



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD  
चौथी मंज़िल 4th Floor, हड्को बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281  
DIN-20250471MN000000B39F

क	फ़ाइल संख्या FILE NO.	S/49-238/CUS/AHD/2023-24
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-19-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	25.04.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Letter F.No. CH/DJ/Misc/212/22-23 dated 22.05.2023 issued by Superintendent, Customs, Dahej, communicating Final Assessment of BoE No. 6564827 dated 27.01.2020
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	25.04.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. GAIL (India) Ltd., GAIL Bhawan, 16, Bhikaji Cama Place, New Delhi - 110066.

1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है. This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	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 रूप में आयातित कोई माल.				
(a)	any goods imported on baggage.				
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी 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)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों 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.	<p>पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :</p> <p>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 :</p> <p>(क) कोर्ट फी एक्ट, 1870 के मद सं.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 होना चाहिए.</p> <p>(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.</p> <p>(ख) सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो</p> <p>(b) 4 copies of the Order - In - Original, in addition to relevant documents, if any</p> <p>(ग) पुनरीक्षण के लिए आवेदन की 4 प्रतियां</p> <p>(c) 4 copies of the Application for Revision.</p> <p>(घ) पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीषके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु.1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां। यदि शुल्क, मांगा गया व्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-</p> <p>(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/-.</p>				
4.	<p>मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं</p> <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> <table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-				
	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)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.
(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)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रूपए
(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)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.
(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)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10 % अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10 % अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(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.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने 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. M/s. GAIL (India) Ltd., GAIL Bhawan, 16, Bhikaji Cama Place, New Delhi - 110066 (hereinafter referred to as 'GAIL' or the 'appellant') has filed the present appeal under Section 128 of the Customs Act, 1962, against the Letter F.No. CH/DJ/Misc/212/22-23 dated 22.05.2023 issued by Superintendent, Customs, Dahej, communicating Final Assessment of the Bill of Entry No. 6564827 dated 27.01.2020.

2. Facts involved in the appeal, in brief, are that the appellant was engaged in import of Liquefied Natural Gas ('LNG') falling under Customs Tariff Item No. 27111100 for which they have filed a Bill of Entry No. 6564827 dated 27.01.2020 with Custom House, Dahej Port, Dist. Bharuch. The subject BoE was assessed provisionally on the basis of Proforma Invoice provided by the Supplier. Subsequently, vide letter dated 10.07.2020, GAIL had submitted requisite documents for final assessment of the said subject BoE. The appellant/GAIL further submitted that due to bona-fide clerical mistake at the hands of GAIL, they had enclosed a Provisional Invoice No. 20115900028LNG dated 28-01-2020 received from the Supplier instead of the Final Invoice No. E201100058LNG dated 28-01-2020.

3. On the basis of the Provisional Invoice submitted by GAIL (by mistake), the said BoE was finally assessed on 13.12.2022 and finalization of assessment was communicated to GAIL by Superintendent of Customs, Custom House, Dahej, vide letter File No. CH/DJ/Misc./212/22-23 dated 22.05.2023. Upon verification of the Duplicate Importer's copy of the said BoE, as enclosed with the said letter, it has come to the knowledge of GAIL that the department has finally assessed excess paid duty amounting to Rs.1,19,480/- based on the provisional invoice No. 20115900028LNG dated 28-01-2020. Whereas, the appellant GAIL is of the view that the said excess duty should be Rs.23,08,140/- based on final Invoice No. E201100058LNG dated 28-01-2020. The appellant fairly submitted that said less excess duty was wrongly arrived in finally assessed Bill of Entry only due to GAIL's inadvertent error while submitting documents for finalization of BoE, wherein it had enclosed the provisional invoice instead of the final invoice of the Supplier.

