



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

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

चौथी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN - 20260171MN0000333D34

क	फ़ाइलसंख्या FILE NO.	S/49-508/CUS/JMN/2024-25
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	JMN-CUSTM-000-APP-425-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	22.01.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Final Assessment Order No 1323/2731256/SBY/2024-25 dated 21.01.2025
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	22.01.2026
छ	अपीलकर्तकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s United Ship Breaking Co., Plot No. 124, Ship Breaking Yard, Sosiya/Alang, PO Manar, Dist. Bhavnagar.
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, 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.
	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)	सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 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, लगायागयादंडकीराशिऔररूपएएकलाखाउससेकमहोतोऐसेफीसकेरूपमेंरु.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 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 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
	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench 2 nd Floor, Bahumali Bhavan, 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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररूपए.
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पाँचहज़ाररूपए
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहज़ाररूपए.
(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,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके 10%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) 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. United Ship Breaking Co., Plot No. 124, Ship Breaking Yard, Sosiya/Alang, PO Manar, Dist. Bhavnagar (hereinafter referred to as "the appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against the Final Assessment Order No 1323/2731256/SBY/2024-25 dated 21.01.2025 issued from F. No. VIII/6(a)-12/2024-25 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner, Customs Division, Bhavnagar (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, facts of the case are that the appellant had imported vessel MV HIRONIN for breaking up and filed Bill of Entry No. 3602983, dated 22.05.2024 for clearance of the said vessel for home Consumption under Section 46 of the Customs Act. 1962 along with relevant documents. Since the appellant did not have the original copies of MOA, Commercial Invoice and Bill of Sale, they requested to assess the Bill of Entry provisionally and submitted PD bond for the same. They have paid customs duty assessed provisionally. The Bill of Entry was assessed provisionally for want of original documents. Further, the appellant has submitted original/notarized copies of Commercial Invoice, Bill of Sale and MOA for Final Assessment.

2.1 Vessels coming for breaking up are being classified under CTH 8908. The appellant has classified the vessel in CTH 8908. However, the Fuel and Oil contained inside/ outside the Engine Room Tanks and its classification was under dispute. The dispute regarding classification of Fuel and Oil lying in Bunker Tanks Inside/ outside Engine Room i.e. whether under CTH 2710 or under CTH 8908 along with vessels for breaking up has been settled by Hon'ble Supreme Court in its Order dated 05.04.2023 passed in Civil Appeal No. 5318-5342/2009, Hon'ble Supreme Court has upheld the common Order No. A/11792-11851/2025 dated 17.10.2022/01.12.2022 passed by CESTAT, Ahmedabad and also validated the view expressed by the CESTAT therein.

2.2 The adjudicating authority vide the impugned order following the common Order No. A/11792-11851/2022 dated 17.10.2022/01.12.2022 passed by CESTAT, Ahmedabad and also following the earlier FAO No. 2430352/SBY/2023-24 dated 24.07.2023 has held that fuel & oil contained in Bunker Tanks inside / outside Engine Room are liable to be classified under CTH 8908 along with the vessel, as covered under para 2(b) of circular no. 37/96-Cus. Dated 03.07.1996. The remaining fuel and oil i.e. fuel and oil not contained in Bunker Tanks or Engine Room Tanks



are liable to be classified under its respective heading in Chapter 2710 and finally assessed the subject Bill of Entry.

3. Being aggrieved with the impugned Order, the appellant has filed the present appeal contending as under;

- On verification of the brief fact of the case, it is admitted fact that the Appellant had imported the subject old and used ship only for breaking purpose. A specific tariff entry has been statutorily specified under the provisions of Chapter sub Heading No 8908.00 of the Customs Tariff Act, 1975. This tariff entry reads as;

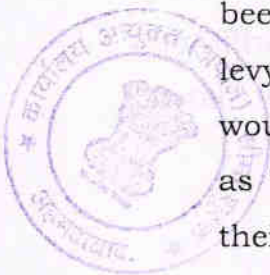
"8908.00.00 vessels and other floating structures for breaking "

As on the date of importation of subject vessel for breaking purpose, the levy of Customs duties have been specified as under,

(a) Basic customs; duty--Zero rate of duty.

