सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल **4th Floor,** हडको भवन **HUDCO Bhawan,** ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura,** अहमदाबाद **Ahmedabad – 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20250971MN0000007978

क	फ़ाइल संख्या FILE NO.	S/49-44/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-183-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	19.09.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Bill of Entry no. 2155099 dated 15.02.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	19.09.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Golden Valley Overseas, D-122, Bulandshahar Road Industrial Area, Gaziabad, UP - 2010009

कार्यालय आयुक्त (अपील), सीमा शुल्क अहमदाबाद

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 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 है.
	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)	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods exported
(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.	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 :
	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)	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.
(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)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की **4** प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की **4** प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, **1962** (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. **200/-**(रूपए दो सौ मात्र)या रु.**1000/-**(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.**6** की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, 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/-**
(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.	मद सं. **2** के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध 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	
	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, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd 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 हज़ार रुपए.	
(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; पांच हज़ार रुपए	
(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 हज़ार रुपए.	
(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 किए 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

Appeal has been filed by M/s. Golden Valley Overseas, D-122, Bulandshahar Road Industrial Area, Gaziabad, UP - 2010009, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the assessment of Bill of Entry no. 2155099 dated 15.02.2024 (hereinafter referred to as 'the impugned order') passed by the Proper Officer, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, as per the appeal memorandum are that the appellant have imported "Chandeler Inshell Walnuts" falling under CTH 08023100 vide bill of entry No. 2155099 dated 15.02.2024 on self-assessment basis. On passing assessment order, after assessment of the aforesaid Bill of Entry (hereinafter referred to as "the impugned order"), import goods were cleared on payment of total duty of Customs, which was paid vide Challan and import goods were cleared, thereupon.

1. SUBMISSIONS OF THE APPELLANT:

Being aggrieved with the impugned order, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

3.1 The appellant submits that appellant have imported "Chandeler Inshell Walnuts" falling under CTH 08023100 vide bill of entry No. 2155099 dated 15.02.2024 on self-assessment basis. The impugned bill of entry was re-assessed by the FAG. During the course of assessment the FAG has raised following query:

> *"THE DECLARED VALUE APPEARS TO BE LOW. PLEASE JUSTIFY THE SAME AND FURNISH EVIDENCES LIKE EXPORT SHIPPING BILL, INSURANCE CERTIFICATE, SYSTEM GENERATED OOC COPIES OF PAST GROUP ASSESSED BS/E OF THE SAME SUPPLIER AND SAME GRADE, SIZE/COUNT, COUNTRY OF ORIGIN AND BANK REMITTANCE IN ITS SUPPORT."*

3.2 In reply to above query, the appellant submitted their reply in e-sanchit as follows:

"Dear sir, uploaded bank remittance copy & sales contract E-sanchit IRN - 2024021900093895 and all document already E-sanchit, Our transaction value is correct, ref past BE same origin 9202358 dt 13.12.2023 & 9480750 dt 30.12.2023, kindly assess the BE, This container is accordingly, under heavy detention and ground rent kindly assess the bill of entry to save detention and demurrage Chg"

3.3 The FAG again raised a query which is as under:

"AS PER E-COMMERCE WEBSITE ALIBABA.COM, WHOLESALE PRICE OF CHILEAN INSHELL WALNUTS (MINIMUM 20,000 KG) IS USD 2.00 TO USD 3.50 FOB. AS PER WALNUT REPORT, APRIL 13, 2022 BY PACIFIC/ATLANTIC CROP EXCHANGE, INC. HOSTED ON OF THEIR WEBSITE WWW.CROPEXCHANGE.COM WHICH SOURCES DATA FROM CALIFORNIA WALNUT BOARD, THE INTERNATIONAL PRICES IN SHIPMENTS INSHELL WALNUTS IS 30-34 MM AT USD 2.60/KG FOB AND 34+ AT USD 3.20/KG. PLEASE JUSTIFY THE DECLARED UNIT PRICE IN VIEW OF THE ABOVE. ALSO, PLEASE STATE THE OUTTURN RATIO OF THE PRODUCT I.E. TOTAL PRODUCTION OF WALNUT KERNEL FROM 1 KG OF INSHELL WALNUT AND THE APPROX NUMBER OF WALNUT KERNEL PER KG FOR THE PRODUCT."

