सीमा शुल्क (निवारक) के आयुक्त का कार्यालय
"सीमा शुल्क भवन", विक्टोरिया ब्रिज के पास ,
राजकोट जामनगर हाइवे, जामनगर (गुजरात) – 361001

Office of the Commissioner of Customs (Preventive)
"Seema Shulk Bhavan", Near Victoria Bridge,
Rajkot - Jamnagar Highway, JAMNAGAR (Gujarat) – 361001

ईमेल : commr-custjmr@nic.in; adj-custjmr@nic.in

By Speed Post A.D./ E-Mail

F.No. CUS/1934/2024-Adjn **DIN: 20250971MM0000805277**

Show Cause Notice No. ADC-16/2025-26 Date: 16.09.2025

SHOW CAUSE NOTICE

(*Under Section 28 read with Section 124 of the Customs Act, 1962*)

Brief facts of the case:

M/s. Navyug Ship Breaking Co, Plot No. 153 M, Ship Breaking Yard, Sosiya P.O.Manar-364150, Dist-Bhavnagar (hereinafter referred to as the Noticee') on the basis of CESTAT order No. A/11792-11852/2022 dated 01.12.2022 **(RUD-1)** filed a refund claim of Rs.7,46,694/- before the Assistant Commissioner, Customs Division, Bhavnagar. The Assistant Commissioner vide Order-in-Original No. 09/CUS-REF/2023-24 dated 29.09.2023 **(RUD-2)** sanctioned refund of Rs. 7, 46, 694/- to the Noticee. The amount was paid to the Noticee on 03.10.2023.

2. During the course of review of the above OIO under Section 129D(2) of the Customs Act,1962 by the competent authority, it was observed that while sanctioning the refund, the Assistant Commissioner had not examined the aspect of unjust enrichment as per Board's Circular No. 07/2008 dated 28.05.2008. It was also observed that the Assistant Commissioner had sanctioned the refund claim to the Noticee without examining the relevant financial records to determine as to whether burden of duty has been passed on to the ultimate buyer or otherwise, It was further observed that it was necessary for the adjudicating authority to examine the relevant financial records to verify if the customs duty paid on oil at the time of import has been shown as revenue expenditure or receivable from the Government in the books of accounts, so as to ascertain the test of unjust enrichment with regard to refund claim filed by the Noticee.

2.1 In view of above observations, the department filed an application before the Commissioner of Customs (Appeals), Ahmedabad with a request to set aside the aforesaid OIO and remand the matter back to the adjudicating authority for passing a proper speaking order. The Commissioner of Customs (Appeals), Ahmedabad vide Order-in-Appeal No. JMN-CUSTM-000-APP-187 to 191-24-25 dated 11.09.2024 **(RUD-3)** had allowed the department's appeal by way of remand and remitted the matter back to the Assistant Commissioner, Customs Division, Bhavnagar, so as to ascertain the facts, examine the documents, submissions made by the respondent (the Noticee) and pass

speaking order on the aspect of unjust enrichment after following the principle of natural justice as per the legal provisions.

3. In the remand proceedings, as ordered by the Commissioner of Customs (Appeals), Ahmedabad vide above Order-in-Appeal dated 11.09.2024, the Assistant Commissioner, Customs Division, Bhavnagar, after considering the submissions made and documents furnished by the Noticee, has observed that the Noticee had failed to prove that incidence of Customs duty has not been passed on to any other person and hence, the amount of refund paid to them is liable to be recovered and credited to the Consumer Welfare Fund. In view of above observations, the Assistant Commissioner, Customs Division, Bhavnagar vide Order-in-Original No. 405/CUS-REF/2024-25 dated 23.12.2024 **(RUD-4)** has sanctioned refund for Rs.7, 46, 694/- in terms of provisions of Section 27 of Customs Act, 1962 to be credited to the Consumer Welfare Fund.

