CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 2

CUSTOMS Appeal No. 10513 of 2021-SM

[Arising out of Order-in-Appeal No. JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020 passed by Commissioner (Appeals), Customs, Ahmedabad]

Atlantic Global Shipping Pvt. Limited .... **Appellant**
401,301 Anurag Avenue, Limda Line Opp. Jawahar Pan, Jamnagar Gujarat - 361601

VERSUS

Commissioner of Customs, Jamnagar (Prev.) .... **Respondent**
Sharda House, Bedi Bandar Road, Jamnagar, Gujarat

WITH

(i) CUSTOMS Appeal No. 10514 of 2021 (Atlantic Global Shipping Pvt. Limited)
(ii) CUSTOMS Appeal No. 10515 of 2021 (Atlantic Global Shipping Pvt. Limited)
(iii) CUSTOMS Appeal No. 10516 of 2021 (Atlantic Global Shipping Pvt. Limited)
(iv) CUSTOMS Appeal No. 10517 of 2021 (Atlantic Global Shipping Pvt. Limited)
(v) CUSTOMS Appeal No. 10518 of 2021 (Atlantic Global Shipping Pvt. Limited)
(vi) CUSTOMS Appeal No. 10519 of 2021 (Atlantic Global Shipping Pvt. Limited)
(vii) CUSTOMS Appeal No. 10520 of 2021 (Atlantic Global Shipping Pvt. Limited)
(viii) CUSTOMS Appeal No. 10521 of 2021 (Atlantic Global Shipping Pvt. Limited)
(ix) CUSTOMS Appeal No. 10522 of 2021 (Atlantic Global Shipping Pvt. Limited)
(x) CUSTOMS Appeal No. 10523 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xi) CUSTOMS Appeal No. 10524 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xii) CUSTOMS Appeal No. 10525 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xiii) CUSTOMS Appeal No. 10526 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xiv) CUSTOMS Appeal No. 10527 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xv) CUSTOMS Appeal No. 10528 of 2021 (Atlantic Global Shipping Pvt. Limited)

(xvi) CUSTOMS Appeal No. 10529 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xvii) CUSTOMS Appeal No. 10530 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xviii) CUSTOMS Appeal No. 10531 of 2021 (Atlantic Global Shipping Pvt. Limited)
(ixx) CUSTOMS Appeal No. 10532 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xx) CUSTOMS Appeal No. 10533 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xxi) CUSTOMS Appeal No. 10534 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xxii) CUSTOMS Appeal No. 10535 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xxiii) CUSTOMS Appeal No. 10536 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xxvi) CUSTOMS Appeal No. 10537 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xxv) CUSTOMS Appeal No. 10538 of 2021 (Atlantic Global Shipping Pvt. Limited)
(xxvi) CUSTOMS Appeal No. 10539 of 2021 (Atlantic Global Shipping Pvt. Limited)

APPEARANCE :

Shri Muralidhar M. Panicker, Consultant for the Appellant
Shri Himanshu Nachane, Superintendent (AR) for the Revenue.

CORAM:

HON'BLE DR. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)

DATE OF HEARING : 08.07.2026
DATE OF DECISION: 12.08.2026

FINAL ORDER NO. 10493-10519/2026

DR. AJAYA KRISHNA VISHVESHA :

These appeals are directed against impugned Order-in-Appeal dated 21.02.2020 passed by Commissioner (Appeals), Customs Ahmedabad though which the learned Commissioner (Appeals) rejected the appeals and upheld the Orders-in-Original.

