



सीमाशुल्क(अपील) आयुक्तकाकायलिय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद, AHMEDABAD,
चौथी मंजिल 4th Floor, हडकोभवनHUDCO Bhavan, ईश्वर भुवन रोड IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाषक्रमांक Tel. No. 079-26589281
DIN – 20250571MN000000C076

क	फ़ाइलसंख्या FILE NO.	S/49-03/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-004-2025-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
द	दिनांक DATE	13.05.2025
इ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Final Order No. A/12689-12690/2023 dated 01.12.2023 issued by CESTAT Ahmedabad read with Order-in-Original KDL/AC/AG/65/Gr.-1/2013-14 dated 12.02.2014 & KDL/AC/AG/101/Gr.-1/2013-14 dated 21.03.2014
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	13.05.2025
छ	अपीलकर्ताकानामवप्ता NAME AND ADDRESS OF THE APPELLANT:	M/s Gallant Metal Limited, S.No.176, Village Samakhiali, Bhachau, Kutch-370201
1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागया है।	
	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)	बैगेजकेरूपमेंआयातितकोईमाल.	
(a)	any goods imported on baggage.	
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो।	
(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.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :	
	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/- (रूपएएकहजारमात्र), जैसाभीमालाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर. 6 कीदोप्रतियां। यदिशुल्क, मांगागयाव्याज, लगायागयादंडकीराशीऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु. 200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु. 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.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदिकोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench

	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असार्वा, अहमदाबाद-380016	2 nd Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन, सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-	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)	अपीलसेसम्बन्धितमामलमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहजाररुपए.	
(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)	अपीलसेसम्बन्धितमामलमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो; पांचहजाररुपए	
(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)	अपीलसेसम्बन्धितमामलमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो; दसहजाररुपए.	
(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)	इसआदेशकेविरुद्धअधिकरणकेसामने, मांगेगएशुल्कके 10% अदाकरनेपर, जहांशुल्कयाशुल्कएवंदंडविवादमेहैं, यादंडके 10% अदाकरनेपर, जहांकेवलदंडविवादमेहैं, 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) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपंत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.	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

M/s Gallant Metal Limited, S.No.176, Village Samakhiali, Bhachau, Kutch-370201 (hereinafter referred to as "the Appellant") had filed the two appeal arising out of Order-in-Original KDL/AC/AG/65/Gr.-1/2013-14 dated 12.02.2014 & KDL/AC/AG/101/Gr.-1/2013-14 dated 21.03.2014 (hereinafter referred to as 'original impugned orders') issued by the Assistant Commissioner of Customs, Custom House, Kandla (hereinafter referred to as 'original adjudicating authority').

2. Briefly stated, facts of the case are that the appellant had filed the Bills of Entry No. 3279110 dated 16.09.2013, No. 3106768 dated 27.08.2013 and No. 3425834 dated 01.10.2013 for clearance of imported steam coal from Indonesia. For clearance of the said goods, the importer claimed exemption of Basic Customs Duty vide Notification No. 46/2011 dated 01.06.2011, Sr. No. 207. but did not produce AIFTA Preferential Tariff Certificate of Origin. Hence, a query was raised and in response to the query, the importer submitted an undertaking that they will submit the Certificate within 15 days. Against a PD bond in terms of Section 18 of the Customs Act, 1962, the goods were cleared by extending the benefit of Notification No. 46/2011 dated 01.06.2011. However, the Appellant failed to give the corrected certificate of origin and as the importer failed to fulfil the conditions of the undertaking i.e. submitting the amended certificate, the benefit of exemption on Basic Customs Duty vide Notification No. 46/2011 dated 01.03.2011 availed by them became ineligible. Thereafter, the original adjudicating authority had passed the original impugned orders (1) Denied the benefit under Notification No. 16/2011 dated 01.06.2011 (2) Confirmed the duty demand along with interest and (3) appropriated the amount of towards payment of duty and interest under provisions of the Customs Act, 1962. Further, the Appellant challenged the order of the original adjudicating authority before Commissioner (Appeals) on the ground that, the defect in the certificate of origin was defect of technical nature and benefit of the Notification should not have been denied to them.

2.1 Thereafter, Commissioner (Appeals) vide order KDL-CUS-000-APP-251-252-14-15 dated 28.08.2014 rejected the appeals stating the following:

"....

