



**सीमाशुल्क आयुक्त (आयात) का कार्यालय**  
**OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT)**  
**हवाई माल परिसर, सहार, अंधेरी (पूर्व), मुंबई - ४०००९९**  
**AIR CARGO COMPLEX, SAHAR ANDHERI (EAST) MUMBAI -99**  
**फोन नं. २६८२८९४७, फैक्स नं. २६८२८१८७**  
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**F.No. GEN/ADJ/COMM/681/2023-Adjn**

**Date of Order: 28.11.2025**

**Date of Issue: 28 .11.2025**

**DIN NO. 20251179OA000000F8C1**

**Party's Name: M/s. Sanghvi Reconditioners Pvt. Ltd.**

**(SCN No. DRI/BZU/E/4/99 dated 28.03.2002)**

**PASSED BY: Shri Manish Chandra,**

**Principal Commissioner of Customs (Import), Air Cargo Complex, Mumbai-III**

**CAO NO: CC-MC/59/2025-26 Adj (I) ACC**

**मूल आदेश /ORDER-IN-ORIGINAL**

- यह प्रति उस व्यक्ति के प्रयोग में लाये जाने के लिए निशुल्क दी जाएगी, जिसके लिए इसे जारी किया गया है।  
This copy is granted free of charge for the use of the persons to whom it is issued.
- यदि कोई व्यक्ति इस आदेश से असन्तुष्ट हो तो वह मांगे गये शुल्क, जहां शुल्क या शुल्क और जुर्माना विवादित हों अथवा जुर्माना जहां सिर्फ जुर्माना विवादित हो, के 7.5 प्रतिशत भुगतान के बाद सीमाशुल्क अधिनियम 1962 की धारा 129A के तहत उक्त न्यायाधिकरण के सहायक रजिस्ट्रार को संबोधित करते हुए, सीमाशुल्क, उत्पादशुल्क, सेवा कर न्यायाधिकरण, मुंबई (सी ई एस टी ए टी), पश्चिम क्षेत्रीय शाखा, 34 पी डिमेलो मार्ग, मस्जिद (पूर्व), मुंबई ४००००९, के समक्ष अपील दाखिल कर सकता है।  
Any person aggrieved by this order can file an appeal against this order to Customs, Excise, Service Tax Tribunal, Mumbai (CESTAT), Western Zonal Bench, 34, P.D'Mello Road, Masjid Bunder (East), Mumbai 400009, addressed to the Assistant Registrar of the said Tribunal under Section 129A of the Customs Act, 1962 on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
- अपील जैसा कि सीमाशुल्क (अपील) नियम, 1982 के नियम 6 में बताया गया है, इन नियमों से संलग्न फॉर्म सी. ए. 3 में की जानी चाहिए। अपील चार प्रतियों में निम्नलिखित के साथ होनी चाहिए:-  
The appeal is required to be filed as provided in Rule 6 of the Customs (Appeal) Rules, 1982 in form C.A. 3 appended to these rules. The Appeal should be in quadruplicate and shall be in quadruplicate and shall be accompanied by:-  
(i) विरुद्ध अपील आदेशों की चार प्रतियां (कम से कम एक प्रति प्रमाणित होनी चाहिए)  
Four copies of the order appealed against (at least one of which should be a certified copy)  
(ii) न्यायाधिकरण शाखा के सहायक रजिस्ट्रार अथवा शाखा से नजदीक स्थित किसी राष्ट्रीय कृत बैंक के पक्ष में उपयुक्त राशि का एक रेखांकित बैंक ड्राफ्ट  
A crossed Bank Draft of an applicable amount as mentioned below in favour of the Assistant Registrar, CESTAT, Mumbai.  
अ) रु. १,०००/- जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५ लाख या कम हो  
Where the amount of duty and interest demanded and penalty imposed is five lakh rupees or less, one thousand rupees.  
आ) रु. ५,०००/- जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५ लाख से अधिक पर रु. ५० लाख से ज्यादा न हो  
Where the amount of duty and interest demanded and penalty imposed is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees.  
इ) रु. १०,०००/- जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५० लाख से अधिक हो  
Where the amount of duty and interest demanded and penalty imposed is more than fifty lakh rupees, ten thousand rupees.
- अपील, इस आदेश की संसूचना की तिथि से 3 माह के भीतर दाखिल की जा सकती है।  
Appeal can be filed within 3 months from date of communication of this order.
- विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क (अपील) नियम 1982, सीमाशुल्क, उत्पादशुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम 1982 का संदर्भ लिया जाए।  
For the provisions of Law and Form as referred above and other related matters. Customs Act, Customs (Appeals) Rules, 1982, Customs, Excise, Service Tax Tribunal (Procedure) Rules, 1982 may be referred.