3.4 In reply to above query, the appellant submitted their reply in e-sanchit as follows:

"Respected Sir, With reference to the query against BE no. 2155099 dt 15.02.2024, we would like to inform you that we have import walnuts Mundra port, Our transaction value is correct, remittance copy ref no. 24691.52 USD & ref 088BC09240320045 088BC09240290090 BANK - - 24691.52 no. USD, HDFC already E-sanchit IRN-2024021900093895, shipper export Declaration REF. NO. B00002754 & B00002756 IRN 2024022000056970 amount 24692 usd E-sanchit - in mention transaction declared value is & past latest Bill of entry your - 1.22 usd/mt & value same as invoice, and correct reference 9202358 dt 13.12.2023 9480750 dt 30.12.2023 - 1.22 usd/mt, Kindly assess bill of entry accordingly. Please request & assess transaction value."

3.5 In support of above contemporary price, they had also e-sanchit the contemporary bills of entry, under which we have imported same goods from same importer and assessed by the FAG, as mention in our above reply. It is surprise for the appellant to find that the FAG, re-assessed the impugned bill of entry without going into merits and submission made by the appellant, by enhancing the value of the imported goods. The FAG has arbitrarily and illegally enhanced the value of the goods and re-assessed the impugned Bill of Entry without any communication and consent of the appellant.

3.6 The difference between actual value of the goods and enhanced value of goods is as under :-

Wallnut Inshell		
	Actual Value as per Appellant	**Enhanced Value as per impugned order**
Unit Price (USD)/ KG	1.23	1.5
Quantity in M.T.	40	40
Total Value (INR) (Exchange Rate @ Rs. 83.95)	4130340.00	5037000.00
Customs duty @ 100%	4130340.00	5037000.00
IGST @ 5%	413034.00	503700.00
Total Duty Payable (Rs.)	4543374.00	5540700.00
Difference (Disputed Duty) (Rs.)	**997326.00**	

3.7 As it was not possible for the appellant to bear the demurrage and ground rent, there was no option to release the goods by paying the differential duty under protest. Thus, the appellant had deposited the duty on enhanced value under protest as per letter dated 27.02.2024. Finally, Out of Charge of the goods was allowed on 31.01.2024. Therefore, being aggrieved and dissatisfied by the impugned assessment of the bill of entry, the appellant herein prefers this

appeal relying on following amongst other grounds which are independent and without prejudice to each other.

3.8 The appellant submits that they have self-assessed the impugned bill of entry on transaction value, however, the FAG has re-assessed the bill of entry arbitrarily, without any cogent evidence, therefore, re-assessment done by the FAG liable to be quashed and set aside on the following amongst other reasons which are taken independent of and without prejudice to each other. The FAG has not followed the principals of natural justice and procedure laid down under Instruction No. 09/2020- Customs dated 05.06.2020. The appellant submits that the FAG were mandatorily required to follow the procedure laid down under Para 5.4 of the Instruction No. 09/2020-Customs dated 05.06.2020, if they were not satisfied with the self assessment done by the appellant. Relevant text of the Instruction No. 09/2020-Customs dated 05.06.2020, is reproduced below:

"5.4 Speaking Order:

I. For any re-assessment done by the Faceless Assessment Group, which is at variance with the self- assessment done by the importer and in cases other than those where the importer confirms his acceptance of the said re-assessment electronically in reply to the query raised by the assessing officer, the Faceless Assessment Groups shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry, as prescribed in section 17(5).

II. The Faceless Assessment Groups shall provide an opportunity to be heard to the importer, in accordance with the principles of natural justice, before proceeding with the re-assessment of the bill of entry. In the event a personal hearing is sought by the importer, the same can be conducted through video conferencing or other reliable technological means at the option of the importer. In this regard, the Board's guidelines vide F.No. 390/Misc/3/2019-JC dated 27th April 2020 may also be referred to."

3.9 The appellant submits that the FAG has re-assessed the bill of entry without following the Instruction (supra). In other words, the FAG has neither passed any speaking order, as required under section 17(5) of the Customs Act, 1962, nor provided an opportunity to the appellant to be heard before the re-

assessment of the impugned bill of entry. In view of the above, the appellant submits that the FAG has committed a gross violation of the principles of natural justice. In support of above submission the appellant relies upon the judgment of Hon'ble High Court of Judicature at Madras, in the case of TVL VIVEK SCIENTIFIC INDUSTRIAL SUPPLIERS Versus COMMR. OF COMMERCIAL TAXES, CHENNAI [2019 (27) G.S.T.L. 350 (Mad.)], wherein the Hon'ble High Court, has held that:

