting of penalty based on a Public Notice is without authority of law and the same is ultra vires the powers of a Commissioner under the Customs Act or Act or Rules or Regulations. Therefore, in view of the foregoing, it is submitted that there has been no violation of any of the provisions of the Customs Act and it is prayed that the penal action contemplated under the provisions of the Customs Act is dropped.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 02.07.2025, following the principles of natural justice wherein P Giridharan appeared for the hearing and he re-iterated the submission made at the time of filing the appeal.




DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Assistant Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that the following issues need to be decided:

- (i) Whether Public Notice No. 51/2017-18 dated 23.03.2018 is a legally binding instruction.
- (ii) Whether the Appellant, as a Shipping Line/Carrier, contravened the provisions of the said Public Notice by levying additional charges for movement to un-empaneled CFS.
- (iii) Whether the imposition of penalty under Section 117 of the Customs Act, 1962, is legally sustainable and proportionate for such a contravention.

5.2 Public Notices are issued by Commissioners of Customs under Section 141(2) of the Customs Act, 1962, which empowers them to specify the "manner" in which goods shall be received, stored, delivered, dispatched, or otherwise handled in a Customs area. Such Public Notices, though not "rules" or "regulations" in the strict sense of delegated legislation, are binding administrative instructions for the effective transaction of Customs business within their jurisdiction. They are intended to ensure smooth and transparent Customs procedures. By extension, Public Notices issued by Commissioners within their statutory powers are binding on all stakeholders operating within their jurisdiction.

5.3 The World Customs Organization (WCO) plays a crucial role in developing international standards and recommendations for Customs procedures to facilitate legitimate trade. The World Customs Organization (WCO) Revised Kyoto Convention (RKC), to which India is a signatory, emphasizes key principles such as simplification, harmonization, and transparency of Customs procedures. The RKC emphasizes that all information of general application



concerning Customs law and procedures should be readily available. By issuing a Public Notice that explicitly prohibits certain charges, Customs ensures transparency regarding the costs associated with cargo movement and brings predictability to the trade environment. This prevents hidden or arbitrary fees that can disrupt supply chains and increase the cost of doing business.

5.4 The WCO advocates for simplified Customs procedures. Unregulated additional charges for basic logistical choices (like CFS nomination) introduce complexity and non-uniformity. The Public Notice aims to simplify the cost structure and harmonize practices, ensuring that importers have a clear understanding of permissible charges. The WCO promotes fair and equitable treatment for all traders. Allowing some carriers to levy additional charges for services that should be part of the standard offering or regulated within the Customs ecosystem can lead to discriminatory practices and an uneven playing field. The Public Notice seeks to ensure fairness by preventing carriers from imposing conditions that restrict the importer's choice or add undue financial burden. While not directly related to risk management, ensuring transparent and compliant trade practices, as sought by the Public Notice, indirectly contributes to a more controlled and less vulnerable trade environment, allowing Customs to focus resources on higher-risk areas.

5.5 The objective of Public Notice No. 51/2017-18 is to prevent arbitrary charges and ensure transparent and predictable costs for importers related to CFS nomination. This directly aligns with the WCO's recommendations on trade facilitation, which aim to reduce trade transaction costs and enhance predictability. By regulating the charges for choice of CFS facility, Customs is promoting a fair and transparent environment for trade, which is a core tenet of modern Customs administration. Such measures are crucial for ease of doing business and preventing monopolistic practices. Therefore, Public Notice No. 51/2017-18 is a legally binding administrative instruction issued within the powers of the Commissioner of Customs and is consistent with the principles of trade facilitation advocated by the World Customs Organization.

5.6 The Public Notice explicitly states that "Shipping line/steamer agent should not prescribe/put any extra condition on the importer opting to avail choice of CFS facility..." The Appellant's act of levying "Additional Import Service" charges for moving containers to un-empaneled CFS is a direct contravention of this clear directive. While there may be a contractual agreement between the




carrier and the importer, such private contracts cannot override or circumvent regulatory instructions issued by Customs authorities for the orderly conduct of Customs business. The Public Notice aims to regulate a practice that affects the overall Customs clearance process and the costs borne by importers, thereby falling within the Customs' regulatory ambit.