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### **BRIEF FACTS OF THE CASE**

**1. M/s. Sanghvi Reconditioners Pvt. Ltd.** (herein after referred as **M/s. SRPL**), having their office situated at 4th floor, Mahavir Darshan, M.N. Koli Marg, Mumbai-400003, were allegedly misusing the benefit of General Exemption given under Sr. No. 227 read with condition No. 56 of Notification No. 23/98-Customs dated 02.06.1998, by importing completely new electronic navigational and communication equipment-**Global Maritime Distress Safety System** (herein after referred as **GMDSS**). The GMDSS being not meant for repairs of any ocean going vessels or existing equipments on board the ships, were imported without payment of duty and were being supplied to various parties in India by declaring to Customs that these were required for repair of ocean going vessels, whereas no repairs to the ocean going vessels were actually carried out.

**1.1** For the sake of clarity and better understanding, the relevant portion of Notification No. 23/98-Customs dated 02.06.1998, specifically Serial No. 227 read with Condition No. 56, is reproduced below.

Sl. No.	Chapter or Heading No. or sub-heading No.	Description of goods	Standard rate	Additional Duty	Condition
(1)	(2)	(3)	(4)	(5)	(6)
227	Any chapter	Capital goods and spares thereof, raw materials, parts, material handling equipment and consumables, for repairs of ocean-going vessels by a ship repair unit registered with the Director General of Shipping, Government of India	Nil	Nil	56

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## Condition No. 56

If, -

(a) the importer maintains a proper account of import, use and consumption of the specified goods imported for the purpose of repairs of ocean-going vessels and submits such account periodically to the Commissioner of Customs in such form and in such manner as may be specified by the said Commissioner;

(b) the importer, by the execution of bond, in such form and for such sum as may be specified by the said Commissioner, binds himself to pay on demand an amount equal to the duty leviable.

(1) on the capital goods or spares thereof or material handling equipment, as are not proved to the satisfaction of the said Commissioner to have been installed or otherwise used for the aforesaid purpose;

(2) on parts, raw material and consumables, as are not proved to the satisfaction of the said Commissioner to have been used or consumed for the aforesaid purpose, within a period of three months from the date of importation thereof or within such extended period as that Commissioner, on being satisfied that there is sufficient cause for not installing, using or consuming them, as the case may be, for the aforesaid purpose within the said period, allow.

**1.2 M/s. SRPL** is a **Ship Repair Unit (SRU)** registered with Directorate General, Shipping having certificate issued by DG Shipping for carrying out comprehensive repairs to marine diesel engines and machinery parts of marine vessels. **M/s. SRPL** had imported **GMDSS** required for repair of ocean vessels of **M/s Shipping Corporation of India (SCI)**, **M/s Reliance Industries Ltd** and **M/s Great Eastern Shipping Company Ltd (GESCO)** during the period January, 1998 to June, 1999 for clearing these goods without payment of duty in terms of the aforementioned notification.

**1.3** SRPL had given instructions to the foreign suppliers of the GMDSS equipment-JRC and SAIT Marine, to mark the documents i.e. Invoices and Packing List as ship spares in transit. This was done just to show that the GMDSS which are complete and independent equipment in itself, are spares required for carrying out repairs to the ocean-going vessels.