5. I have gone through the grounds of appeal, personal hearing and relevant documents accompanying the subject appeals. I find that the appellant has not produced the Country of Origin Certificate required as per Notification No.46/2011 dated 01.06.2011.

6. I have examined the condition of Notification No.46/2011 dated 01.06.2011 and find that the adjudicating authority passed orders in accordance with the condition of Notification."

Further, being aggrieved, the appellant challenged the said order before the CESTAT, Ahmedabad and relied on the following decisions:

- Chowgule & Company Pvt. Ltd. V/s. CC & C. Ex., 2014 (306) ELT (Tri-LB)
- Coromandal Stampings & Stones Ltd. V/s. CCE & ST, Hyderabad-II, 2016 (43) STR 221 (Tri.-Hyd.)
- Mangalore Chemicals & Fertilizers Ltd. V/s. DC, 1991 (55) ELT 437 (S.C.)

2.2 Further, CESTAT Ahmedabad vide their Final Order No. A/12689-12690/2023 dated 01.12.2023, remanded the matter to this office. The relevant paras of the said order is reproduced as :

"....

4. We are considered the rival submission. We find that Notification No. 46/2011 grants special concession rate of custom duty to the goods originating from specified countries listed in appendix II of the said notification. The Appellant claimed to have imported 50,000/- MTs. of Indonesian origin coal by vessel MV. Jindal Varad to India. The bill of entry, the commercial invoice, the bill of lading and the certificate of origin all mentioned the name of vessel MV. Jindal Varad. Learned Counsel has argued that Notification No. 189/2009-Custom (NT) dated 31.12.2009 clearly provides that, if the goods are originally from the country listed in Annexure- II to notification 46/2011 then that country will be the country of origin and the benefit of concessional rate of duty would be available. He argued that the rule 8 of the custom tariff [Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India Rules, 2009 notified by notification 189/2009-Custom(NT) dated 31.12.2009 prescribed that the benefit would be available even when the goods transit through non member nations with or without transtatement and temporary storage, if the same have not undergone any operation in any such non party nations, other than unloading and reloading: Learned Counsel had argued that in the present case the goods have always been on the vessel and the vessel went from Indonesia Tanjung Pemancingan Anchorage to Jabel Ali and thereafter came to India. He has argued that the certificate of the origin clearly shows that goods were consigned for India from Indonesia by the vessel MV. Jindal Varad. It was the argument of Learned Counsel that as long as the goods are of Indonesian origin the department cannot use technicalities to deny the benefit of exemption notification. It is noticed that the original adjudicating authority has observed as follows while rejecting the benefit "7.3 In the instant case the importer submitted AIFTA Certificate No. 0002455/BJM/2013 dt. 22.07.2013. It covered 70000 MT Steam Coal of Indonesian Origin consigned from PT Yastra Energy Indonesia to Farlin Energy and Commodities FZE, Dubai, UAE. Column 10 the AIFTA Certificate No. 0002455/BJM/2013 dt. 22.07.2013 bears Number and date of Invoice as 012/INV/PT-YE/VII/2013 dt. 21.07.2013.



AJ
1

however the subject imports are covered under invoice no. FECFCUST/13-1029 dt. 11.08.2013 which is for 50000 MT of steam Coal. On careful perusal of AIFTA Certificate No. 0002455/BJM/2013 dt. 22.07.2013 it is noticed that third party invoicing at Sr. No. 13 has not been mentioned. Further, name and address of the Indian importer has not been mentioned at Box No. 02."

5. From the above observation it is noticed that the original adjudicating authority has pointed out that the invoice no. and date mentioned in the country of origin certificate does not match with the invoice number and date of the invoice presented by the importer. The certificate covers a quantity of 70,000 MTs. of steam coal of Indonesian origin consigned for from PT Yastra - Energy Indonesia to Farlin Energy & Commodities Dubai UAE. The number and date of invoice on the certificate produced by the Appellant as shown as (1) 0002455/BJM/2013 dt. 22.07.2013 whereas, the imports are covered under invoice no. FECFCUST/13-1029 dt. 11.08.2013. The argument of the Appellant before Commissioner (Appeal) was that, these deficiencies do not imply that the goods are not of Indonesian origin. The Commissioner (Appeal) has not examined any of this ground and has simply rejected the appeal by observing as follows:

"5. I have gone through the grounds of appeal, personal hearing and relevant documents accompanying the subject appeals. I find that the appellant has not produced the Country of Origin Certificate required as per Notification No.46/2011 dated 01.06.2011.

