



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

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

चौथी मंजिल 4th Floor, हड्कोभवन HUDCO Bhavan, ईश्वर भुवन रोड IshwarBhuvan Road,

नवरंगपुरा Navrangpura, AHMEDABAD Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN - 20250771MN0000555F11

क	फाइलसंख्या FILE NO.	S/49-11/CUS/KDL/24-25
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	KDL-CUS-000-APP-014-2025-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	04.07.2025
ड	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	FAO BOE 01/23-24 dated 18.03.2024 assessed by The Assistant Commissioner of Customs, Customs House Bhuj.
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	04.07.2025
छ	अपीलकर्ताकानामवपता NAME ADDRESS OF THE APPELLANT:	M/s Act Inraport Limited, Plot No. 391 & 392, Sector 1/A Near Mamlatdar Office Gandhidham, Kutch Gujarat- 370201.

1.	पहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै। This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन),वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.

	निम्नलिखित सम्बन्धित आदेश/Order relating to :	
(क)	बैगेज के रूपमें आया तितकोई माल.	
(a)	any goods imported on baggage.	
(ख)	भारतमें आया तकरने हेतु किसी वाहनमें लादागया लेकिन भारतमें उनके गत व्यवस्थान पर उतारे नगए माल या उस गत व्यवस्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कम 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)	सीमा शुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बना एगएन्यमों 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.	मुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उसके 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 मदसं. 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 हो ना 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)	मुनरीक्षण के लिए आवेदन की 4 प्रतियां	
(c)	4 copies of the Application for Revision.	
(घ)	मुनरीक्षण आवेदन दायर करने के लिए सीमा शुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस सजो अन्यरसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- रूपए दो सौ मात्र) या रु. 1,000/- रूपए एक हजार मात्र, जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलानटी आर. 6 की दो प्रतियां। पदिशुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एकलाख या उससे कम महोत्तो ऐसे फीस के रूपमें रु. 200/- और यदि एकलाख से अधिक होतो फीस के रूपमें रु. 1,000/-	
(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.	<p>मदसं. 2</p> <p>के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि दिकोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमा शुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमा शुल्क, केंद्रीय उत्पाद शुल्क और सेवाकर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं।</p>	
	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 :	
	<p>सीमा शुल्क, केंद्रीय उत्पाद शुल्क व सेवाकर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ</p> <p>दूसरी मंजिल, बहुमाली भवन, निकट गिरधर नगर पुल, असारा, अहमदाबाद-380016</p>	<p>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</p> <p>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</p>



5.	<p>सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन,सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-</p> <p>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 -</p> <p>(क) अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकम पाँचलाखरूपएयाउससेकमहोतोएकहजाररुपए.</p> <p>(ख) 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;</p> <p>(ख) अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकम पाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पाँचहजाररुपए</p> <p>(ब) 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 ;</p> <p>(ग) अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकम पचासलाखरूपएसेअधिकहोतो;दसहजाररुपए.</p> <p>(द) 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</p> <p>(घ) इसआदेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके 10% अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेहै,यादंडके 10%अदाकरनेपर,जहांकेवलदंडविवादमेहै,अपीलरखाजाएगा।</p> <p>(द) 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.</p> <p>उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) राज्यआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.</p> <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>
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ORDER-IN-APPEAL

M/s Act Inraport Limited, Plot No. 391 & 392, Sector 1/A Near Mamlatdar Office Gandhidham, Kutch Gujarat- 370201 (hereinafter referred to as "the appellant") has filed an appeal in terms of Section 128 of the Customs Act, 1962 against finally assessed Bill of Entry No. 01/23-24 dated 18.03.2024 (hereinafter referred to as "the impugned BOE") assessed by the Assistant Commissioner, Customs Division, Bhuj (hereinafter referred to as "the assessing authority").

2. Briefly stated, facts of the case, from the appeal memorandum, are that the appellant is engaged in the Shipping Business who chartered the vessel "MV APJ KAIS" which arrived at Sanghi/Jakhau Port on 18.03.2024 and converted from foreign run vessel to coastal run vessel on 18.03.2024 for carriage of coastal cargo to Dahej Port. M/s Port and Sea Expert Shipping Pvt. Ltd, filed the impugned BOE on behalf of appellant for the bunkers intended to be used during coastal run. The said Bill of Entry was assessed provisionally under Section 18 of the Customs Act, 1962 and the appellant had deposited Rs.5,17,404/- vide TR-6 Challan No. 22/23-24, dated 22.03.2024 on approximate quantity of bunkers and other consumable products likely to be consumed during coastal run in terms of instruction issued by the Board vide Circular No. 58/1997- Cus, dated 06.11.1997. The vessel was reverted from "coastal run" to "foreign run" at Dahej Port on 29.03.2024. The assessing authority, at the time of provisional assessment, assessed the Bill of Entry based on IOCL prices for bunker valuation. The Appellant, however, paid the assessed duty under protest and simultaneously submitted a detailed representation enclosing contemporaneous import prices derived from NIDB data, requesting that such prices be adopted in accordance with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Thereafter, the impugned BOE was finally assessed, the total duty leviable worked-out to Rs.6,38,113.62/-, and after adjusting the provisional duty paid amount of Rs.5,17,404/-, the differential duty payable (short paid duty) was Rs.1,20,709.62/-.