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**1.4** SRPL had adopted different modus operandi for import of GMDSS equipment. They claimed exemption under Customs Notification No. 11/97- dated 01.03.1997 or 23/98 dated 02.06.1998 and 20/99 dated 28.02.1999, meant for repairs of vessels. However, they had not executed the Bond required under the said notifications and thus contravened the provision. It is admitted position that such supply and installation of new GMDSS which were hitherto not existing on board the vessels, cannot be regarded as repair to the vessel. Secondly they declared that the GMDSS are to be transhipped to the vessels under Section 85 of the Customs Act, 1962. Such transshipment without payment of Customs duty is only applicable for foreign going vessels and applicable for stores. It is established position that the vessels on which the GMDSS were supplied by SRPL were coastal vessels and provisions under Section 87 of the Customs Act, 1962 is not applicable to them. Thirdly, by filing Warehousing Bill of Entry under Section 65 of the Customs Act, 1962 at Mumbai Air Cargo Complex simultaneously claiming Notification No. 23/98 dated 02.06.1998 and 20/99 dated 28.02.1999 and then filing Shipping Bill to show export apparently under Section 69 of the Customs Act, 1962, they gave the impression that the GMDSS were supplied to foreign going vessels, whereas the vessels were coastal vessels. Further SRPL neither followed correct procedure under Section 65 & 67 of the Customs Act, 1962 nor under the said Notification claimed by them.

**1.5** The goods i.e. GMDSS equipment being Marine Radio Communication equipment are classifiable under CTH 8525.20 (EXIM Code 85252002) and as per the ITC Classifications of Export and Import Items (EXIM Policy 1997-2002) import of such equipment is restricted. These equipment are not permitted to be imported without a valid import licence issued by Wireless Planning and Co-ordination (WPC) Wing of Ministry of Communications. The importer i.e. SRPL, did not submit the required import license for these goods-GMDSS equipment and thus contravened the provisions of Section 11 of the Customs Act, 1962, thereby rendering the same liable to confiscation under Section 111 (d) of the Customs Act, 1962.

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**1.6** The investigation carried out by Directorate of Revenue Intelligence Bangalore Zonal Unit has revealed that **SCI** had engaged **SRPL** solely for arranging importation of requirements for its coastal vessels, and the said contract did not extend to any imports for SCI's foreign-going vessels. It further emerged that **M/s Reliance Industries Ltd.** also procured GMDSS equipment for their coastal vessels through **SRPL** under contracts that did not pertain to any repair activity. Similarly, **GESCO** and its ship managers, **M/s Five Star Shipping Co.**, routed the import of GMDSS equipment for their two coastal vessels through SRPL, with the scope of work limited to import and supply of the equipment and not to any repair or maintenance of vessels or onboard systems. The investigation additionally disclosed that **M/s OTA Fallons Forwarders Pvt. Ltd.**, acting as the Custom House Agent (CHA) for SRPL, aided and abetted in the evasion of Customs duty by filing the relevant Bills of Entry, and that **Shri N.N. Chakraborty**, Executive Director of M/s OTA Fallons, was supervising and monitoring these operational activities.

**1.7** SRPL, therefore, imported GMDSS equipment without payment of duty and supplied to SCI, M/s. Reliance Industries Ltd. & GESCO, for their coastal vessels. **SRPL voluntarily deposited Rs.3,33,37,598.92/- towards duty liability in 1999 during the investigation.** However, the explanations given by SRPL during investigation were not accepted by the investigating agency and the impugned Show Cause Notice (SCN) was issued under Sections 28 and 124 of the Customs Act, 1962 on 28.03.2002 to all the **8 noticees**. The details of the SCN is given in the Table below.

SCN No.	DRI/BZU/E/4/99 - dated 28.3.2002
Noticees	<b>1) M/s. Sanghvi Reconditioners Pvt ltd</b> <b>2) Shri Kiran I Sanghvi, Director of</b> <b>of M/s Sanghvi Reconditioners Pvt ltd</b> <b>3) The Shipping Corporation of India</b> <b>4) M/s Reliance Industries Ltd.</b> <b>5) M/s The Great Eastern Shipping Co Ltd</b>