> *"4. The main ground raised and argued by the petitioner is gross violation of the principles of natural justice.*
> *5. The impugned order refers to a pre-assessment notice dated 24-2-2015. The Assessing Officer states that there was no response to the notice as a result the proposals contained stood confirmed, rejecting the claim of the petitioner for exemption. The records reveal that the petitioner had sent a reply on 11-12-2014 along with annexures, duly received and acknowledged by the Assessing Officer on 12-12-2014.*
> *6. In the aforesaid circumstances, there has been a violation of the principles of natural justice and the impugned assessment order is thus liable to be set aside. I do so." (emphasis added)*

3.10 Therefore, the re-assessment of bill of entry, enhancing the value of the goods by the FAG, is completely illegal, improper and incorrect, bad in law, and therefore, deserves to be quashed and set aside.

3.11 The appellant further submits that before rejecting the declared value, the FAG were required to first reject the transaction value declared by the appellant by resorting to the Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, to justify the rejection of declared value and to infer a substitute value. Requiring any re-valuation to be a consequence of discharge of onus by customs authorities to establish that the declared value did not reflect the transaction. With the mechanism of valuation having been transfigured, by placing the appellant on notice of non-acceptability of the declared price before proceeding to re-value the goods, in the absence of acceptable defence. For the purpose of enhancement of value, certain rules are enacted in the statute and the governing Rules. Therefore, it will be essential for the FAG to establish that the difference between the assessed value and the declared value arises from circumstances in which there has been an attempt to

conceal the real transaction in money. In the absence of such evidence, goods that are burdened with revaluation, conceived from comparison with other imports. In the instant case, no comparison with other imports has been done by the FAG. In view of the above, the re-assessment and enhancement of the value of the goods is bad in law, and therefore, liable to be set aside in the interest of justice. Thus, the FAG has enhanced the value without following the provisions of section 14 read with Customs Valuation (Determination of Price of Imported Goods) Rules, 2007. In support of above submission, the appellant relies upon the judgment of Hon'ble Tribunal in the case of AMARJEET ENTERPRISES Versus COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI [2019 (370) E.L.T. 1569 (Tri. - Mumbai)]. Relevant para of the said judgment is as under:

> *"7. We also find that the Appellants contended that the Learned Commissioner has not discharged the burden of proof of valuation. We find that Commissioner has brushed aside the contemporaneous value of some items provided by the Appellants. The Commissioner's contention was that such goods were seized and were subjected to adjudication and therefore he was not considering those values. We find that the Learned Commissioner has not analysed the values therein taken in such adjudication of identical/ similar goods. We find that for that reasons also the adjudication order suffers from infirmity. The Commissioner, having rejected the transaction value, ought to have proceeded sequentially through the Rules 5, 6 and 7 etc., before resorting to Rule 7A. We also find that no such reasoning has been given as to why the Commissioner required to take the help of Rule 7A. Learned Commissioner has also not cross examined the officers who conducted market survey or the personal of SGS who examined the impugned goods and certified that a portion of the cargo is damaged. We find that Ld. Commissioner could have gone in to the valuation of contemporaneous imports from NIDB or any other source or she could have examined the values arrived at in such bills of entry provided by the appellants. This was all the more important as the imports were at about the same time and were of similar products. We find that Tribunal in the case of Ramdev Traders, 2018 (359) E.L.T. 431 (Tri. - Chennai) observed that No doubt, the appellant had based their assessable value on invoice price of US $ 0.75 per piece. However, no grounds have been evidenced for rejecting the said declared value as not being transaction value. Even so, instead of following the sequences laid down in the Valuation Rules for re-*

determination of value, the department, for some reason, found it appropriate to work out the assessable value on the basis of market prices of the impugned item obtained through market enquiry. The enhancement is then certainly not based on sufficient reasons for rejection of transaction value and redetermination of value thereupon being based on contemporaneous imports of identical goods." (emphasis added)

