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

DIN - 20260671MN00002202B0

क	फ़ाइलसंख्या FILE NO.	S/49-183/CUS/JMN/JULY/2025-26
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	JMN-CUSTM-000-APP-19-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.06.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	1119/SBY/2024-25 dated 29.09.2024
च	अपीलआदेशजारीकरनेकीदिनांकORDER- IN-APPEAL ISSUED ON:	30.06.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	1. M/s RK Industries (Unit-II) LLP Plot No. V-7, Sosiya Ship Recycling Yard, ALANG-364081

1	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.
	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,नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहै .
	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(	बैगेज़केरूपमेंआयातितकोईमाल .
(a)	any goods imported
(ख(	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपर उतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो .
(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	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगीऔरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	सम्बद्धदस्तावेज़ोंकेअलावासाथमूलआदेशकी 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)यारु.1000/-(रूपएएकहज़ारमात्र),जैसाभीमामलाहो,सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क,मांगागयाब्याज,लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफी

<table>
<tr><td></td><td colspan="2">सकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.1000/-</td></tr>
<tr><td>(d)</td><td colspan="2">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/-.</td></tr>
<tr><td>4.</td><td colspan="2">मदसं. 2
केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बंन्धमेंयदिकोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क,केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं</td></tr>
<tr><td></td><td colspan="2">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 :</td></tr>
<tr><td></td><td>सीमाशुल्क, केंद्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण,पश्चिमीक्षेत्रीयपीठ</td><td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td></tr>
<tr><td></td><td>दूसरीमंज़िल,बहुमालीभवन,निकटगिरधरनगरपुल,असारवा,अहमदाबाद-380016</td><td>2nd Floor, Bahumali Bhavan,
Nr.Girdhar Nagar Bridge, Asarwa,
Ahmedabad-380 016</td></tr>
<tr><td>5.</td><td colspan="2">सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन,सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-</td></tr>
<tr><td></td><td colspan="2">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 -</td></tr>
<tr><td>(क)</td><td colspan="2">अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररुपए.</td></tr>
<tr><td>(a)</td><td colspan="2">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;</td></tr>
<tr><td>(ख)</td><td colspan="2">अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पांचहज़ाररुपए</td></tr>
<tr><td>(b)</td><td colspan="2">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 ;</td></tr>
<tr><td>(ग)</td><td colspan="2">अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहज़ाररुपए.</td></tr>
<tr><td>(c)</td><td colspan="2">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</td></tr>
<tr><td>(घ)</td><td colspan="2">इसआदेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके %10
अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके %10</td></tr>
</table>

	अदाकरनेपर,जहांकेवलदंडविवादमेंहै,अपीलरखाजाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	**उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोने 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. Brief facts of the case

1.1 M/s RK Industries (Unit-II) LLP Plot No. V-7, Sosiya Ship Recycling Yard, ALANG-364081. Shree Ram House, Khergada Street, Khargate, Bhavnagar, Dist: Bhavnagar, Gujarat (herein after referred to as the Appellant for the sake of brevity) has filed the present appeal challenging the Final Assessment Order No. 1119/SBY/2024-25 dated 29.09.2024 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Customs Division, Bhavnagar (hereinafter referred to as 'adjudicating authority').