6. I have examined the condition of Notification No.46/2011 dated 01.06.2011 and find that the adjudicating authority passed orders in accordance with the condition of Notification." 6. We find that, the said order of Commissioner (Appeal) is not a speaking order. He has not examined the reasons given by the Appellant in its appeal before Commissioner (Appeal). The impugned order is therefore set aside and the matter remanded to the Commissioner (Appeal) to give specific findings on all the points raised by the Appellant before the Commissioner (Appeal).

7. Appeals are allowed by way of remand."

3. Further, the appellant vide their submission dated 06.03.2025 stated the following:

- That the original adjudicating Authority had denied benefit of Notification No.46/2011 on the grounds that the certificate of origin submitted by the appellant did not mention the name of the appellant and the invoice on which the goods were bought. It is submitted that the Notification only stipulates that the importer has to prove to the satisfaction of the Assistant Commissioner/Deputy Commissioner that the goods imported are from ASEAN countries. The Notification states as under: -

"Provided that the importer proves to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, that

the goods in respect of which the benefit of this exemption is claimed are of the origin of the countries as mentioned in Appendix I, in accordance with provisions of the Customs Tariff [Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India] Rules, 2009, published in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 189/2009- Customs (N.T.), dated the 31st December, 2009."

- That the goods were being sent from Indonesia to India in vessel MV. Jindal Varad. The certificate of origin mentioned the name of M/s. Farlin Energy & Commodities who also prepared the commercial invoice and bill of lading in the appellant's name that 50,000 MTs. of Indonesian origin coal would be travelling on the vessel MV. Jindal Varad to India. The bill of entry, the commercial invoice, the bill of lading, COO and all the documents specifically referred to vessel MV. Jindal Varad and also referred to the coal being of Indonesian origin. This fact has not been disputed by the department in the proceedings. Therefore, as long as the goods are of Indonesian origin the benefit of the notification cannot be denied to the appellant.

That the goods are originally from the member nations and are consigned as per Rule 8, then the benefit of concessional rate of duty would be available. Rule 8 covers a situation where the goods transit through nonmember nations with or without transshipment and temporary storage and if the goods have not undergone any operation in such non-party nations other than unloading and reloading. In the facts of the present case, the goods have always been on the vessel and the vessel went from Indonesia Tanjung, Pemancingan, Anchorage to Jabel Ali and came to India. The certificate of origin clearly shows that the goods were consigned for India from Indonesia on vessel MV. Jindal Varad. The Appellant has to buy goods of Indonesian origin from UAE based suppliers who directly source the goods from Indonesia and buy in bulk, which they further sell to the Appellant with a margin of profit. Merely because the intermediary prepared invoices, would not change the Origin of the coal, which is clearly Indonesia even as per the documents prepared by M/s. Farlin Energy & Commodities.

A. 1-

- They have relied upon the following cases:

- M/s. Chowgule & Company Pvt. Ltd. reported at 2014 (306) ELT 326
- M/s. Mangalore Chemicals & Fertilizers Ltd. reported at 1991 (55) ELT 437

PERSONAL HEARING

4. Shri Amal Dave, Advocate appeared on 12.03.2025 on behalf of appellant and stated that - as per Notification No. 189/2009 dated 31.12.2009 there is no requirement that the Country-of-Origin Certificate should mention all the details of third-party invoicing. That there exists only a column to put a tick mark and not putting a tick mark cannot be a ground to deny benefit of preferential rate of tax when the adjudicating authority does not doubt the origin of the goods. That as long as the origin of the goods is not doubted, technical grounds cannot be a reason to deny substantial benefit. That all the documents indicate that the goods were aboard MV Jindal Varad Ship, which commenced journey from Indonesia and the commercial invoices including the COO certificate shows that coal was to be unloaded in India. Therefore, the benefit should be granted.

4.1 Further, due to change in appellate authority, a fresh PH was given to the appellant which was attended by Shri Amal Dave, Advocate, on 06.05.2025 on behalf of appellant. He also reiterated the submissions made in the appeal memorandum.