3.12 There is no evidence shown by the department that over and above the transaction value any price has been paid by the appellant. The appellant relies upon the judgment of Hon'ble Tribunal in the case of PRASAD ENTERPRISES Versus COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI [2014 (302) E.L.T. 261 (Tri. - Mumbai)] and COMMISSIONER OF CUSTOMS, KANDLA Versus RESHMI PETROCHEM LTD. [2009 (237) E.L.T. 307 (Tri. - Ahmd.)]. The appellant further submits that in the case of GURU RAJENDRA METALLOYS INDIA PVT. LTD. Versus COMMR. OF CUSTOMS, AHMEDABAD [2020 (374) E.L.T. 617 (Tri. Ahmd.)], Hon'ble Tribunal, Ahmedabad has also held that before rejecting the invoice price the department has to give cogent reasons for such rejection. Assessing Authority has to examine each and every case on merit for deciding its validity. He could not form the view to reject all transaction only on the basis of same general criteria based on DGOV circular. It was, however, held that if contemporaneous import were not noticed, Rules 5 and 6 of Customs Valuation Rules 1988 could not be applied, the question of rejecting the transaction valued under the Rule 10(A) does not arise at all. The enhancement of the value made by assessing authority and upheld by Commissioner (Appeals) is absolutely illegal and incorrect.

3.13 Without prejudice to above, the appellant further submits that for the purpose of valuation the value of imported goods shall be the transaction value of such goods, i.e. to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time of place of importation, or as the case may be for export from India, where the buyer and seller of the goods are not related and price is the sole consideration for the sale, subject to such other conditions as may be specified in the rules made in this behalf. It is further provided that rules made in this behalf may provide for the manner and acceptance or rejection of value declared by the importer or exporter, where the proper officer has reason to doubt the truth or accuracy of such value and determine value for the purposes of this Section. There are no reasons recorded

for rejection of transaction value before taking the exercise of revaluation and enhancement of transaction value. Above views have been observed by the Hon'ble Tribunal in the case of AUREOLE ATELIER PVT. LTD.VersusCOMMR.OF CUS.(PREVENTIVE), NEW DELHI [2021 (375) E.L.T. 353 (Tri. - Del.)].

3.14 In view of the above, the appellant submits that the FAG has erred in rejecting the transaction value and in re-fixing the value of the impugned goods. The FAG has not examined the values of contemporaneous imports of identical/similar goods. Thus, the assessment done by the FAG is full of infirmities and without any cogent evidence, and as such, is not sustainable under Law. Therefore, re-assessment done by the FAG is required to be set in toto. In view of above, the appellant humbly craves that appeal filed by them may be allowed and set aside the re-assessment done by the assessment group.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 18.06.2025, following the principles of natural justice wherein Shri Vijay N Thakkar, Consultant appeared for the hearing and he re-iterated the submission made at the time of filing the appeal. He also filed additional submissions as under :-

- Vide impugned Bill of Entry the appellant imported "Chandler Inshell Wallnuts J/L HSN 08023100" The price of 1.23 USD/kg declared the transaction value as per Invoice was the sole considerations; that the appellant is not the related person of the overseas supplier. Hence value declared by the appellant is Transaction value within the meaning of Section 14(1) of the Customs Act,1962.

- However, without having any valid /cogent reason or without any basis, the rejection of value in terms of Rule 12(1) and its enhancement to 1.5USD/kg from declared value is erroneous. In this regard the appellant would like to rely on the following case law.

- In support of the appellant's contention they rely on the case of Commissioner of Customs, Excise and Service Tax, Noida, vs Sanjivani Non-Ferrous Trading Pvt. Ltd reported as 2019 (365) E.L.T. 3 (S.C.) wherein the **Hon'ble Supreme Court of India has held that;**

Valuation (Customs) - Assessable value - Rejection of transaction value - Assessable value to be arrived at on basis of price actually paid and mentioned in Bills of Entry - Rejection can only be for cogent reasons arrived at by undertaking exercise as to on what basis it could be held that paid price was not sole consideration of transaction value - No such exercise done by Assessing Authority before rejecting price declared in Bills of Entry - Order of Tribunal setting aside enhancement affirmed - Section 14 of Customs Act, 1962 - Rules 3 and 4 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. - As per Sections 14(1) and 14(1A) of Customs Act, 1962, the value of any goods chargeable to ad valorem duty is deemed to be the price as referred to in that provision. Section 14(1) is a deeming provision as it talks of 'deemed value' of such goods. Therefore, normally, the Assessing Officer is supposed to act on the basis of price which is actually paid and treat the same as assessable value/transaction value of the goods. This, ordinarily, is the course of action which needs to be followed by the Assessing Officer. This principle of arriving at transaction value to be the assessable value applies. That is also the effect of Rules 3(1) and 4(1) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 namely, the adjudicating authority is bound to accept price actually paid or payable for goods as the transaction value. Exceptions are, however, carved out and enumerated in Rule 4(2) ibid. As per that provision, the transaction value mentioned in the Bills of Entry can be discarded in case it is found that there are any imports of identical goods or similar goods at a higher price **at around the same time** or if the buyers and sellers are related to each other. **In order to invoke such a provision it is incumbent upon the Assessing Officer to give reasons as to why the transaction value declared in the Bills of Entry was being rejected; to establish that the price is not the sole consideration; and to give the reasons supported by material on the basis of which the Assessing Officer arrives at his own assessable value**. [2000 (122) E.L.T. 321 (S.C.), 2007 (214) E.L.T. 3 (S.C.), 2010 (259) E.L.T. 161 (S.C.), 2011 (272) E.L.T. 641 (S.C.), 2010 (253) E.L.T. 353 (S.C.) relied on]. [paras 10, 11, 12, 13, 14]