1.2. The vessel 'M.V. Gerimal/ Gerima' was earlier imported by M/s. Halani International Ltd. under the Bill of Entry No. 3592929 dated 12/10/2017. The said vessel was converted from foreign run to coastal run. The original importer i.e. HIL committed a default in payment of certain port dues so the aforesaid Vessel was arrested for non-payment of port dues by the Hon'ble Bombay High Court. The vessel was auctioned by the Hon'ble Bombay High Court, by virtue of its Order dated 06/04/2023 to the predecessors-in-title (viz N.K.D Maritime Ltd) of the Appellant. An Instrument of Sale dated 26/04/2023 was issued by the Admiralty Registrar, High Court of Judicature of Bombay in respect of the impugned vessel in favour of the predecessor-in-title of the Appellant which categorically recorded that the aforesaid sale was free from all encumbrances for breaking purpose for which it was handed over to the Appellant. The impugned vessel was handed over to the Appellant/ predecessor-in-title for breaking purpose. The Appellant/ predecessor-in-title applied to the customs authorities at Mumbai Port for allowing transit of vessel to Alang (Bhavnagar), which was denied on account of non-payment of customs dues (IGST) by HIL. The Hon'ble Bombay High Court passed an Order allowing transit of impugned vessel from Mumbai Port to Bhavnagar Port pursuant to an application moved by the predecessor-in-title against aforesaid refusal by the customs authorities at Mumbai Port. The Hon'ble Bombay High Court has categorically observed that the customs authorities can recover their claim from HIL or sale/ auction proceeds deposited in the court by the auction purchaser. The customs authorities at Mumbai Port granted clearance to the impugned vessel for towing to Alang Port. The impugned vessel was towed to Bhavnagar Port from Mumbai Port for breaking purpose. The Appellant urgently required the impugned vessel for breaking purpose at Alang Shipyard Bhavnagar which could be towed into the yard only during a high tide. As such, Appellant was left with no option but to file a Bill of Entry No. 5788955 which was kept provisional in view of the dispute raised by the Appellant regarding applicability

Vishwajeet Singh

of customs duty (IGST) by the Appellant on impugned vessel which was coastal goods and not liable to customs duty.

1.3.The appellant had purchased the vessel "MV/DV GERIMA/GERIMAL" (IMO N. 7932240), anchored at Mumbai Port, from M/s. NKD Maritime Limited. United Kingdom for USD 10,11,000/- as per Memorandum of Agreement (MoA) dated 27.04.2023. Since the vessel could not sail on its own power, it was towed by Tug 'VAHBIZ' from Mumbai to Alang. The vessel arrived at Alang on 3.5.2023 and the Bill of Entry No. 5788955 dated 3.5.2023 was filed by them for customs clearance of the vessel.

1.4. The appellant filed bill of entry no. 5788955 dated 3.5.2023 for customs clearance of the vessel. The bill of entry no. 5788955 dated 03.05.2023 was assessed by the Assistant Commissioner, vide Final Assessment Order No. 1119/SBY/2024-25 dated 29.09.2024 wherein the customs duty of Rs. 1,64,18,238/- was confirmed along with interest of Rs. 8,101/-. The appellant paid the customs duty under protest and the protest was also vacated vide the above mentioned FAO dated 29.09.2024.

1.5. Being aggrieved by the assessment the appellant preferred appeal before Commissioner(Appeals), Ahmedabad.

2. SUBMISSIONS OF THE APPELLANT:

2.1 The appellant challengedFinal Assessment Order No. 1119/SBY/2024-25 dated 29.09.2024 wherein the customs duty of Rs. 1,64,18,238/- was confirmed along with interest of Rs. 8,101/- in respect of bill of entry No. 5788955 dated 29.09.2023 filed by the appellant.

2.2 The appellant submitted that the impugned vessel was bought pursuant to a court-monitored auction conducted by virtue of an Order of Hon'ble Bombay High Court and was subsequently sold by an Instrument of Sale dated 26/04/2023 expressly recording that the sale was free from all liens, claims and encumbrances. Further, Section 8 of the Admiralty (Jurisdiction & Settlement of Maritime Claims) Act, 2017 specifically provides that on sale of vessel by a High Court, the vessel shall vest in purchaser free of all encumbrances, liens, attachments, registered mortgages and charges of the same nature on the vessel. It is further submitted that the Hon'ble Bombay High Court in the paragraph 6 of its order dated 26/04/2023 has specifically observed that the claim of the customs authority if any would be for customs duty at the time of import etc of the said vessel and this claim is secured by the sale proceeds of the said vessel, which have been duly deposited in the court as confirmed by Dy. Sheriff. As such, any customs duty liability could only have

Vishwajeet Singh

been recovered from the original importer (i.e. Halani International Ltd/ HIL) or from the sale/ auction proceeds deposited in the Hon'ble Bombay High Court and not from the Appellant as a subsequent transferee.