- Now on perusing of the above referred bill of entry it appears that the assessing officer has grossly erred in wrongful determination of duty of Customs totally to the tune of Rs. 1,11,667/ plus 10% of SWS Rs. 13,497/- at the time of making provisional assessment of subject bill of entry. Whereas, also the final assessment of customs duty under disputed stock of bunker has also been finally assessed to duty totally to the tune of Rs. 1,11,667/plus 10% of SWS Rs. 13,497/. Thus, it has been clearly found that there is no any difference on so called duty of customs as assessed to duty at the time of making provisional assessment as well at the time of making final assessment of duty/ of the subject bill of entry. These disputed duties have wrongfully assessed to duty. For this contention/submissions, the customs tariff act in force clearly states that if the basic customs duty is Nil, the subsequent wrongful assessed collected duty on disputed "Goods" as mentioned at Sr. No. from 2 to 13. These all disputed goods" where nothing but to be termed as "Integral part of the vessel which has now been lastly held as "Integral part of the vessel and accordingly now clearly held that these disputed goods have correctly and legally classifiable under Chapter sub Heading No. 8908.00.00 of Customs Tariff Act, 1975.

- Now it is admitted fact that the levy of basic customs duty has statutorily been specified at "Nil rate of duty" than allopathically /legally subsequent levy of unwarranted basic customs duty on the above referred goods would have been assessed to duty "Nil rate of duty being lastly considered as "Integral part of the vessel" by the Hon'ble Tribunal Ahmedabad vide their Order No A/11792-11851/2022 dated 01.12.2022. Therefore if these all steps of levy of duty of customs as involved in the present case, than the assessing officer appears to have wrongly been assessed to duty



[Handwritten signature]

on disputed stock of bunker at the time of "final assessment of the subject bill of entry" In view of all these submissions, it is clearly seen that the " " appears not to have impugned order (Final Assessment Order been passed in proper and correct manner read with the Steps by Steps of the rate of duty of customs, which has now lastly been specified as "Zero/00 rate of duty Therefore the impugned order is not proper, correct and legal.

- The assessing officer appears also grossly erred in not disclosing the specific Provisions of Section 18 of Customs Act, 1962 i.e. in other word whether the impugned order has been passed under the proviso of section (1) read with its provision, sub section 2, sub section 3 etc of Section 18 of Customs Act, 1962. Therefore, it also appears that the impugned order appears not to have been passed in accordance with the Mechanism prescribed by making of final assessment of bill of entry. Therefore, the impugned order have been passed as Ex-parte.
- In addition to the above, the specified mechanism of final assessment adopted by the assessing officers seems not to be true correct, in as much as the assessing officer has grossly erred in not considering the "Zero rate of customs duty and also assessed to duty other duties i.e. CVD levied under sub section 3 of the Customs Tariff Act, 1975. For this contention the Appellant enclosing here with self-attested copy of Notification 50/2017 Cus. dated 30.06.2017 as read with lastly amended this Notification vide Notification No. 13/2023-cus dated 23.02.2023, Copy of relevant page are enclosed. This amended Notification, clearly laid down that the rate of basic customs duty etc is Nil so far as the Imported Goods classifiable under Chapter sub Heading No. 8908 of Customs Tariff Act, 1975.
- Since the impugned order appears to had been passed without giving any opportunity to be heard personally before making the final assessment vide the impugned Order. Therefore, it appears that the impugned order appears to have been passed by gross violating principle of natural justice.
- In view of the above the Appellant pray to remand back the impugned order as it appears that the impugned Order appears to have been passed by gross violating the principle of natural justice as well as erred in not making proper interpretation of relevant provision of customs tariff Act, i.e. relevant entry of Chapter sub Heading No. 8908 of Customs Tariff Act, 1975 read with the amended Notification No. 13/2023-cus dated 23.02.2023.



4. Shri Rahul Gajera, Advocate appeared for personal hearing on 07.08.2025 on behalf of the appellant. He reiterated the written submission made at the time of filing appeal.

5. Before going into the merits of the case, it is observed that the appeal has been filed beyond normal period of 60 days but within the condonable period of 30 days as stipulated under Section 128(1) of the Customs Act, 1962. Appellant has requested for condoning the delay in filing the said appeals on the ground that the Appellant has valuable right of appeal & no pre-judice will be caused to department, if delay is condoned. Therefore, taking a lenient view to meet the ends of justice, I allow the appeal as admitted condoning the delay in filing the appeal beyond the normal period of 60 days under proviso to the Section 128(1) of the Customs Act, 1962.