2. M/s. Atlantic Shipping Pvt. Limited has filed 27 appeals as per particulars mentioned below:-

S. No.	OIO No. & Date	OIA No. & Date	Name of Vessel	Duty amount on Bunker & provisions	Fine in lieu of confiscation	Penalty imposed
1	23/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Olympic Sponsor	Rs.7,33,968/-	Rs.11,000/-	Rs.5000/-
2	28/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Tinos Warrior	Rs.46,80,661/-	Rs.68,000/-	Rs.5000/-
3	30/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Tinos Warrior	Rs.19,90,709/-	Rs.1,87,600/-	Rs.5,000/-
4	27/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Green Warrior	Rs.17,83,486/-	Rs.70,700/-	Rs.5,000/-
5	25/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Asahi Princess	Rs.5,74,777/-	Rs.35,000/-	Rs.5,000/-
6	31/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Explorer	Rs.19,81859/-	Rs.45,000/-	Rs.5,000/-
7	34/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Jupiter Sun	Rs.7,40,731/-	Rs.60,500/-	Rs.5,000/-
8	32/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Tinos Warrior	Rs.12,28,155/-	Rs.31,145/-	Rs.5,000/-
9	24/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Tinos Warrior	Rs.15,10,456/-	Rs.60,400/-	Rs.5,000/-
10	33/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Tinos Warrior	Rs.13,82,222/-	Rs.21,200/-	Rs.5,000/-
11	26/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Olympic Spirit-II	Rs.7,18,384/-	Rs.73,000/-	Rs.5,000/-
12	29/DC/O&A/2019-20 20.06.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Tinos Warrior	Rs.11,35,288/-	Rs.32,800/-	Rs.5,000/-
13	59/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Green Warrior	Rs.10,81,854/-	Rs.32,335/-	Rs.5,000/-
14	60/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Tinos Warrior	Rs.16,93,941/-	Rs.77,500/-	Rs.5,000/-
15	61/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Pacific Cape	Rs.13,53,575/-	Rs.47,800/-	Rs.5,000/-
16	56/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Vinalines Galaxy	Rs.20,03,495/-	Rs.52,150/-	Rs.5,000/-
17	57/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Afra Oak	Rs.41,75,044/-	Rs.1,32,300/-	Rs.5,000/-
18	58/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Miss Marina Magnolia	Rs.14,99,546/-	Rs.70,600/-	Rs.5,000/-
19	63/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Alpine Magnolia	Rs.32,40,850/-	Rs.1,02,000/-	Rs.5,000/-
20	55/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Green Warrior	Rs.9,39,503/-	Rs.22,250/-	Rs.5,000/

21	62/DC/O&A/2019-20 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Gold Express	Rs.13,49,031/-	Rs.26,500/-	Rs.5,000/-
22	66/DC/O&A/2019-20 Dated 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Alpine Moment	Rs.15,31,740/-	Rs.96,800/-	Rs.5,000/-
23	65/DC/O&A/2019-20 Dated 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT BW Kronborg	Rs.8,74,005/-	Rs.44,600/-	Rs.5,000/-
24	64/DC/O&A/2019-20 Dated 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT BW Kronborg	Rs.34,54,254/-	Rs.1,22,000/-	Rs.5,000/-
25	69/DC/O&A/2019-20 Dated 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Dawn Kanchipuram	Rs.44,20,889/-	Rs.89,700/-	Rs.5,000/-
26	68/DC/O&A/2019-20 Dated 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Barbarosa	Rs.36,56,123/-	Rs.82,300/-	Rs.5,000/-
27	67/DC/O&A/2019-20 Dated 09.09.2019	JMN-CUSM-000-APP-259to285-19-20 dated 21.02.2020	MT Margarita	Rs.23,69,923/-	Rs.38,800/-	Rs.5,000/

2.1 The facts of the cases are that the appellant filed certain Bills of Entry on behalf of the Masters of the above vessels for conversion of the vessels from foreign run to coastal run and paid Customs duties for the approximate quantities of foreign origin bunkers and provisions likely to be consumed during coastal run of the vessels, in terms of instructions issued vide Board Circular No. 58/1997 dated 06.11.1997 alongwith bonds for provisional assessments of the Bills of Entry. During scrutiny for final assessment of the Bills of Entry, it was observed that Appellant classified the provisions under CTH 98051000 and the goods falling under CTH 98051000/98059000 are subject to restrictions as per Schedule 1 of ITC (HS) Classification of Export and Import items to the effect "Subject to value limit of Rs.2000 (CIF) and other conditions as specified in clause 3(1), (1) of Foreign trade (Exemption from Application of Rules in Certain Cases) Order, 1993." It was also observed that para 2.7 of Foreign Trade Policy prescribes that any goods export or import of which is restricted under ITC (HS), may be exported or imported only in accordance with an Authorization or in terms of a Public Notice issued in this regard, whereas the appellant had not submitted any permission /authorization /licence issued by the DGFT for importing goods falling under CTH 98051000 in excess of Rs.2000/-. Therefore, Show Cause Notices were issued to the appellant, demanding duty finally assessed along with interest; proposing confiscation of the provisions consumed during coastal run under Section 111(d) of Customs Act, 1962 and proposing to impose penalty on the appellant under section 112(a) of the Customs Act, 1962. The show cause notices were adjudicated, confirming duty, interest, confiscation, fine in lieu of confiscation and penalty as detailed in the table shown above. Aggrieved by the Orders-in-Original, the appellant filed appeals before learned Commissioner (Appeals) but the Commissioner (Appeals) rejected all the appeals and upheld the Orders-in-Original. Feeling aggrieved from the impugned Order-in-Appeal dated 21.02.2020, the present appeals have been filed by the appellant.