4. Upon receipt of the said finally assessed BoE, the appellant vide letter Ref. No. GAIL/IGS/ DAHEJ/ASSESSED BE/MAY/2023 dated 30.05.2023 requested Dahej Custom House for re-assessment of finally assessed BoE No. 6564827 dated 21.01.2020 on the basis of the final invoice and shared supporting documents. However, it is the contention of the appellant that no cognizance appears to have been taken by Dahej Custom House on the said letter dated 30.05.2023.



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5. Being aggrieved, the appellant has filed the present appeal under the provisions of Section 128 of the Customs Act, 1962, mainly on the following grounds:

5.1 The department while finalizing the said subject BoE had failed to appreciate that the invoice submitted by GAIL was a provisional invoice and not the final invoice. Therefore, any assessment on the basis of provisional invoice cannot be said to be correct, because it does not reflect correct quantum of import and price of import. Thereby, the present final assessment is bad in law.

5.2 That GAIL vide letter Ref. GAIL/ND/IGS/CUSTOMS/FA/2019-20/CUBAL dated 10.07.2020 had inadvertently submitted provisional invoice instead of final invoice thus leading to unintentional procedural lapse on appellant's part. Appellant came to know about an inadvertent error only when the copy of finally assessed BoE was received with impugned letter dated 22.05.2023. Prior to the said date there was no occasion for GAIL to review and introspect its inadvertent error. Therefore, the present final assessment of BoE cannot be said to be correct as the same has been assessed on the basis of provisional value.

5.3 The department ought to have considered that the Custom duty is levied on the value of imported goods which shall be the 'transaction value' of such goods and same is to be considered at actual price paid for such goods. The said position of law is available in Section 14 of the Customs Act, 1962. Therefore, it was incumbent upon the assessing officer to inquire about the actual price of goods imported under subject BoE. It is undisputed that the transaction value of goods can only be determined from the final invoice of the imported goods. The GAIL vide letter dated 10.07.2020 inadvertently submitted provisional invoice titled as "provisional invoice", instead of the "final invoice". Therefore, the department ought to have called upon GAIL to submit final invoice.

5.4 GAIL is in the business of importing LNG from various parts of the world. It is important to note herein that, pursuant to Clause No.5 of its Memorandum of Association (MoA), GAIL has to act as an agent of Government of India to implement its schemes. Therefore, GAIL while importing subject LNG is imparting its statutory obligations for Government of India and thus, it has no personal vested interest either in not submitting final invoice at the relevant time or for claiming any excess amount of refund, because GAIL is a Government company.

5.5 GAIL had inadvertently enclosed a provisional invoice issued by supplier while submitting documents vide letter dated 10.07.2020, for finalization of BoE. Also, GAIL is regularly submitting final invoice for final assessment of all LNG cargoes imported and Department was very well aware of this practice. Thus, GAIL was actually intending to submit

final invoice of supplier with its letter dt. 10/07/2020, but due to clerical mistake, provisional invoice got enclosed with said letter instead of final invoice. It is needless to say that an inadvertent clerical mistake/administrative mistake is not unknown to law more particularly when **Section 154** of Customs Act 1962 itself makes provision for correction of any clerical error arising therein for any accidental slip or omission, at any time. This clearly proves that the clerical error by GAIL is pardonable and real intent of Section 154 is required to be implemented in true spirit.

5.6 The law laid down with regard to clerical error has been recently settled and collated by Hon'ble CESTAT, New Delhi, in case of Customs Appeal Nos. 51132 of 2020, 50236, 50237, 50238, 50239 and 50240 of 2021, decided on 10.02.2023 in the cases of *Principal Commissioner of Customs, ACC (Import) Commissionerate vs. Lava International Limited* and *Principal Commissioner of Customs, New Delhi (Import) vs. Vivo Mobile India Pvt. Ltd.* (Customs Appeal No. 52388 and 52389 of 2019, Order dated 13.09.2021 of CESTAT, Delhi). In these cases, the ratio laid by Hon'ble Bombay High Court in case of *Dimension Data India* was relied upon to hold that Custom department has power and jurisdiction to make corrections of any clerical or arithmetical mistakes or errors arising in any decision or order due to any accidental slip or omission at any time, which would include an order of self-assessment post out of charge.