3. Being aggrieved with the impugned order the appellant has filed the present appeal and mainly contended that:

- The final assessment was made without considering representations dated 22.03.2024 and 18.04.2024 and without issuing a speaking order, violating Section 14 of the Customs Act, 1962 and Regulation 6(3) of Finalization of Provisional Assessment Regulations, 2018.
- No opportunity for hearing was granted before finalizing the assessment.
- The valuation of bunker was done by wrongly adopting IOCL domestic prices, which are not reflective of international or import transaction




values. IOCL prices are inclusive of inland charges and profits and pertain to indigenously produced goods, which cannot form the basis for valuation of imported goods under Rule 9(2) of the Customs Valuation Rules, 2007.

- The appellant had duly submitted contemporaneous import prices supported by NIDB data, as required under Rules 4 to 9 of the Customs Valuation Rules, 2007. These were ignored without legal justification. Therefore, the final assessment is not only arbitrary but also contrary to the prescribed valuation rules.
- The authority erroneously assumed that IOCL export prices can serve as contemporaneous import values, which is patently incorrect and contrary to Section 14 of the Customs Act, 1962 read with Customs Valuation Rules. The valuation based on IOCL export price lacks any legal backing.
- The appellant declared bunker prices based on NIDB data within the 90-day permissible window, satisfying Rule 4(3) and Rule 7(2). The valuation should have been based on the lowest such contemporaneous price, but this legal provision was disregarded by the custom authority.
- They have relied upon various cases, few of which are as follows:

- Union of India v. Kamakshi Finance Corporation Ltd. 1991 (55) ELT 431 (SC)
- Century Recycling Metals Pvt. Ltd. v. Union of India 2019 (367) ELT 3 (SC)
- M/s. Seatrans Shipmanagement Services Pvt. Ltd. v. Commissioner of Customs (Kolkata) Final Order No. 77295/2023 dated 10.10.2023
- M/s. ACT Infraport Ltd. – Paradeep & Dhamra OIA No. 74-89/CUS/CCP/2023 dated 14.06.2023 – Bhubaneswar



### **PERSONAL HEARING**

4. Personal hearing in the case was held in virtual mode on 11.06.2025. Shri Hardik Modh, Advocate, appeared for hearing on behalf of the appellant. He reiterated the submissions made in the appeal memorandum.

### **DISCUSSIONS AND FINDINGS**

5. I have carefully gone through the appeal memorandum, the grounds of appeals, records of the case and submissions made during personal hearing. I find that the issue to be decided in the case is valuation of bunkers consumed during coastal run of the vessel. The dispute is centered on the issue whether the valuation is to be done on the basis of value of contemporaneous import, as contended by the appellant, or as done by the assessing authority i.e. on the basis of IOCL bunker supply price, i.e., price at which IOCL was supplying oil to the vessel.

6. Before going into the merits of the case, I find that as per CA-1 Form of the Appellant, the present appeals have been filed on 21.06.2024 against the impugned BOE finally assessed dated 26.04.2024 which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

6.1 I find that the appellant has contended that the assessing authority incorrectly relied upon IOCL bunker prices for valuation, which are domestic prices applicable to indigenous supplies and not reflective of international import values and also submitted the contemporaneous import data from the NIDB, which should have been considered under Rules 4 to 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. In this regard, I found that there is strong force on the submission of the appellant that the evidence of contemporaneous import prices/NIDB provided by them during the course of reassessment, have not been taken into account and there is huge difference in the prices adopted by the assessing authority and evidence of contemporaneous prices provided by the appellant. The assessing authority should have issued notice to the appellant to show cause as to why the evidence of contemporaneous import prices provided by them should not be considered for re-determination of assessable value, and a reasonable opportunity of hearing should have been given to the Appellants before finalizing the impugned re-assessment. Further, the appellant stated that Rule 9(2)(i) expressly prohibits the use of domestic prices of indigenously produced goods for the valuation of imported goods as IOCL prices include elements such as storage, inland transportation, and insurance which do not form part of actual import transaction values and is reads under:

Rule 9(2)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

*"No value shall be determined under the provisions of this rule on the basis of the selling price in India of goods produced in India."*

6.2 Further, it is relevant to refer to Rule 4 and Rule 5 of the Customs Valuation Rules, 2007, is reproduced as under:

**"4. Transaction value of identical goods. —**

*(1)(a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued:*



Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.