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		<b>6) M/s Give Star Shipping Co.</b> <b>7) M/s OTA Falcons forwarders Pvt ltd</b> <b>8) Shri N N Chakraborty, Director of</b> <b>M/s OTA Falcons Forwarders Pvt Ltd</b>
<b>Noticee No.</b>	<b>Noticee</b>	<b>Duty, Penalty and Fine Proposed in SCN</b>
1	M/s. Sanghvi Reconditioners Pvt. Ltd answerable to <b>Commissioner of</b> <b>Customs, ACC,</b> <b>Mumbai</b>	<b>Duty of Rs.2,06,42,669/-</b> demanded under Section 28(1) and Section 72 of Customs Act, 1962.  Interest demanded under Section 28AB and Section 72 of Customs Act, 1962.  Confiscation of goods of <b>Rs.3,53,18,893/-</b> under Section 111(d), 111(m) and 111(o) ibid.  Penalty under Section 112(a) and Section 112(b) and Section 72 ibid.  Penalty under Section 114A ibid.
1	M/s. Sanghvi Reconditioners Pvt ltd answerable to <b>Commissioner of</b> <b>Customs, New</b> <b>Custom House,</b> <b>Ballard Estate,</b> <b>Mumbai</b>	Duty of <b>Rs.58,12,618/-</b> demanded under Section 28(1) and Section 72 ibid.  Interest demanded under Section 28AB and Section 72 of Customs Act, 1962.  Confiscation of goods of <b>Rs.99,10,687/-</b> under Section 111(d), 111(m) and 111(o) ibid.  Penalty under Section 112(a) and Section 112(b) and Section 72 ibid  Penalty under Section 114A ibid.
1	M/s. Sanghvi Reconditioners Pvt ltd answerable	Duty of <b>Rs.61,63,952/-</b> demanded under Section 28(1) and Section 72 of Customs Act, 1962. Interest demanded under section 28AB and Section 72 of Customs Act, 1962.

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	to <b>Commissioner of Customs, Kolkatta</b>	Confiscation of goods of <b>Rs.1,05,09,721/-</b> under Section 111(d), 111(m) and 111(o) ibid  Penalty under Section 112(a) and Section 112(b) and Section 72 ibid  Penalty under Section 114A ibid
1	M/s. Sanghvi Reconditioners Pvt Ltd answerable to <b>Commissioner of Customs, Chennai</b>	Duty of <b>Rs.7,88,096/-</b> demanded under Section 28(1) and Section 72 of Customs Act, 1962.  Interest demanded under Section 28AB and Section 72 of Customs Act, 1962.  Confiscation of goods of <b>Rs.13,43,727/-</b> under Section 111(d), 111(m) and 111(o) ibid.  Penalty under Section 112(a), Section 112(b) and Section 72 ibid.  Penalty under Section 114A ibid.
2	Shri Kiran I Sanghvi, Director of Sanghvi Reconditioners Pvt Ltd	<b>Answerable to Commissioner of Customs, Air Cargo Complex, Sahar, Mumbai.</b> Penalty under Section 112(b) and Section 72 ibid.
3	The Shipping Corporation of India	
4	Reliance Industries Ltd	
5	The Great Eastern Shipping Co Ltd	
6	Five star shipping Co.	
7	M/s OTA Falloons Forwarders Pvt Ltd	
8	Shri N N Chakraborty, Director of M/s. OTA	

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	Fallons Forwarders Pvt. Ltd.	
1	M/s. Sanghvi Reconditioners Pvt ltd	<b>Answerable to adjudicating authority as to why:</b>  Amount totalling to <b>Rs.3,33,37,598.92/-</b> collectively deposited by them towards their duty liabilities should not be appropriated and adjusted towards recovery on account of duty and interest or penalty as may be imposed on them.
3	The Shipping Corporation of India	
4	Reliance Industries Ltd	
5	The Great Eastern Shipping Co Ltd	

**1.8** As per file records it is evident that the SCN was received in the Office of the Commissioner of Customs (Import), ACC, Mumbai for adjudication in respect of imports made through ACC, Sahar, Mumbai and was transferred to the Commissioner of Customs (Adjudication), New Custom House, Ballard Estate, Mumbai on 18.04.2002 for adjudication as all cases investigated by the DRI were required to be adjudicated by the Commissioner of Customs (Adjudication), Mumbai as per Chief Commissioner's Office Order No 17/2000 dated 28.6.2000.

**1.9** Later the Commissioner of Customs, ACC, Mumbai was appointed as the Common Adjudicating Authority vide Notification No 47/2002-Customs (NT) dated 25.7.2002 for adjudicating the Show Cause Notice. Therefore, letter vide F No DRI/BZU/E/4/99/S/3 Misc 6/2002/Adj ACC dated 28.01.2003 and reminder dated 02.06.2003 was issued to the Commissioner of Customs (Adjudication), New Custom House, Mumbai to return the SCN for adjudication and accordingly the same was returned to Commissioner (Import) , ACC, Mumbai on 11.09.2003.