2.3. The appellant further submitted that if there is a violation of condition no.48 of the Sl. No.404 of the Notification No.50/2017-Cus dated 30/06/2017 (Sl. No.5 of the Compilation) which was claimed at the time of original import of the impugned vessel, the customs duty ought to be recovered from Halani International Ltd in or the auction/sale proceeds deposited in the Hon'ble Bombay High Court as held in its order dated 29/04/2023 and also for a reason that it is an admitted fact that the Appellant has not executed any bond undertaking the liability of Halani International Ltd. in terms of the aforesaid Notification No.50/2017-Cus, since the sale of vessel was through a court monitored auction.

2.4 The appellant further submitted that the impugned order has erred in concluding that it is mandatory for any vessel whether foreign run or Indian flag coming to Alang ship breaking yard to file a Bill of Entry under Section 46 of the Customs Act and pay customs duty, since the same is declared as a landing station under Section 8 ibid. Further, submitted that the aforesaid finding of the impugned order has no statutory force and is quite contrary to the fundamental principles of Customs Act 1962 which imposes a levy of customs duty on taxable event of 'import' as contained in Section 2(33) ibid to mean bringing goods into India from a place outside India. Further, submitted that Section 12 of the Customs Act which is a charging section of that law, levies customs duty on such import and does not contemplate levy of customs duty on coastal movement of goods from Mumbai to Bhavnagar merely for a reason that the vessel is meant for demolition.

2.5 The appellant further submitted that it is not in dispute that the earlier owner i.e. Halani International Ltd. (HIL) had filed a Bill of Entry for Home Consumption at the time of import of the impugned vessel into India on 12/10/2017 and the same was then already cleared for home consumption. As such, the subsequent transit of the same from Mumbai Port to Bhavnagar Port for breaking up pursuant to a court monitored auction cannot tantamount to an 'import' as envisaged in Section 2(23) of the Customs Act 1962 nor the impugned vessel could have been treated as an 'imported goods' in terms of Section 2(25) ibid.

2.6 The appellant further submitted that the provisions contained in Section 8 of the Customs Act 1963 are in nature of enabling provisions empowering a competent authority to declare customs landing station and Section 46 thereof

Vishwajeet Singh

are procedural provisions relating to filing of Bill of Entry and the aforesaid provisions cannot override the fundamental charging provisions which impose customs duty on a transaction which qualifies as an import in terms of Section 2(23) of the Customs Act. The reason for filing of Bill of Entry in respect of vessel taken for demolition is to ensure recovery of customs duty which may have been exempted at the time of original import as provided in the paragraph 3.5 of the CBEC Circular No.16/2012-Cus dated 13/06/2012 from the original importer and which in present case, ought to be recovered from Halani International Ltd. or auction proceeds deposited in the Hon'ble Bombay High Court for the reasons set out above. It is further submitted that the Protest Letter dated 03/05/2023 itself records that the Appellant was in urgent need of beaching the vessel in high tide for breaking purpose and as such, Appellant was left with no option but to file the provisional Bill of Entry and pay duty under protest while reserving its right to claim refund.

3. PERSONAL HEARING:

A personal hearing was granted to the Appellants on 11.06.2026following the principles of natural justice wherein the authorizedrepresentative of the Appellant, Shri V M Chavda, advocateappeared and reiterated the submissions so made in the appeal.

4. DISCUSSION AND FINDINGS:

4.1 I find that the appeal was filed by the appellant on 31.07.2025 and the same is within the time period as per the order dated 03.07.2025 passed by the Hon'ble Gujarat High Court which had directed the appellant to file the appeal within four weeks of the date of order.

4.2 I have carefully gone through the case records, show cause notice and corresponding order passed by the adjudicating authority and the defense put forth by the Appellants in their appeal. The following issues arise for determination:

(i) Whether IGST is applicable to the purchase of vessel "MV/DV GERIMA/GERIMAL (IMO No. 7932240) and subsequent filing of Bill of Entry for breaking purpose.

(ii) Whether custom duty to the tune 1,64,18,238/- along with interest of Rs. 8,101/- assessed vide Final Assessment Order No. 1119/SBY/2024-25 dated 29.09.2025 is legally correct or otherwise.