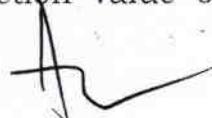
(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

**5. Transaction value of similar goods.** — (1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

From plain reading of Rule 4(1)(a) and Rule 5(1) of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007, it is evident that value of imported goods shall be the transaction value of identical/similar goods



imported at or about the same time as the goods being valued. From the facts available on records, the date of present Bill of Entry is 22.03.2024. Therefore, it is held that the value of contemporaneous imports i.e., imports of identical or similar goods made at or about the same time is required to be considered for the purpose of valuation of the present Bill of Entry, in terms of Rules 4 and 5 read with Rule 7(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, which reads as under:

*"Rule 7 (2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India at the earliest date after importation but before expiry of ninety days after such importation."*

In this regard, I find that the Appellant had furnished verifiable NIDB data reflecting such contemporaneous import prices at the time of provisional assessment, but the same was not considered by the assessing authority. The following Bills of Entry were specifically cited by the appellant in support of their claim of contemporaneous pricing:

- Fuel Oil: @ INR 26,029.57 per MT, as per BOE No. 9638195 dated 12.01.2024
- Diesel Oil (HSD): @ INR 89.57 per litre, as per BOE No. 9986682 dated 05.02.2024
- Lube Oil: @ INR 121.87 per litre, as per BOE No. 9953931 dated 02.02.2024



I find that these imports were made well within the 90-day period contemplated under Rule 7(2) and represent comparable transactions for the same class of goods. With regard to the variation in prices considered by the assessing authority for valuation and the evidence of contemporaneous import prices provided by the appellant, a revisit is needed to ensure contemporaneous import prices considered for valuation is appropriate and proper within the framework of Customs Valuation Rules, 2007. In view of these facts and the legal framework, the rejection of contemporaneous import prices and the adoption of IOCL bunker prices representing domestic values is unsustainable.

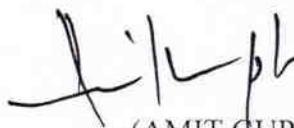
6.3 Further, the appellant has contended that the assessing authority has incorrectly calculated the bunker consumption as they had computed the duty based on the consumption of bunker from the vessel's first port of arrival in



India (Mumbai), instead of the port of conversion (Sanghi/Jakhau Port) and contended this approach as flawed and contrary to CBEC Circular No. 58/1997-Cus dated 06.11.1997, which prescribes that duty should be levied only on the quantity of bonded stores, including bunker, consumed during the coastal leg i.e., from the point of conversion to the point of reversion. In this regard, it is observed that the calculation of bunker consumption adopted by the assessing authority is incorrect and contrary to established legal principles and CBEC guidelines. The vessel M.V. APJ KAIS was converted from foreign run to coastal run at Sanghi/Jakhau Port on 18.03.2024, and as per CBEC Circular No. 58/1997-Cus dated 06.11.1997, duty is to be levied only on the estimated quantity of bonded stores likely to be consumed during the coastal leg—i.e., from the port of conversion to the port of reversion. The appellant has also submitted the conversion and reversion certificates of the vessel, along with inventory records showing the quantities of bunker fuel on board before and after the coastal run. These documents clearly establish that the coastal voyage commenced from Sanghi/Jakhau Port on 18.03.2024, which is the date of official conversion from foreign run to coastal run. The same approach had already been taken in the Commissioner Appeals, Ahmedabad in the matter of M/s Fairdeal Shipping Services vide OIA No. JMN-CUSTM-000-APP-70-23-24 dated 20.07.2023. Therefore, I am of the considered view that the method adopted by the assessing authority for calculating consumption is not legally maintainable.

7. In view of above discussions, I allow the appeal filed by the appellant with the direction to re assess the impugned BOE in above terms.



  
 (AMIT GUPTA)  
 COMMISSIONER (APPEALS)  
 CUSTOMS, AHMEDABAD

By Registered Post A.D.

Dated -04.07.2025

F. No. S/49-11/CUS/KDL/2024-25  
 To, 1873  
 M/s Act Inraport Limited,  
 Plot No. 391 & 392, Sector 1/A  
 Near Mamlatdar Office  
 Gandhidham, Kutch Gujarat- 370201.

  
 सत्यापित/ATTESTED  
 अधीक्षक/SUPERINTENDENT  
 सीमा शुल्क (अपेल), अहमदाबाद.  
 CUSTOMS (APPEALS), AHMEDABAD.

Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Commissioner of Customs, Customs, Kandla.
3. The Assistant Commissioner of Customs, Customs Division, Bhuj.
4. Guard File.