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**1.10** Hearing were granted by Commissioner (Import), ACC, Mumbai on 5.02.2004, 01.03.2004, 25.03.2004 to all noticees. In a similar case of imports of identical equipments **(A S Moloobhoy and Sons) CEGAT had set aside Commissioner (Adjudication) Order in Original CAO/68/2002/CAC/CC/ASS dated 18.02.2002 and Commissioner of Customs (Import), New Custom House, Mumbai filed CA No 9691-9693/2003 before Supreme Court against the order of CEGAT**, the subject case was therefore transferred to the Call Book in 2004 as the Department's appeal was pending in the Supreme Court. **Supreme Court dismissed the appeals of the department in A S Moolabhoy's case on 26.3.2015.**

**1.11** Further, as per the Delhi High Court's decision dated 03.05.2016 in the Mangali Impex Ltd. case, the Board issued instructions on 29.06.2016 directing that all Show Cause Notices issued by DRI under Section 28 be transferred to the Call Book until the Supreme Court disposes of the SLP filed against the said order. Accordingly, the subsequent case was also transferred to the Call Book.

**1.12** Supreme Court granted stay on Delhi High Court's decision dated 03.05.2016 in the Mangali Impex Ltd. case and accordingly as per Board's instruction dated 03.01.2017 the subject case SCN was taken out of Call Book. However, the then Principal Commissioner of Customs (Import), ACC, Mumbai was holding additional charge as Chief Commissioner of Customs, Mumbai Zone III and was also transferred in July 2017 and hence the subject case SCN could not be taken up for adjudication till July 2017. Later on when the Commissioner (General), ACC, Mumbai was given the additional charge of the Commissioner of Customs (Import), ACC Mumbai Zone III on 22.8.2017, the subject case SCN was taken up for adjudication. A letter was issued on 07.09.2017 to all the noticees to attend a personal hearing on 03.10.2017 and on 10.11.2017. However no one appeared before the adjudicating authority on both the dates.

**1.13** Subsequently, M/s. Sanghvi Reconditioners Pvt. Ltd. filed WPL 2585/2017 before the Bombay High Court, which quashed the adjudication proceedings against them in its order dated 12.12.2017. The Court clarified that the order applied only to the petitioner and could not be extended to other

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noticees. The Revenue was permitted to proceed against the remaining parties as per law. The said order dated 12.12.2017 of High Court was accepted by the then Commissioner (Import), ACC, Mumbai on 14.11.2018.

**1.14** As the High Court order in the case of M/s Sanghvi Recoditioners Pvt Ltd was applicable to them only and not to other noticees, adjudication proceedings in respect of other noticees were initiated and Personal Hearing was granted on 04.02.2019.

**1.15** However, M/s Reliance Industries Ltd. filed WP No.1361/2019 before the Bombay High Court and with the approval of competent authority the file was transferred to Call Book again on 01.03.2019. The Bombay High Court on the lines of its order dated 12.12.2017 in WP 2585/2017 filed by M/s Sanghvi Reconditions Private Ltd quashed the proceedings to the extent it was applicable to M/s Reliance Industries Ltd.

**1.16** The Legal Section, ACC (Import), Mumbai, confirmed vide letter dated 26.12.2022 that no appeal is pending before any higher forum against the Bombay High Court's order in WP 1361/2019 concerning M/s Reliance Industries Ltd. Accordingly, the order is deemed to have been accepted.

**1.17** The adjudication proceedings in respect of other noticees was again resumed and M/s The Great Eastern Shipping filed WP (OS) No. 16374/2023 in Bombay High Court. Accordingly, the file was re transferred to Call Book on 11.07.2023 with the approval of competent authority.

**1.18** In WP No. 3605 of 2024 filed by M/s The Great Eastern Shipping Company Ltd., the Bombay High Court, vide order dated 14.10.2024, disposed of the matter and quashed the hearing notice dated 28.02.2023 as well as the impugned Show Cause Notice F. No. DRI/BZU/E/4/99 dated 28.03.2002. The Legal Section, ACC (Import), Mumbai, vide email dated 10.10.2025, confirmed that the High Court's order has been accepted by the competent authority. Accordingly, the subject SCN was taken out of the Call Book for completion of the adjudication proceedings.

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**1.19** There were many personal hearings scheduled in this case in 2004, 2017, 2019, 2023 but have not attended by the Noticees because of the said court cases.