5.7 Further Hon'ble Madras High Court in case of Civil Miscellaneous Appeal No. 3443 of 2009, decided on 07.03.2019, titled as the *Commissioner of Customs (Imports) Vs. Symrise Private Limited and Ors.*, had held that apparent error on face of an Order with regard to wrong invoice in particular BOE is liable for correction and re-assessment by department.

Further written submissions:

6.1 In further written submissions dated 07.03.2025, the appellant has mentioned that in another case of GAIL, Hon'ble CESTAT, Ahmedabad, vide Final Order No. A/11824/2023 dated 25.08.2023 in Customs Appeal No. 12326 of 2018, held that the limitation for filing refund would only start from the date of communication of finalization of provisional assessment. The said decision has been upheld by Hon'ble High Court of Gujarat vide Order dated 13.06.2024 in Tax Appeal No. 211 of 2024 wherein it has been held that mere uploading of Final Order in the portal is not sufficient compliance of intimation to the assessee.

6.2 The appellant further submitted that the ICEGAT portal only displays the date of provisional assessment and the date of out of charge; that it does not displays the date of final assessment. The appellant has enclosed screenshot of the information displayed at ICEGATE portal for the subject BoE. They further mentioned that only upon receipt of the letter dated 22.05.2023 issued by the Superintendent, the appellant for the first time came to know about



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the date of final assessment, which was stated to be 13.12.2022 in the said letter. Therefore, the appellant contended that the limitation for the subject BoE begin from the date of receipt of the communication from the Superintendent of Customs i.e. 22.05.2023.

**Personal Hearing:**

7. Personal Hearing in this case was held on 25.02.2025, which was attended by Shri. Sunil Kumar Gupta, GM-F&A, GAIL; Shri. Mandeep Singh, CM-F&A, GAIL and Shri. Akshat Khare, Advocate. Due to transfer and change of the Appellate Authority, i.e. Commissioner of Customs (Appeals), Ahmedabad, another Personal Hearing in this case was held on 23.04.2025, which was attended by Shri. Sunil Kumar Gupta, GM-F&A, GAIL; Shri. Mandeep Singh, CM-F&A, GAIL and Shri. Akshat Khare, Advocate. They reiterated the written submissions made by them.

**Findings:**

8. I have carefully gone through the facts of the case and written as well as oral submissions made by or on behalf of the appellant. The issue to be decided in the present appeal is whether finalization of the provisional assessment of the Bill of Entry No. 6564827 dated 21.01.2020 on the basis of Provisional Invoice submitted on account of mistake by GAIL, can be modified by the way of re-assessment or correction of clerical error u/s 154 on the basis of the Final Invoice and other relevant documents.



9. I have seen the copy of the Provisional Invoice No. 20115900028LNG dated 28.01.2020, which has been attached by mistake of the appellant with their letter dated 10.07.2020 addressed to the Superintendent of Customs, Dahej. In the said invoice the words "Provisional Invoice" have been prominently written in big fonts. Even though the assessing officer has not raised any query and finalized the assessment of Bill of Entry No. 6564827 dated 27.01.2020 on the basis of the said Provisional Invoice, which is not proper. I have also seen a copy of the Final Invoice No. E201100058LNG dated 28.01.2020 submitted by the appellant with the appeal memorandum. However, the said Final Invoice was not submitted by the appellant to the assessing officer before finalization of provisional assessment and so, it has not been considered in the final assessment. Due to this reason, the appellant has filed the present appeal against assessment of the Bill of Entry No. 6564827 dated 27.01.2020, which has been communicated to the appellant vide letter F.No. CH/DJ/Misc./212/22-23 dated 22.05.2023.