6. I have gone through the facts of the case available on record, grounds of appeal and submissions made during personal hearing. It is observed that the appellant had imported vessel M V HIRONIN for breaking up and filed Bill of Entry No. 3602983 dated 22.05.2024 for clearance of the said vessel for home Consumption under Section 46 of the Customs Act, 1962 along with relevant documents. Since the appellant did not have the original copies of MOA, Commercial Invoice and Bill of Sale, they requested to assess the Bill of Entry provisionally and submitted PD bond for the same. They have paid customs duty assessed provisionally. The Bill of Entry was assessed provisionally for want of original documents. Further, the appellant has submitted original/notarized copies of Commercial Invoice, Bill of Sale and MOA for Final Assessment. Vessels coming for breaking up are being classified under CTH 8908. The appellant has classified the vessel in CTH 8908. However, the Fuel and Oil contained inside/ outside the Engine Room Tanks and its classification was under dispute. The dispute regarding classification of Fuel and Oil lying in Bunker Tanks Inside/ outside Engine Room i.e. whether under CTH 2710 or under CTH 8908 along with vessels for breaking up has been settled by Hon'ble Supreme Court in its Order dated 05.04.2023 passed in Civil Appeal No. 5318-5342/2009 Hon'ble Supreme Court has upheld the common Order No. A/11792-11851/2025 dated 17.10.2022/01.12.2022 passed by CESTAT and also validated the view expressed by the CESTAT therein. The adjudicating authority vide the impugned order following the common Order No. A/11792-11851/2022 dated 17.10.2022/01.12.2022 passed by CESTAT, Ahmedabad and also following the earlier FAO No. 2430352/SBY/2023-24 dated 24 .07.2023 has held that fuel & oil contained in Bunker Tanks inside / outside Engine Room are liable to be

classified under CTH 8908 along with the vessel, as covered under para 2(b) of circular no. 37/96-Cus dated 03.07.1996. The remaining fuel and oil i.e. fuel and oil not contained in Bunker Tanks or Engine Room Tanks are liable to be classified under its respective heading in Chapter 2710 and finally assessed the subject Bill of Entry.

6.1 I have gone through the impugned order and observe that no personal hearing was granted before issuance of the impugned order. I am of the considered view that a reasonable opportunity of being heard is required to be provided. The appellant has also submitted that they had not been provided with an opportunity of hearing before passing of the impugned order. Therefore, requirement of natural justice was not satisfied. Thus, the impugned order has been issued in violation of the principles of natural justice. Since no personal hearing was given to the appellant, there is no finding of the adjudicating authority on the contentions raised by the appellant. Therefore, I find that remitting of the case for passing speaking orders after providing the appellant with an opportunity for personal hearing becomes *sine qua non* to meet the ends of justice. Accordingly, the case is required to be remanded back, in terms of sub-section of (3) of Section 128A of the Customs Act, 1962, for passing speaking order by the adjudicating authority by following the principles of natural justice. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs - 2004(173) ELT 117 (Guj.), judgment of Bombay Hon'ble High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels P. Ltd. - [2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. - Del)] holding that Commissioner(Appeals) has power to remand the case under Section-35A(3) of the Central Excise Act, 1944 and Section-128A(3) of the Customs Act, 1962.

7. In view of the foregoing, the appeal is allowed by way of remand to the adjudicating authority for passing a reasoned and speaking order, after affording the appellant an adequate opportunity of personal hearing. The adjudicating authority is directed to examine all relevant facts, documents, and submissions placed on record during the appeal proceedings. Based on such examination, fresh orders shall be issued expeditiously, strictly in accordance with the principles of natural justice and the applicable legal provisions. It is clarified that, while passing this order, no findings or views have been expressed on the merits of the case or on the submissions made by the appellant. These shall be independently examined and considered by the adjudicating authority in accordance with law.



8. In view of above, the appeal filed by the appellant is allowed by way of remand.



સત્યાગ્રહ/ATTESTED
અધીક્ષક/SUPERINTENDENT
સીમા શુલ્ક (અપીલ), અહમદાબાદ.
CUSTOMS (APPEALS), AHMEDABAD.

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

By Registered Post A.D.

F. No. S/49-508/CUS/JMN/2024-25
5481

Dated -22.01.2026

To,

1. M/s. United Ship Breaking Co.,
Plot No. 124, Ship Breaking Yard,
Sosiya/Alang, PO Manar, Dist. Bhavnagar,

Copy to:

1. ✓ The Chief Commissioner of Customs Gujarat, Customs House,
Ahmedabad.
2. The Commissioner of Customs, Customs, Jamnagar.
3. The Deputy/Assistant Commissioner of Customs, Customs Division,
Bhavnagar.
4. Guard File