## **DISCUSSION AND FINDINGS**

**2.** I have gone through the Show Cause Notice (SCN) No. DRI/BZU/E4/99 dated 28.03.2002, the various events in the case, and all material available on record. Accordingly, I proceed to decide the matter on merits.

**2.1** It is alleged in the subject SCN that M/s. Sanghvi Reconditioners Pvt. Ltd. (SRPL) misused the General Exemption given under Sr. No. 227 read with condition No. 56 of Notification No. 23/98-Customs dated 02.06.1998, by importing entirely new GMDSS equipment under the pretext of vessel repairs. Although registered as a Ship Repair Unit with DG Shipping, SRPL imported these goods between January 1998 and June 1999 claiming they were meant for repairs of vessels of SCI, Reliance Industries Ltd., and GESCO, and cleared them duty-free. Investigation shows that SRPL adopted multiple methods to evade duty, including claiming exemptions without executing the mandatory bond, declaring transshipment under Section 85 of the Customs Act, 1962 for coastal vessels not eligible for such benefit, and filing warehousing and shipping documents to falsely project supplies to foreign-going vessels, without following procedures under Sections 65 and 67 of the Customs Act, 1962. Further, the GMDSS equipment, classified under CTH 8525.20 and falling in the restricted category, were imported without the mandatory WPC licence, in violation of Section 11 of the Customs Act, rendering the goods liable to confiscation under Section 111(d) of the said Act.

**2.2** The subject SCN demands duty of Rs. 3,34,07,335/-. SRPL had voluntarily deposited Rs. 3,33,37,598.92/- towards the duty liability in 1999, prior to issuance of the SCN, and subsequently also paid the remaining differential amount of Rs. 69,736.08/- voluntarily.

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**2.3 The subject case was transferred to the Call Book as in a similar case -A.S. Moloobhoy & Sons v. Commissioner-2003 (162) E.L.T. 196**, the CEGAT, Mumbai had set aside **Commissioner (Adjudication) Order in Original CAO/68/2002/CAC/CC/ASS dated 18.02.2002** and the Commissioner of Customs (I), New Custom House, Mumbai filed CA No 9691-9693/2003 before Supreme Court against the said order of CESTAT in **A.S. Moloobhoy & Sons case.**

**2.4** In *A.S. Moloobhoy & Sons v. Commissioner*, 2003 (162) E.L.T. 196 (CESTAT-Mumbai), the Tribunal, in its order dated 01.07.2003, held that installing **Global Maritime Distress and Safety System (GMDSS)** and Emergency Position Indicating Radio Beacons (**EPIRB**) on ships—required under the 1995 Distress and Safety Radio Communication Rules—was held to be **“repair”** under **Entry 227 of Notification 23/98-Cus dated 02.06.1998**. The Tribunal explained that **repair** is not limited to fixing completely worn-out equipment; it also includes **preventive maintenance** and any activity that restores a vessel to a proper or lawful operating condition. Since a ship lacking these mandatory safety systems becomes **unseaworthy and cannot legally sail**, fitting the new equipment restores its seaworthiness. Therefore, installing these systems **constitutes repair of the vessel**, making the exemption under Entry 227 applicable. It was also held there is no evidence that the importer knew the goods were not eligible for exemption, nor of any suppression of facts. The ship-repair registration and subsequent licence renewal also do not indicate any intent to evade duty. Accordingly, the **extended period under Section 28 of the Customs Act, 1962 was held not invokable.**

**2.5** In a similar case, *Chidambaram Ship Care Pvt. Ltd. v. Commissioner of Customs, Chennai*, 2005 (191) E.L.T. 697 (CESTAT, Chennai), the Tribunal held that ship spares imported for the repair of ocean-going vessels—‘Global Marine Distress Safety System’ (GMDSS) equipment used to upgrade existing radio communication and navigation systems—are essential for ensuring the safety of such vessels during voyages. The Tribunal further concluded that installing these safety devices to render a vessel seaworthy constitutes “repair” of the ship for the purposes of Serial No. 227 of Notification No. 23/98-Cus. **The**

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***Tribunal relied upon the case law of A.S. Moloobhoy & Sons v. Commissioner-2003 (162) E.L.T. 196.***