10. I have also seen a copy of the Bill of Entry No. 6564827 dated 27.01.2020 in which the computer printed figures of provisional assessment have been modified by hand-written figures of final assessment and there are signatures of Customs Officers with rubber-stamps on bottom of the Bill of Entry. I observe that all the three Customs Officers, i.e. Inspector, Superintendent

and Assistant Commissioner, have put signatures without writing any date with their signatures. So, it is not forthcoming from the said Bill of Entry that on which date, it has been finally assessed. However, in the letter F.No. CH/DJ/Misc./212/22-23 dated 22.05.2023 addressed to the appellant, the date of final assessment has been shown as 13.12.2022 for the subject Bill of Entry. There is no other document available on record, which shows the date of communication of final assessment to the appellant. Under this situation, I agree with the contention of the appellant that they were unaware about finalization of assessment of the subject Bill of Entry, till receipt of the said letter dated 22.05.2023. Further, vide letter dated 30.05.2023, the appellant has requested the Assistant Commissioner of Customs, Dahej, to re-assess the finally assessed BoE on the basis of the Final Invoice, but the said request was not considered and no reason has been given by Customs Department for not correcting the mistake in the final assessment.

11. I have gone through the Final Order No. A/11824/2023 dated 25.08.2023 in Customs Appeal No. 12326 of 2018 passed by Hon'ble CESTAT in the case of GAIL (India) Ltd. Vs. C.C., Ahmedabad. In the said Order, it has been held to the effect that the 'relevant date' for the purpose of limitation in filing refund claim would be the date of service of finalization of provisional assessment, not the date of finalization of assessment in Customs EDI System. I find that the Customs Department has filed a Tax Appeal No. 211 of 2024 with Hon'ble High Court of Gujarat against the said Order. However, vide Order dated 13.06.2024 in said Tax Appeal, Hon'ble High Court has dismissed the appeal filed by Department by observing as under (extracts):

*"9. Merely because the Custom Department has uploaded the final assessment orders on portal is not sufficient compliance of intimation to the assessee as it is a condition sine qua non to file the refund claim within one year as per section 27(1B)(c) of the Act from the date of finalization provided such order of assessment is communicated to the assessee. Therefore, the Tribunal has rightly taken into consideration the various documents intimating the respondent assessee about the finalization of provisional assessment communicated by the respondent in para No. 6 of the order which is quoted hereinabove.*

*10. In view of the above, we do not find any infirmity in the impugned order of the Tribunal and no question of law much less any substantial question of law arises therefore, the appeal being devoid of any merit, is accordingly dismissed."*

12. Further, I find that the Principal Commissioner of Customs, Ahmedabad, has filed a Special Leave Petition (C) Diary No. 59586/2024 with Hon'ble Supreme Court against the said Order of Hon'ble High Court and the said SLP is pending with Hon'ble Supreme Court without granting any Stay against the Order of Hon'ble High Court.

13. On further examination of the issue involved in the aforesaid case of GAIL, which is pending before Hon'ble Supreme Court and the issue involved in the case on hand, I find that the issues involved in both cases are different. In the case pending before Hon'ble Supreme Court the issue involved is regarding determination of 'relevant date' for the purpose of filing refund claim under Section 27 of the Customs Act, 1962. Whereas, in the case on hand, neither any refund has been claimed by the appellant nor it has been rejected by lower authority on the ground of limitation. Therefore, I am of the considered view that pendency of the SLP (C) Diary No. 59586/2024 with Hon'ble Supreme Court has no bearing on deciding appeal on merits in the present case.

14.1 Now, I refer the provisions of Section 149 and Section 154 of the Customs Act, 1962, which are as under:

**"149. Amendment of documents. —** *Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended:*

*PROVIDED that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be:*

*PROVIDED FURTHER that such authorization or amendment may also be done electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria:*

*PROVIDED ALSO that such amendments, as may be specified by the Board, may be done by the importer or exporter on the common portal."*



**"SECTION 154. Correction of clerical errors, etc. —** *Clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under this Act, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be."*

14.2 I find that the said Final Invoice dated 28.01.2020 was in existence at the time of finalization of provisional assessment on 13.12.2022, but it was not submitted by the appellant by mistake. Therefore, in terms of first Proviso to Section 149, amendment of a Bill of Entry can be considered even after clearance of goods. Further, the appellant had submitted a wrong copy of the Invoice by way of clerical error, which resulted into mistake in the final assessment. Therefore, such error can be rectified by Customs officer under the provisions of Section 154 of the Customs Act, 1962. In view of the above, I am of the considered view that the present case squarely falls under the aforesaid provisions.