(iii) Whether the impugned order deserves to be set aside.

Vishwajeet Singh

4.3 The appellant has contended that the purchase of vessel is free from all liens, claims and encumbrances. In the present case there is no denying the fact that vessel was bought pursuant to a court-monitored auction conducted by virtue of an Order of Hon'ble Bombay High Court and was subsequently sold by an Instrument of Sale dated 26/04/2023 expressly recording the issue of liens, claims and encumbrances. Ongoing through, the instrument of sale dated 26.04.2023, I find that it w.r,t. liens, claims and encumbrances its says as under:-

"I transfer all right, title and ownership in the aforesaid vessel GERIMAL(IMO No. 7932240) on " as where is, what is there basis free from all maritime liens, claims, encumbrances, particularly describe above, together with her hull gear, tackle, engines machinery, bunkers, apparel, furniture, fixtures and all the other appurtenances and paraphernalia thereto (without equipment on board as mentioned at para 13 of the order dated 6th April passed by the Hon'ble Court) to the said M/s NKD Maritime Ltd. for "SCRAPPING ONLY" and NOT FOR TRADING.

4.4 I have carefully considered the appellant's reliance on Section 8 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 and the recitals contained in the Instrument of Sale dated 26.04.2023. However, I find that the reliance placed thereon is misplaced. The issue involved in the present proceedings is not the enforcement of any pre-existing maritime lien, mortgage, charge, encumbrance or claim against the vessel. The issue for determination is whether customs duty and IGST became leviable under the Customs Act, 1962 and the Customs Tariff Act, 1975 when the vessel was presented before Customs authorities for clearance for breaking and demolition. Such statutory liability arises independently under customs law and cannot be equated with a maritime lien, mortgage, charge or encumbrance attached to the vessel. Therefore, the protection available under Section 8 of the Admiralty Act, which operates in the context of transfer of title free from encumbrances through judicial sale, cannot be interpreted as extinguishing or overriding liabilities arising under the Customs Act.

4.5 The judicial sale conducted under the orders of the Hon'ble Bombay High Court undoubtedly transferred title in the vessel free from the encumbrances contemplated under the Admiralty Act. However, the acquisition of title through a court-monitored auction does not by itself confer immunity from compliance with statutory requirements under the Customs Act, 1962. Consequently, the appellant cannot derive any exemption from customs

Vishwajeet Singh

assessment merely on the basis of the Instrument of Sale or the provisions of Section 8 of the Admiralty Act.

4.6 The appellant has also contended that Hon'ble High Court of Bombay High Court vide order dated 29.04.2023 has allowed transit of vessel form Mumbai port to Bhavnagar port pursuant to an application moved by the predecessor-in-title against aforesaid refusal by the Customs authorities at Mumbai port. The appellant further submitted that the Hon'ble High Court has categorically observed that the customs authorities can recover their claim from HIL or sale/auction proceeds deposited in the court by the auction purchaser. The High Court in its order has mentioned as under

"The claim of the Customs Authority if any would be for Customs duty at the time of import etc. of the said Vessel. The claim is secured by the sale proceeds of the said Vessel, which have been duly deposited in the Court as confirmed by the Deputy Sheriff."

The aforesaid observations cannot be construed as an adjudication of customs liability under the Customs Act, 1962 nor as a declaration that customs authorities are precluded from undertaking assessment in accordance with law. The issue before the Hon'ble High Court was limited to transit and sale of the vessel and not determination of customs duty liability.

4.7 In this regard, I find that the original bill of entry filed was filed and it was bearing no. 3592929 dated 17.10.2017 calming exemption in terms of Sl.No. 404 of the Notification No. 50/2017Cus dated 30.06.2017. I find that the present issue is regarding the liability of IGST on the Bill of Entry filed by the appellant for breaking of the vessel.