DISCUSSION & FINDINGS

5. I have gone through the appeal memorandum filed by the appellant, records of the case and submissions made during personal hearing. The issues to be decided in present appeal are whether the benefit of Notification No. 46/2011 dated 01.06.2011 denied to the appellant and demanding Customs duty, in the facts and circumstances of the case, is legal and proper or otherwise.

6. It is observed that the appellant had filed the Bills of Entry No. 3279110 dated 16.09.2013, No. 3106768 dated 27.08.2013 and No. 3425834 dated 01.10.2013 for clearance of imported steam coal from Indonesia claiming the benefit of Notification No. 46/2011 dated 01.06.2011 but did not produce AIFTA preferential Tariff Certificate of Origin at the material time due to which the

A handwritten signature in black ink, appearing to read 'A. D.' or 'A. D. D.'.

benefit of exemption of the BCD availed by them become ineligible. Further, it is observed that the appellant requested the customs authorities to assess the subject consignments without extending the benefit of the subject notification; pursuant to which the goods were cleared on payment under protest and appellant vide their letters dated 10.12.2013 and 18.11.2013 intimated that they had paid the excess payment under protest. Further, the original adjudicating authority vide original impugned orders, disallowed the benefit of exemption of Notification No. 46/2011 dated 01.06.2011 and confirmed the demand of basic customs duty, which was challenged before the Commissioner Appeals. Further, Commissioner Appeals had also upheld the original impugned orders which was further challenged before the Hon'ble CESTAT Ahmedabad, who vide their Final Order dated 01.12.2023 remanded the matter to this office.

6.1 In this regard, it is observed that the appellant has contended that they have submitted the certificate of origin in which the details were given that the goods were being sent from Indonesia to India in vessel MV. Jindal Varad and the certificate of origin mentioned the name of M/s. Farlin Energy & Commodities, UAE who also prepared the commercial invoice and bill of lading in the appellant's name that 50,000 MTs. of Indonesian origin coal would be travelling on the vessel MV. Jindal Varad to India. The bill of entry, the commercial invoice, the bill of lading, COO and all the documents specifically referred to vessel MV. Jindal Varad and that the goods have always been on the vessel and the vessel went from Indonesia, Tanjung, Pemancingan, Anchorage to Jabel Ali and thereafter came to India. Therefore, as long as the goods are of Indonesian origin the benefit of the Notification cannot be denied to the appellant.



In view of the same, I find that certificate of the origin submitted by the appellant shows that port of loading as Indonesia and the goods loaded in the Vessel MV. Jindal Varad is of Indonesian Origin. It is also observed that the original invoice issued to M/s. Farlin Energy & Commodities, UAE, submitted by the appellant mention that the port of discharge as "any port in India" which clearly shows that the goods were consigned for India only by the Vessel MV. Jindal Varad. Further, M/s. Farlin Energy & Commodities, UAE have issued invoices to the appellant wherein the Port of loading is mentioned as Indonesia. In view of the above facts and circumstances, it is substantiated that goods are of Indonesian origin. Therefore, benefit of exemption of Basic Customs Duty to the appellant, in terms of the Notification No. 46/2011 dated 01.06.2011, is allowed on the basis of Country of Origin certificate rather than details such as Importer's name and other details on original invoice which are however same as mentioned in the BOE submitted by the appellant. In this regard, it is considered that the appellant has not mis-declared any details in the Bill of Entry and since the goods are of Indonesian origin, therefore, merely not submitting the AIFTA certificate on technical grounds cannot be a reason to

A.12

deny the substantial benefit of Notification No. 46/2011 dated 01.06.2011 to the appellant.

7. In view of the above discussion, I am of the considered view that original impugned orders confirming the demand of Customs duty and disallowing the benefit of exemption of Basic Customs Duty cannot be upheld. Accordingly, the impugned order is set aside and appeal of the appellant is allowed with consequential relief, if any.



(AMIT GUPTA)

COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

F.Nos. S/49-03/CUS/KDL/24-25/62

Dated – 13.05.2025

By Registered Post A.D.

To,
M/s Gallant Metal Limited,
S.No.176, Village Samakhiali,
Bhachau, Kutch-370201

सत्यापित/ATTESTED

अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील), 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 Deputy/Assistant Commissioner of Customs, Customs House, Kandla.

4. Guard File.