15.1 In this regard, I rely upon the following case law (gist):

**"2019 (367) E.L.T. 227 (Mad.)**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**COMMISSIONER OF CUSTOMS (IMPORTS), CHENNAI  
Versus  
SYMRISE PVT. LTD.**

*Civil Miscellaneous Appeal No. 3443 of 2009 and Miscellaneous Petition No. 1 of 2009, decided on 7-3-2019*

Refund - Duty paid twice in respect of same invoice subjected to assessment in two separate Bills of Entry - Correction of mistake and re-assessment of Bills of Entry, whether permissible only if such mistake committed by Department and not by importer - Mistake pointed out by assessee to the Refunds officer, within three days from the date on which the Bill of Entry assessed and tax paid - Assessee approached the Assessing Officer requesting for reassessment as suggested by Refunds officer well within the appealable time available to the assessee - Scope of Section 154 of Customs Act, 1962 cannot be restricted to correction of mistake committed by Department - Clerical or arithmetical mistake attributable to importer or exporter can also be corrected under the said Section - Mistake could be rectified suo motu and Assessing Officer only required to verify the Bills of Entry - Matter remanded to the Assessing Officer to consider the appellant's request, take note of the facts and exercise power under Section 154 of Customs Act, 1962 and proceed to pass orders in accordance with law - Section 27 of Customs Act, 1962."

In view of the above case law, it is clear that the mistake committed by the importer can also be rectified under Section 154 of the Customs Act, 1962.

15.2 Further, I find that following orders of Hon'ble Bombay High Court and Hon'ble Supreme Court are also squarely applicable to the present case:

**"2021 (376) E.L.T. 192 (Bom.)**

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**DIMENSION DATA INDIA PVT. LTD.  
Versus  
COMMISSIONER OF CUSTOMS**



Writ Petition (L) No. 249 of 2020, decided on 18-1-2021

Bill of Entry - Amendment of - Inadvertent error of classification in self-assessed Bills of Entry - HELD : Though duty cast upon importer to self-assess customs duty leviable on imported goods in terms of scheme of Section 17 of Customs Act, 1962 corresponding duty also cast upon proper officer to verify and examine such self-assessment - In process of verification or examination if proper officer finds misclassification of tariff head or wrong classification of tariff head of imported goods leading to lesser levy of customs duty or excess levy of customs duty, officer and authority empowered under sub-Section (4) to make reassessment and reassess duty leviable on such goods - Under provision of Section 149 ibid discretion vested on

proper officer to authorise amendment of any document after being presented in customs house - Also, Section 154 ibid permits correction of any clerical or arithmetical mistakes in any decision or order or of errors arising therein due to any incidental slip or omission - Petitioner not seeking any refund on basis of self-assessment but seeking reassessment upon amendment of Bills of Entry by correcting customs tariff head of goods which would then facilitate petitioner to claim for refund - Case made out for issuance of direction for correction of mistake or error in classification of goods and thereby for amendment of Bills of Entry - Sections 149 and 154 of Customs Act, 1962."

I find that the SLP (C) No. 15777 of 2021 filed by Commissioner of Customs against the aforesaid Judgment of Hon'ble Bombay High Court has been dismissed by Hon'ble Supreme Court by Order dated 08.01.2021 [**Commissioner v. Dimension Data India Private Ltd. - 2022 (379) E.L.T. A39 (S.C.)**], which is as under:

*"Having heard Learned Counsel for the petitioners and on perusal of the record, we do not find any reason to entertain this petition under Article 136 of the Constitution of India.*

