

**Customs, Excise & Service Tax Appellate Tribunal  
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO.3

**Customs Appeal No.11094 of 2019**

(Arising out of OIA-JMN-CUSTOM-000-APP-172-173-18-19 dated 28/03/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax- JAMNAGAR(PREV))

**G N Ship Breakers**

Plot No 127 Ship Breaking Yard Sosiya  
Bhavnagar, Gujarat

**.....Appellant**

*VERSUS*

**C.C.-Jamnagar(prev)**

Sharda House...Bedi Bandar Road,  
Opp. Panchavati,  
Jamnagar, Gujarat

**.....Respondent**

**APPEARANCE:**

None appeared for the Appellant  
Shri J.A Patel, Superintendent (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR**

**Final Order No. A/ 10530 /2022**

DATE OF HEARING: 19.05.2022  
DATE OF DECISION: 19.05.2022

**RAMESH NAIR**

The issue involved is that whether the appellant being importer of ship breaking vessels liable for penalty under section 112 (a) of the Customs Act, 1962 for sale of Gas Cylinder along with vessels for ship breaking without being scrapped.

2. When the matter was called out none appeared on behalf of the appellant.

3. Shri J.A Patel, Learned Superintendent (AR) appearing on behalf of the revenue submits that as per the statement of appellant's partner it is admitted fact that the appellant after import of ship breaking vessels sold the gas cylinder as such without scrapping the same. Therefore, they have violated provisions of Gas Cylinder Rules, 2004 and GMB Notification No. GMB/Sosiya/73/110/2003/09 dated 26.07.2003 and also District Collector Bhavnagar's order dated 26.04.2003. He submits that on the contravention on the part of the appellant the penalty under section 112 (a) of the customs act was rightly imposed.

4. I have carefully considered the submission made by Learned AR and perused the records. On going through the appeal papers I find that there is no dispute and the same was admitted by the appellant's partner that they had indeed imported the vessels which contained the Gas Cylinder

and they have sold 290 cylinder to Minaz Gulamabbas Firsta. It is their submission that they had given to Minaz Gulamabbas Firsta for scrapping however, since Minaz Gulamabbas Firsta has sold it as such. The submission of the appellant that it was given for processing or scrapping has no basis. Moreover, Minaz Gulamabbas Firsta has admitted that he has purchased the Gas Cylinder from the appellant. In this undisputed fact it is clear that the appellant have sold /disposed of the cylinder without scrapping it which is mandatory as per the Gas Cylinder Rules, 2004. For contravention of the provisions, the appellant was rightly imposed penalty under section 112(a) of the Customs Act, 1962. I find that the value of the cylinder sold by the appellant is Rs 8,70,000. Accordingly, the penalty of Rs. 1,00,000 is excessive and same deserves to be reduced. I therefore reduce the penalty from Rs 1,00,000 to Rs, 50,000/- .

5. Hence , the impugned order stands modified to the above extent. Appeal is partly allowed in the above terms.

(Dictated & Pronounced in the open court)

**RAMESH NAIR  
MEMBER (JUDICIAL)**

Geeta