**2.6 The Department's appeal (C.A. Nos. 9691-9693/2003) before the Supreme Court against the CESTAT order in A.S. Moloobhoy & Sons was dismissed.** In its order dated 26.03.2015, the Supreme Court held- ***"We, thus, decline to interfere with the order passed by the Tribunal on the aforesaid ground. The appeals are accordingly dismissed. The bonds executed by the respondents while importing the aforesaid material shall stand discharged."*** The Supreme Court observed that the Tribunal, in **A.S. Moloobhoy & Sons v. Commissioner**, 2003 (162) E.L.T. 196, had allowed the importers' appeals both on merits and on the ground that the show cause notice was time-barred, the extended period under the proviso to Section 28 of the Customs Act, 1962 being unavailable in the absence of any wilful misstatement or misdeclaration. The Court held that the Tribunal's view on limitation was correct and, therefore, it was unnecessary to examine the merits further. Consequently, the Supreme Court declined to interfere, dismissed the appeals, and ordered that the bonds executed by the respondents stand discharged.

**2.7** Thereafter, in the context of the ongoing adjudication proceedings, M/s. Sanghvi Reconditioners Pvt. Ltd. preferred WP No. 2585/2017 before the Bombay High Court, seeking judicial intervention in respect of the issues arising out of the said proceedings.

**2.8** High Court vide its order dated 12.12.2017 under Para 9 observed that "Mr.Raichandani appearing on behalf of the petitioner, raised two fold contentions. His first contention was that the duty liability has been voluntarily paid. All these years, despite the money being retained by the respondents, the petitioner never sought any return or refund thereof. Today also, the petitioner has not sought any such relief. Therefore, there is no prejudice to the department." From the observations recorded, it is clear that the petition did not include any claim for refund of the duty liability of **₹3,33,37,598.92/-**, paid voluntarily in 1999 much earlier to the issuance of SCN.

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**2.9** As regarding quashing of the Adjudication proceedings by the High Court in the case of M/s Sanghvi Reconditioners Pvt Ltd it is clarified by the High Court under Para 19 that : “... we at once clarify that this order and direction is applicable and restricted only to the case of the petitioners before us. No benefit of the same can be derived by other parties for they are not before us. The revenue is free to take such steps as are permissible in law as against the others.”

**2.10** Following this, the other Noticee M/s. Reliance Industries Ltd. filed WP No. 1361/2019 before the Bombay High Court. The Bombay High Court on the lines of the order dated 12.12.2017 in WP No. 2585/2017 filed by M/s Sanghvi Reconditions Private Ltd quashed the proceedings to the extent it is applicable to M/s Reliance Industries Ltd. The High Court under Para 3 of its order while quashing the SCN dated 28.03.2002 had considered the grounds recorded by the High Court in the order dated 12.12.2017 of M/s Sanghvi Reconditioners Pvt Limited and has recorded under Para 4 that :

*“It is pertinent to note that in this case, the Revenue has not pointed out any distinction in facts, which would warrant a different view in the case from taken in M/s Sanghvi Reconditioners pvt Limited (supra). We are of the view that long delay in taking up the adjudication of the revenue (without sufficient cause), would be indicative of the Revenue having abandoned the show cause notice. As observed by this court in the above case, the delay in adjudication would cause prejudice to the noticee as the men in the knowledge of the facts may not be available or even if available, memories fail. Besides, papers and records which may be an answer to challenges in the notice may not be traceable. Thus, making it impossible to respond to the notice appropriately.”*

**2.11** The adjudication proceedings concerning the remaining noticees were thereafter resumed. Subsequently, M/s The Great Eastern Shipping Company filed Writ Petition before the Bombay High Court. **By its order dated 14.10.2024 in WP No.3605/2024, the High Court quashed the subject Show Cause Notice**, observing that a common notice had been issued to Sanghvi Reconditioners Pvt. Ltd., Reliance Industries Ltd., and the petitioner. The Court noted that it had already quashed the notice in the cases of Sanghvi Reconditioners Pvt. Ltd. and Reliance Industries Ltd. on the ground of delayed

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adjudication, and that the petitioner's case stood on an even stronger footing, the delay in adjudication exceeding 20 years as against the 15-year delay in the matters quashed in 2017. **The High Court, in Para 10 of its order, observed as follows:**