4. In view of the above, it appears that refund of Rs.7, 46, 694/- which was erroneously sanctioned to the Noticee vide Order-In-Original No. 09/CUS-REF/2023-24 dated 29.09.2023 by the Assistant Commissioner and paid to them on 03.10.2023, is required to be recovered from them under section 28 of Customs Act, 1962 and to be deposited into the Consumer Welfare Fund.

4.1 In pursuance to the Regulation 3(1) of the Pre-Notice Consultation Regulations, 2018, the pre-consultation notice dated 15.07.2025 **(RUD-5)** intimating the grounds for recovery of the erroneously sanctioned refund of Rs.7, 46, 694/- and interest thereof under Section 28AA *ibid* were communicated to the Noticee with opportunity for filling submission in writing as stipulated under Regulation 3(2) *ibid* .

4.2 The Noticee vide their letter dated 24.07.2025 **(RUD-6)** has filed a written submission in the matter; wherein he requested to drop the proceedings on the grounds mentioned therein.

5. Now, therefore, M/s. Navyug Ship Breaking Co, Plot No. 153 M, Ship Breaking Yard. Sosiya P.O.Manar-364150, Dist-Bhavnagar are hereby called upon to show cause to the Additional Commissioner of Customs, Customs (Preventive), Jamnagar having his office at Room No.301, Seema Sulkh Bhavan Rajkot Jamnagar Highway, Near Victoria Bridge, Jamnagar 361 001 Gujarat (India). within 30 days from the date of receipt of this notice, as to why-

(i) Refund of customs duty of Rs. 7,46,694/- (Rupees Seven Lakhs Forty Six Thousand Six Hundred Ninety Four only) as erroneously sanctioned and granted should not be recovered from them under Section 28 of the Customs Act, 1962 and credited in-to the Consumer Welfare Fund; and

(ii) Interest at appropriate rate, should not be demanded and recovered from them on the amount (i) above from the date of such erroneous refund under Section 28AA of the Customs Act, 1962 and credited in-to the Consumer Welfare Fund.

6. The Noticee is hereby directed to produce all evidences upon which they intend to rely in support of their defence at the time of showing cause. They are further directed to indicate in their written reply as to whether they wish to be heard in person before the case is decided. If no mention is made about the

same in their written explanation, it will be presumed that they do not desire a personal hearing and the case will be decided on the basis of the evidences and records available on file.

7. If no cause is shown by them against the action proposed to be taken within 30 days of receipt of this notice or if they do not appear before the adjudication authority when the case is posted for hearing, the case would be decided on merits, on the basis of evidence available on records, without any further reference to them.

8. This show cause notice is being issued on the basis of the evidence available on records and relied upon documents as enclosed herewith in Annexure-A.

16/9/25

(Amit Kumar Singh)
Additional Commissioner,

F.No. CUS/1934/2024-Adjn

Date: 16.09.2025

To,
M/s Navyug Ship Breaking Co,
Plot No. 153 M,
Ship Breaking Yard, Sosiya
P.O.Manar -364 1 50, Dist-Bhavnagar,

Copy to:

1. The Assistant Commissioner, Customs Division, Bhavnagar
2. The Superintendent of Customs, SBY Alang, Bhavnagar.
3. Guard file.

ANNEXURE – A

List of documents relied upon for issuing of the show cause notice dated 16.09.2025 to M/s. Navyug Ship Breaking Co, Plot No. 153 M, Ship Breaking Yard, Sosiya P.O.Manar-364150, Dist-Bhavnagar.

RUD No.	Description	Remarks
1	CESTAT order No. A/11792-11852/2022 dated 01.12.2022	Available with the Noticee
2	Order-in-Original No. 09/CUS-REF/2023-24 dated 29.09.2023	Available with the Noticee
3	Order-in-Appeal No. JMN-CUSTM-000-APP-187 to 191-24-25 dated 11.09.2024	Available with the Noticee
4	Order-in-Original No. 405/CUS-REF/2024-25 dated 23.12.2024	Available with the Noticee
5	Pre-consultation Notice dated 15.07.2025	Available with the Noticee
6	Reply of the Pre-consultation Notice dated 24.07.2025	Available with the Noticee