3. Learned Consultant for the appellant Shri Muralidhar M Panicker submitted that the DGFT, vide Office Memorandum, issued vide No. IPC/4/5(684)/97/82/PC-2(A)/649 to 651, have clarified in respect of fuel/oil (HSD and LDO) in ships/vessels imported for breaking that the fuel in the vessel is required for running the vessel. He submitted that they had no intention of trading the fuels and it has to be treated as a part of the vessel and not as a normal import. Moreover, the fuel is duty paid, hence the fuel oil classifiable under Chapter 27, should be treated as a part of the vessel and be allowed to be classified under Chapter 89.08. Similarly, in this case the Ship Stores i.e. provisions which have come along with the vessel, is for the consumption of the crew during its coastal run and the ship stores is not for trading. Further, the customs duty at the appropriate rate, on the quantity of ship stores which would be consumed by the crew during the

coastal run, is already paid at the time of filing of the provisional Bill of Entry for the same. Whatever stores remain in the ship /vessel, upon reversion of the vessel to foreign run will remain in the vessel itself and at no point of time would be unloaded from the vessel. As the ship stores for the internal consumption of the crew of the vessel is duty paid and is not brought out of the vessel to the shore, the DGFT Rules and Regulations would not apply to them. The appellant has relied on the order passed by the CESTAT, Ahmedabad in the case of **A.G. Enterprise** vs. **Commissioner of Customs (Preventive), Jamnagar** reported at 2014 (308) ELT 418 (Tri.-Ahmd.) in which it has been held that the above mentioned clarification dated 26.06.2013 issued by the DGFT would be binding on the Customs and that the ship stores should be treated as a part of the vessel and that the DGFT restrictions would not apply to it. In the said order, it has also been observed that no ITC action is taken by Revenue when ocean going vessel is converted into coastal run and only duties are paid on the fuel used during the coastal run.

3.1 Learned Consultant also submitted that this is the only Port where the Customs have raised the issue of applicability of the DGFT Rules and Regulations on ship stores and at no other Port this issue has been raised, which clearly shows that it is a case of misinterpretation of the law. Had it been applicable, the Customs at the other Ports would also have issued similar Show Cause Notices, which is not the case. Learned Consultant prays that in view of the above legal position and clarification issued by the DGFT, Orders-in-Original and impugned Order-in-Appeal may be set-aside and the appeals may be allowed.

4. Learned AR reiterated the impugned order passed by learned Commissioner and prays that the impugned Order-in-Appeal may be upheld and the appeal may be rejected.

5. I have heard both sides and perused the record. I agree with the learned Consultant that DGFT vide office memorandum issued vide No. IPC/4/5(684)/97/82/PC-2(A)/649 to 651, have clarified that fuel/oil (HSD and LDO) in ships is required for running the vessel and it has to be treated as a part of the vessel and not as a normal import. Relevant part of the office memorandum is reproduced below:-

No. IPC/4/5(684)/97/82/PC-2(A)/649 to 651

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE DIRECTORATE GENERAL OF FOREIGN TRADE
UDYOG BHAWAN, NEW DELHI

Dated: June 26, 2013.

OFFICE MEMORANDUM

Subject: Clarification regarding import of remaining fuel/oil (HSD and LDO) in Ships/Vessels imported for breaking up scrapping.

CBSE, Department of Revenue may please refer in this Directorate Office Memorandum dated. 10.04.2013 Informing that the remaining fuels which are brought as incidental to the ship / vessels Imported for scrapping will be classified under heading 89.08 and anything beyond that will be classifiable under Chapter 27. However, how much fuel /oil is to be treated as incidental may be decided by Customs Authorities in the field.