*The petition seeking special leave to appeal is, accordingly, dismissed.*

*All pending applications stand disposed of."*

15.3 After issuance of above Orders in the case of *Dimension Data India Pvt. Ltd. (supra)*, the Commissioner of Customs, NS-III, JNCH, Sheva, has issued a **Standing Order No. 06/2022 dated 04.07.2022**. Extracts from the said S.O. are given below:

*"5. In this regard, attention is invited to the judgement of Hon'ble High Court of Bombay in the matter of Dimension Data India Private Limited, which was subsequently upheld by the Hon'ble Supreme Court of India vide order dated 08.11.2021 in Special Leave to Appeal(C) No(s) 15777/2021.*

*5.1 As per the above judgement, apart from section 128 of the Customs Act, 1962 the Bill of Entry [or Shipping Bill] can also be amended or modified under the provisions of Section 149 or Section 154 of the Customs Act, 1962. Such amendments/modifications may be carried out after out-of-charge has been given [or LEO has been granted] and may alter the initial assessment made. Refunds may accrue under section 27 of the Customs Act 1962, as a consequence. Needless to mention that such refund claims would be guided by section 27 of the Customs Act, 1962 for limitation as well."*

16. In view of the above, I hold that the mistake committed by the appellant in submission of mistaken copy of the invoice i.e. Provisional Invoice, resulting into mistake in final assessment can be amended/corrected under Section 149/Section 154 of the Customs Act, 1962, by considering the Final Invoice and other relevant documents, which are to be submitted by the appellant to the assessing officer.

17. As the Final Invoice for the impugned Bill of Entry was not available with the assessing officer while finalizing the provisional assessment, I am of the view that the matter needs to be remanded to the assessing officer / adjudicating authority with a direction to correct the errors in the Bill of Entry No. 6564827 dated 27.01.2020 by way of re-assessment in accordance with law. I make it clear that neither any order towards finalisation of assessment for particular quantity, value or duty is being passed nor any order regarding refund is being passed presently, as the claim towards refund would be pre-mature at this stage.

**Order:**

18. In view of the above discussion, I set aside final assessment of the Bill of Entry No. 6564827 dated 21.01.2020 (communicated to GAIL vide letter dated 22.05.2023); and remand the matter to the Deputy/Assistant Commissioner of Customs, Dahej, Dist. Bharuch, with a direction to reassess the impugned Bill of Entry by way of amendment and correction of clerical errors, after examination of the relevant Final Invoice, Contract etc., which shall be submitted by the appellant. In case, if the assessing officer/adjudicating authority does not agree with the contentions of the appellant, a speaking order towards reassessment shall be passed, after giving opportunity of personal hearing to the appellant. The appeal is allowed to this extent.



(AMIT GUPTA)  
Commissioner (Appeals)  
Customs, Ahmedabad

F.No. S/49-238/CUS/AHD/2023-24

Date: 25.04.2025

By e-mail [As per Section 153(1)(c) of the Customs Act, 1962]

To

M/s. GAIL (India) Ltd.,

GAIL Bhawan, 16, Bhikaji Cama Place,

New Delhi - 110066.

(email: [info@gail.co.in](mailto:info@gail.co.in) , [ajay\\_gupta@gail.co.in](mailto:ajay_gupta@gail.co.in) , [mandeep.singh@gail.co.in](mailto:mandeep.singh@gail.co.in) , [sg08640@gail.co.in](mailto:sg08640@gail.co.in) )

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**Copy to:**

1. The Chief Commissioner of Customs, Ahmedabad Zone, Customs House, Ahmedabad. (email: [ccoahm-guj@nic.in](mailto:ccoahm-guj@nic.in) )
2. The Pr. Commissioner of Customs, Ahmedabad. (email: [cus-ahmd-guj@nic.in](mailto:cus-ahmd-guj@nic.in) ; [rra-customsahd@gov.in](mailto:rra-customsahd@gov.in) )
3. The Deputy/Assistant Commissioner of Customs, Custom House, Dahej, Dist. Bharuch. (email: [chdahej@gmail.com](mailto:chdahej@gmail.com) )
4. Guard File.

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