4.8 I find that it is an admitted position that the vessel was originally imported by M/s Halani International Ltd. under Bill of Entry No.3592929 dated 12.10.2017 by availing the benefit of Sl. No.404 of Notification No.50/2017-Cus dated 30.06.2017. The said exemption was not unconditional but was subject to fulfilment of the conditions prescribed therein, including Condition No.48. Therefore, the clearance of the vessel at the time of original import cannot be equated with unrestricted home consumption free from all future obligations. The import was governed by the conditions attached to the exemption notification and the continuance of the exemption remained subject to compliance with such conditions. Consequently, while examining the present dispute, it becomes necessary to examine the scope and effect of the exemption availed at the time of original import and the consequences flowing

Vishwajeet Singh

from subsequent use of the vessel for a purpose different from that contemplated under the exemption notification.

4.9 In view of the above, it becomes necessary to examine the exemption claimed at the time of original import. Sl. No.404 of Notification No.50/2017-Cus dated 30.06.2017 and the conditions attached thereto are therefore relevant for determining whether the vessel continued to satisfy the requirements of the exemption at the time it was acquired and presented for clearance for breaking purpose.

404.	84 or any other Chapter	Goods specified in List 33 required in connection with: (a) petroleum operations undertaken under petroleum exploration licenses or mining leases, granted by the Government of India or any State Government to the Oil and Natural Gas Corporation or Oil India Limited on nomination basis, (b) petroleum operations undertaken under specified contracts (c) petroleum operations undertaken under specified contracts under the New Exploration Licensing Policy (d) petroleum operations undertaken under specified contracts under the Marginal Field Policy (MFP) (e) coal bed methane operations undertaken under specified contracts under the Coal Bed Methane Policy	Nil	5%	48

From the above, it can be deduced that the original bill of entry was not for import for breaking purpose but for the use of vessel for costal run and its use as machinery falling under chapter 84 of the Customs Tariff Act. Thus, from the above, it can be seen that the Bill of entry was filed for import of goods under chapter 84 and not under CTH 89080000 of the Customs Tariff Act which exclusively deals with theVessels and other floating structures for breaking purpose.

4.10 A plain reading of the above condition shows that the exemption was linked to the specified purpose for which the vessel was imported and operated. The exemption was not intended to grant an unconditional and perpetual waiver of duty irrespective of subsequent use or disposal of the vessel. Therefore, when the vessel ceased to be used for the purpose for which the exemption had been granted and came to be acquired specifically for demolition and scrapping, the customs authorities were required to examine the customs consequences flowing from such change in use in accordance with

Vishwajeet Singh

the Customs Act, the Customs Tariff Act and the applicable exemption notification.

4.11 At this stage, it is useful to refer to CBEC Circular No.16/2012-Cus dated 13.06.2012 dealing with assessment of vessels and floating structures brought for breaking. The Circular, inter alia, provides that where a vessel imported earlier under an exemption notification is subsequently brought for breaking, the duty foregone at the time of original import becomes recoverable in accordance with the applicable notification and the vessel is required to be assessed appropriately at the time it is presented for breaking.

4.12 The above Circular clarifies the departmental understanding of the legal position and directly addresses the situation arising in the present case. The Circular proceeds on the basis that a vessel originally imported for operational use and subsequently brought for demolition constitutes a distinct customs event requiring assessment in accordance with the Customs Act, the Customs Tariff Act and the applicable exemption notification. The Circular therefore lends support to the view that the customs authorities were justified in examining the consequences of the vessel being diverted from its originally exempted use and being presented before Customs for breaking and recycling.

4.13 The Circular specifically recognizes that where vessels imported earlier under exemption or concessional assessment are subsequently brought for breaking, the customs authorities are required to examine the customs consequences arising from such change in use and recover the duty becoming payable in accordance with law. Thus, the departmental instructions themselves contemplate that a vessel originally imported for operational use may subsequently become liable to customs assessment when presented for demolition and recycling. Therefore, the appellant's contention that no customs consequences can arise once a vessel has been initially cleared for home consumption cannot be accepted.

4.14 It is pertinent to mention that Hon'ble Mumbai High Court issued for their respondents to comply and apparently complied with. Subsequently, the vessel was towed to Alang port and Bill of Entry No. 5788955 dated 03.05.2023 was filed by the appellant for customs clearance of vessel for breaking purpose.