2. Subsequently, the Ship Recycling Industries Association (India) in their representation dated 7.5.2008 have requested for re-examination of the issue in view of the fact that the remaining fuels are incidental to the ship/vassals and not Imported for trade. They have informed that HSD/LDO are required for running the generators of the ship and is stored in the fuel tanks. Since the consumption of fuel is very high a minimum quantity is required to be maintained in the tanks. This is also required to avoid any eventuality of break-down during the transit. Secondly, the fuel is not imported by them but is coming along with the vessel. Thirdly, necessary duties are paid by them and they have no intention of trading the fuels but only keeping the balance fuel. Lastly, lack of clarity is resulting in customer penalizing/blacklisting them. Therefore, they have requested to clarify that the fuels Incidental to the ship/vessels may be treated as part of the vessel and classified under heading 89.08.

3. We had obtained the details of number of ships Imported for break up and the total quantity of fuels Imported during the last 2 years. It is observed that not only the volume of fuels Imported is very small compared to the total imports into the country, but the

duty collected by the customs alongwith penalty is 6-7 crores only, which approximately comes Rs. 1,35,000/- (Rs 400 ships per year)."

4. This directorate is of the view that since the surplus fuels stored in the fuel tank (whether inside or upside the engine room) form part of the ship/ vessel and are Incidental to the ships/vessels Imported for breaking up such Incidental fuels should also be considered as integral part of the vessel's machinery and classified under heading 89.08 and the importers should not be penallized or blacklisted for the purpose.

5. It is requested that Instructions may be issued to the Customs field authorities accordingly.

G. Purtharithe
Joint Director General of Foreign Trade"

5.1 In **A.G. Enterprise** vs. **Commissioner of Customs (Preventive), Jamnagar** - 2014 (308) ELT 418 (Tri.- Ahmd.), a Bench of CESTAT has held as follows:-

"4.2 As per the above provisions of Foreign Trade Policy any doubt regarding classification of any item in ITC (HS) or HBPv1 or HBPv2 or schedule of DEPB Rates should be referred to DGFT whose decision shall be final and binding. As per the clarification/opinion of Joint Director General of Foreign Trade, New Delhi, surplus fuel stored in fuel tanks of vessels/ship brought for breaking up is classifiable under 89.08 along with the main vessel. In this regard, Paras 18 & 19 of case law *Cine Land* v. *CC, Chennai* (supra), relied upon by the appellants, following has been held by CESTAT, Chennai :-

"19. We also find that it is now a well settled law that clarifications on Import Policy issued by office of DGFT is binding on Customs as far as ITC Policy is concerned in view of the decisions cited by ld. Senior Advocate supra clarification on these items' classification under ITC (HS) and the ITC Policy."

5. In view of above, an opinion/clarification issued by Joint DGFT has to be considered as a clarification issued by DGFT & will be binding on the customs so far as ITC restrictions are concerned under Foreign Trade Policy. However, the same clarification issued by DGFT may not be binding on the Customs for the classification of the same goods under the Customs Tariff Act which is the sole domain of the Customs Authorities. However, so far as classification of the ships/vessel, brought in for breaking up along with surplus fuel, will have to be considered classifiable under Heading 89.08 of the Import Policy as an integral part of the vessel/ship, as per opinion given by DGFT under F. No. IPC/4/5(684)/97/82/PC-2(A), dated 26-6-2013. As the imports under ITC (HS) 89.08 are free without any restrictions, therefore, such MGO/HSD contained in the vessels brought in for breaking up, cannot be held as liable for confiscation under Section 111(d) of the Customs Act, 1962 and no penalties upon the appellants are imposable in the present appeals under Section 112(a) of the Customs Act, 1962. It is also relevant to mention that no ITC action is taken by the Revenue when an ocean-going vessel is converted into coastal-run vessel and only duties are paid on the fuel used during the coastal run.

6. In view of the above, appeals filed by the appellants are allowed with consequential relief, if any.**"**

5.2 In view of the order passed by this Tribunal in **A.G. Enterprise** vs. **Commissioner of Customs (Preventive), Jamnagar** (supra), as mentioned above that clarification dated 26.06.2013 issued by the DGFT will be binding on the Customs and ship stores are part of the vessel and not as a normal import, therefore, DGFT restrictions would not apply to it and no ITC action is taken by the Revenue when ocean going vessel is converted into coastal run and only duties are paid on the fuel used during the coastal run. I am of the view that the impugned order passed by learned Commissioner (Appeals) is liable to be set-aside and the appeals deserve to be allowed. Consequently, the impugned Order-in-Appeal dated 21.02.2020 is set-aside and the appeals are allowed.

(Order pronounced in the open court 12.08.2026*)*

(Dr. Ajaya Krishna Vishvesha)
Member (Judicial)

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