5.7 The Appellant's argument that HCCAR, 2009, does not apply to carriers is a narrow interpretation. While HCCAR primarily governs "Customs Cargo Service Providers" (Custodians), carriers play a crucial role in the movement and handling of cargo within Customs areas. More importantly, the Public Notice is issued under Section 141(2) of the Customs Act, which applies broadly to "any person" handling goods in a Customs area. The SCMTR, 2018, also places responsibilities on carriers regarding manifest filing and cargo movement. The Public Notice is a specific instruction to Shipping Lines/Steamer Agents, irrespective of whether they are directly covered by all aspects of HCCAR. Their role in the logistics chain makes them subject to such directives aimed at smooth and transparent cargo handling. Therefore, the Appellant's action of levying additional charges for movement to un-empaneled CFS directly contravenes the explicit prohibition contained in Public Notice No. 51/2017-18.

5.8 Section 117 of the Customs Act, 1962, is a residuary penalty provision that applies when any person contravenes any provision of the Act or fails to comply with any provision of the Act (including rules, regulations, notifications, and orders issued thereunder) where no express penalty is otherwise provided. Since Public Notice No. 51/2017-18 is a valid administrative instruction issued under the Customs Act, its contravention falls squarely within the ambit of Section 117 of the Customs Act, 1962. The Appellant's argument that a Public Notice cannot be the basis for a penalty is incorrect. Any failure to comply with a binding instruction issued under the Act can attract Section 117 of the Customs Act, 1962.

5.9 The Appellant has referred to various judicial pronouncements viz. CMA CGM Agencies India Private Limited VS. Commissioner of Nhava Sheva [2014 (309) ELT 504 (Tri. Bom.)] and United Arab Shipping Agency Co.(I) P.LTD. Vs. C.C.(Import), JNCH, Nhava Sheva [2014(310) E.L.T.933(Tri. Bom.)]: These cases dealt with specific issues of carrier obligations regarding container return and were not primarily about the general enforceability of Public Notices regarding charges. They are distinguishable as they do not directly address the



power of Customs to regulate charges for trade facilitation through Public Notices. The present case is about a direct violation of a specific instruction aimed at preventing unfair trade practices.

5.10 Global Impex VS. Manager, CELEBI IMPORT SHED [2023 (8) E.L.T. 524 (Del.)]: This case held that collecting penalty based on a Public Notice is without authority of law. This judgment needs to be considered in its specific context. If a Public Notice attempts to create a new offence or impose a new levy beyond the scope of the Act, then it may be ultra vires. However, if the Public Notice is merely regulating a procedure or ensuring transparency in existing commercial practices to facilitate Customs business, then its contravention can be penalized under the residuary Section 117 of the Customs Act, 1962. In the present case, the Public Notice seeks to regulate the manner of charging for CFS nomination, which falls within the Customs' mandate to facilitate trade and ensure fair practices. The penalty is for non-compliance with a valid administrative instruction, not for an offense created solely by the Public Notice.

5.11 The penalty imposed is ₹4,00,000/-, which is the maximum prescribed under Section 117 of the Customs Act, 1962. Given the Appellant's position as a major international carrier, their widespread practice of levying such charges, and the impact of such practices on trade facilitation and the cost of imports, the quantum of penalty is justified. The intent of the Public Notice was to ensure transparency and prevent arbitrary charges, and the Appellant's continued practice despite the Public Notice demonstrates a disregard for regulatory instructions. Therefore, the imposition of penalty under Section 117 of the Customs Act, 1962, is legally sustainable and proportionate.

6. In view of the detailed discussions and findings above, this appellate authority concludes that the appeal filed by M/s. Maersk Line India Pvt Ltd is not sustainable on merits. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- (i) The imposition of penalty of ₹4,00,000/- on M/s. Maersk Line India Pvt Ltd under Section 117 of the Customs Act, 1962, as confirmed by the impugned order, is hereby upheld.



7. The appeal filed by M/s. Maersk Line India Pvt Ltd is hereby rejected .

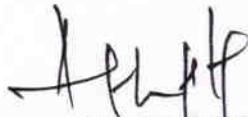
संवादप्रति/ATTTESTED
Rehman
अधिकारी/SUPRINTENDENT
सीमा शुल्क (आपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

F. No. S/49-156/CUS/MUN/2024-25

2844

By Registered post A.D/E-Mail




(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

Date: 08.08.2025

To,
M/s. Maersk Line India Pvt Ltd,
Office No. 2, 1st Floor, P.D. Plaza,
Plot No. 03, Sector 9A, Tagore Road,
Gandhidham, Kutch, Gujarat-370201.

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House ,Mundra.
3. The Asstt Commissioner of Customs, Custom House, Mundra.
4. Guard File.