4.15 I find from the records that the vessel was originally imported by M/s Halani International Ltd. under Bill of Entry No.3592929 dated 12.10.2017 by availing the benefit of Sl. No.404 of Notification No.50/2017-Cus dated 30.06.2017 and was thereafter used as a vessel in coastal operations. It is also not in dispute that the vessel subsequently came to be arrested by the Hon'ble

Vishwajeet Singh

Bombay High Court and was sold through a court-monitored auction. The Instrument of Sale dated 26.04.2023 specifically records that the vessel was transferred to the auction purchaser "for scrapping only" and "not for trading". Thus, at the time the appellant acquired the vessel, it was no longer intended to be operated as a vessel but was specifically acquired for demolition and recycling. Consequently, the nature and purpose for which the vessel was presented before Customs at Alang was materially different from the purpose for which it had originally been imported and cleared in 2017. In these circumstances, the vessel was correctly presented for clearance as a vessel intended for breaking and the customs authorities were required to assess the same in accordance with the provisions applicable to vessels brought for demolition.

4.16 The appellant's argument proceeds on the assumption that because the vessel had once been imported into India and assessed for home consumption in the year 2017, no further customs consequences could arise thereafter. I am unable to agree with this contention. The original import was not under an unconditional assessment but was governed by the benefit claimed under Sl. No.404 of Notification No.50/2017-Cus dated 30.06.2017, which was subject to fulfilment of the prescribed conditions. It is a settled principle that where an exemption is granted subject to specified conditions, the benefit remains available only so long as such conditions continue to be fulfilled. Consequently, where the conditions attached to an exemption are violated, cease to be fulfilled, or the goods are diverted to a use inconsistent with the purpose for which the exemption was granted, the customs authorities are empowered to recover the duty foregone in accordance with law. Therefore, the mere fact that the vessel had earlier been cleared for home consumption does not, by itself, extinguish the customs consequences arising from its subsequent acquisition and presentation for breaking purpose.

4.17 The above position is also consistent with CBEC Circular No.16/2012-Cus dated 13.06.2012, which specifically provides the framework for assessment of vessels brought to ship breaking yards and recognizes that customs duty implications may arise at the stage when a vessel is presented for breaking. The Circular therefore supports the view that the customs assessment undertaken in respect of the impugned vessel cannot be treated as impermissible merely because the vessel had earlier entered India for a different purpose.

4.18. The appellant has contended impugned order has erred in concluding that it is mandatory for any vessel whether foreign run or India flag coming to

Vishwajeet Singh

Alang Ship Breaking Yard to file a Bill of Entry under Section 46 of the Customs Act, and pay Customs duty, since the same is declared as a landing station under Section 8 ibid. In this regardI find that when the vessel was presented before Customs authorities at Alang for clearance as a vessel intended for demolition and a Bill of Entry was filed under Section 46 of the Customs Act, the vessel became liable to assessment in accordance with the Customs Act, Customs Tariff Act and applicable notifications. I also find that the Adjudicating Authority has correctly held that for vessels coming to Ship Breaking Yard Aland/Sosiya, the ship recyclers have to mandatorily file Bill of Entry under Section 46 of the Customs Act and pay the appropriate Customs duty before clearance of the vessel to start the work of demolition as the ship has been bought for breaking purpose.

4.19 An import of a vessel for operational use and import of a vessel for breaking are two distinct commercial events recognized under the Customs Tariff. A vessel imported for use as a vessel is classifiable differently from a vessel imported for demolition under CTH 8908. In the present case the vessel was acquired through judicial sale specifically for scrapping and not for navigation or commercial operation. The Instrument of Sale itself records that the sale was for scrapping only and not for trading. Consequently, the filing of Bill of Entry under CTH 89080000 was legally proper.

4.20 The appellant seeks to draw a distinction between the original importer and the auction purchaser. However, the liability under customs law is attached to the goods and their clearance under the Customs Act. Once the appellant voluntarily filed Bill of Entry No.5788955 dated 03.05.2023 seeking clearance of the vessel for breaking and obtained the consequential benefit of clearance, the assessment of such Bill of Entry had to be undertaken in accordance with the Customs Act, the Customs Tariff Act and the applicable exemption notifications. The source through which title was acquired, including acquisition through judicial sale, does not by itself confer immunity from statutory customs assessment.