**In view of the above, Rule is made absolute in terms of prayer clause (a), which reads as under:-** *“(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner case and after going into the validity and legality thereof quash impugned letter/hearing notice dated 28.02.2023 (Exhibit "A1"); impugned Show cause notice F. No. DRI/BZU/E/6/99/9253 signed 28.10.1999 and dated 05/11.1999 (Exhibit "A2"); impugned Show cause notice F. No. DRI/BZU/E/8/99/9132 signed on 08.08.2000 and dated 16.08.2000 (Exhibit "A3"). impugned Show cause notice F. No. DRI/BZU/E/4/99/1227 dated 28.02.2002 (Exhibit "A4"); impugned Show cause notice F. No. DRI/BZU/E/4/99/1433 signed 28.02.2002 dated 28.03.2002 (Exhibit "A5"); impugned Show cause notice F. No. DRI/BZU/E/4/99/1434 signed 28.02.2002 dated 28.03.2002 (Exhibit "A6"); impugned Show cause notice F. No. DRI/BZU/E/3/2001/800 dated 04.02.2003 (Exhibit "A7"); impugned Show cause notice F. No. DRI/BZU/E/3/2001/801 dated 04.02.2003 (Exhibit "A8"); impugned letter/hearing notice dated 07.09.2017 (Exhibit "A9"); impugned letter/hearing notice dated 21.12.2018 (Exhibit "A10"); impugned letter/hearing notice dated 18.01.2019 (Exhibit "A11"); impugned letter dated 07.09 2019 (Exhibit "A12)”.*  
**The Department has accepted the order of the High Court.**

**3.** The duty liability in this case already stands fully discharged. SRPL had voluntarily deposited Rs. 3,33,37,598.92/- towards the duty liability in 1999, prior to issuance of the SCN, and subsequently also paid the remaining differential amount of Rs. 69,736.08/- voluntarily.

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**ORDER**

4. In view of the foregoing narration of events and findings, I drop the proceeding initiated vide Show Cause Notice (SCN) No. DRI/BZU/E/4/99 dated 28.03.2002 against the Noticee 1) M/s. Sanghvi Reconditioners Pvt Ltd, 2) Shri Kiran I Sanghvi, Director of M/s Sanghvi Reconditioners Pvt Ltd 3) The Shipping Corporation of India 4) M/s Reliance Industries Ltd. 5) M/s The Great Eastern Shipping Co Ltd 6) M/s Give Star Shipping Co. 7) M/s OTA Falcons Forwarders Pvt Ltd. 8) Shri N N Chakraborty, Director of M/s OTA Falcons Forwarders Pvt Ltd.

**(MANISH CHANDRA)**

Pr. Commissioner of Customs  
Import, ACC, Mumbai

To,

1. M/s. Sanghvi Reconditioners Pvt. Ltd.,  
4th floor, Mahavir Darshan,  
M.N. Koll Marg, Masjid,  
Mumbai - 400 003

2. Shri Kiran I. Sanghvi.  
Director of M/s. Sanghvi Reconditioners Pvt. Ltd  
10th floor, Mount Unique. Peddar Road  
Mumbai - 400 006

3. The Shipping Corporation of India.  
Shipping House, 245, Madam Cama Road,  
Mumbai -400 021

4. M/s. Reliance Industries Ltd.,  
Chitrakoot, 3rd floor, Shree Ram mills Premises  
Ganpatrao Kadam Marg,  
Worli Mumbai - 400 013 48

5. M/s. The Great Eastern Shipping Co. Ltd.,  
134A. Dr. Annie Besant Road,  
Worli, Mumbai -400 018

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6. M/s. Five Star Shipping Co..  
Himalaya House, Dr. D.N. Road,  
Fort, Mumbai - 400 001

7. M/s. OTA Faloons Forwarders Pvt. Ltd.,  
19, R.N. Mukhejee Road,  
Kolkata-1

8. Shri N.N. Chakraborty,  
Director, M/s. OTA Faloons Forwarders Pvt. Ltd.,  
19, R.N. Mukherjee Road, Kolkata-1

**Copy to:**

- 1 The Pr. Chief Commissioner of Customs, Mumbai Zone III.
- 2 The ADG, Directorate of Revenue Intelligence, Delhi.
- 3 The Deputy Commissioner of Customs, Group 5A, ACC, Mumbai.
- 4 Master file.
- 5 Office Copy.
- 6 Notice Board.