4.21. Now, it is important to refer to the payment of Integrated Goods and Services Tax (IGST) on imported goods, which is declared and paid via a Bill of Entry, is primarily governed by the Customs Tariff Act, 1975, read alongside the IGST Act, 2017.

4.22. I find that Section 3(7) of the Customs Tariff Act, 1975 is the direct provision under which IGST is calculated and levied on imported goods. The said provisions mandates that any goods imported into India shall be liable to an integrated tax at a rate not exceeding 40%. This rate is equal to the IGST

Vishwajeetsinh

rate applicable to a similar article when supplied domestically within India. It also specifies that the IGST is calculated on the aggregate of the assessable value of the imported goods plus the Basic Customs Duty (BCD) and any other applicable customs surcharges (like the Social Welfare Surcharge).

4.23 Further, proviso to Section 5(1) of the IGST Act, 2017 acts as the bridge that empowers the Customs authorities to collect the GST on imports. While Section 5(1) is the general charging section for IGST on all inter-state supplies, its proviso explicitly states that the integrated tax on goods imported into India shall be levied and collected in accordance with Section 3 of the Customs Tariff Act, 1975. It specifies that this tax is to be collected at the point when customs duties are levied, which is at the time of filing the Bill of Entry for home consumption under Section 12 of the Customs Act, 1962.

4.24. I also find that Section 7(2) of the IGST Act, 2017 defines the nature of the transaction to justify why IGST (and not CGST/SGST) is applied to imports. It legally deems the supply of goods imported into the territory of India, until they cross the customs frontiers of India, to be a supply of goods in the course of inter-state trade or commerce. Because it is deemed an inter-state supply, it naturally attracts IGST.

4.25 Thus, when a bill of entry is filed by any importer for home consumption, the Customs Tariff Act [Section 3(7)] is the active mechanism calculating the IGST amount. The relevant issue in the present proceedings is not whether duty had been discharged at the time of original import in 2017, but whether the vessel, when subsequently acquired and presented for demolition under the applicable tariff heading and exemption framework, attracted customs duty and IGST in accordance with law i.e. Customs duty along with applicable IGST is required to be paid at the time of importing vessel under CTH 89 for breaking purpose at Alang / Sosiya Ship Breaking Yard.

4.26 Accordingly, I hold that the present dispute cannot be decided merely on the basis that the vessel had physically entered India in the year 2017. The determinative factors are that the original import was governed by a conditional exemption, the vessel subsequently ceased to be used for the exempted purpose, the judicial sale itself restricted the vessel to scrapping, and the vessel was thereafter presented before Customs specifically for demolition. In such circumstances, assessment undertaken by the adjudicating authority is consistent with the Customs Act, the Customs Tariff Act, Notification No.50/2017-Cus and the Board Circular governing vessels brought for breaking.

Vishwajeet Singh

4.27. Therefore, in the present case, I find that the Bill of entry has been correctly assessed by the Adjudicating Authority vide Final Assessment Order No. 1119/SBY/2024-25 dated 29.09.2024 classifying the goods under CTH 89080000 and thus making it liable for Customs duty and IGST as made applicable under law.

5. Accordingly, in light of the above discussions, the impugned order no. 1119/SBY/2024-25 dated 29.09.2024 of the adjudicating authority is upheld and the appeal filed by the appellant is disallowed.

सत्यापित/ATTESTED

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

Vishwajeet Sinh
30.06.2026.

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-183/CUS/JMN/JULY/2025-26

Date: 30.06.2026

By Registered post A.D

To,

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)
2. M/s RK Industries (Unit-II) LLP Plot No. V-7, Sosiya Ship Recycling Yard, ALANG-364 081. Shree Ram House, Khergada Street, Khargate, Bhavnagar, Dist: Bhavnagar, Gujarat.
3. The Deputy/Assistant Commissioner of Customs (Review), Commissioner of Customs, Customs(Prev), Jamnagar.
4. Guard File.