It is the contention of the appellant that the ratio of the aforesaid decision of the Hon'ble Apex court is applicable in their case, the rejection of

declared value and reassessment of the same under Rule 4 ibid is not justified.

- In the case of **Century Metal Recycling Pvt. Ltd vs Union of India** reported as 2019(367) ELT3 (SC) where in it was held by the Hon'ble Supreme Court of India that;

  Valuation (Customs) - Import of Aluminum Scrap - Transaction Value, rejection of - Provisional Assessment, denial of - Appellant's declared value of ` 81.31 per kg. on import of aforesaid item rejected by assessing authority by mentioning that as per contemporaneous import data, it should have been between ` 83.26 to ` 120.97 per kg - Clearly imported aluminum scrap is not a homogeneous commodity and cannot be evaluated on lab testing to determine as to whether alleged contemporaneous import was of same quality or not - Adjudication order itself recording difficulty in finding any identical/similar import having same chemical and physical composition - Therefore rejection of transaction value on aforesaid ground not sustainable without following mandate of Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 - In terms of this provision, assessing officer after conducting preliminary enquiry, ought to have intimated in writing grounds for doubting truth or accuracy of declared value - Formation of opinion regarding reasonable doubt on correctness of value is mandatory before rejecting transaction value and cannot be circumvented under any circumstances - It is only after this that transaction value can be rejected and value re-determined - Already held in 2019 (365) E.L.T. 3 (S.C.) that transaction value mentioned in Bill of Entry should not be discarded unless there are contrary details of contemporaneous imports or other corroborative evidence of import which would justify rejection of declared value and its enhancement - Further, in this case, appellant's request for provisional assessment also not considered by forcing him to waive off this statutory right - Impugned adjudication order set aside - Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 - Section 14 of Customs Act, 1962. ***[paras 20, 23, 24]***

  Valuation (Customs) - Transaction Value, rejection of - Grounds of doubts for rejection - Recording of - Applicability of new doctrine - Mandated for proper officer to record reasons for having reasonable doubts on truthfulness of declared value - These reasons must arise after preliminary enquiry from importer has been conducted and his explanation not accepted - Although recording of such reasons not mandated, it is to be read by implication of contents of Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 - However, this doctrine, as propounded in this judgment, would be applicable prospectively with applicability in

past cases on case to case basis - Rule 12 ibid - Section 14 of Customs Act, 1962. ***[para 21]***

Valuation (Customs) - Transaction Value - Rejection thereof - Scope of - Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 has a primacy or pivotal position with regard to rejection of transaction value - Proper officer can reject transaction value only if he has doubt about its truth or accuracy - However, before initiating rejecting of said value, importer must be asked to justify said value by submitting requisite information/documents - If proper officer is satisfied with importer's explanation, transaction value must be accepted forthwith - However, if doubt persists due to 'certain reasons' as mentioned in explanation to Rule ibid, transaction value can be rejected - These reasons, though not exhaustive, could be higher value of identical similar goods of comparable quantities, abnormal discount or abnormal deduction from ordinary competitive prices, sales involving the special prices, misdeclaration on vital parameters or their non-declaration and fraudulent or manipulated documents - In such a case, specific grounds of rejection are required to be intimated to importer in writing and order of rejection issued after hearing importer - Rule 12 ibid - Section 14 of Customs Act, 1962. ***[paras 14, 15, 16]***

Valuation (Customs) - Transaction Value - Re-determination thereof after rejection - Once transaction value has been rejected under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 it is required to be determined sequentially in accordance with Rules 4 to 9 ibid - Section 14 of Customs Act, 1962. ***[paras 15, 16]***

Valuation (Customs) - Rejection of Transaction Value - Reason to doubt vis-à-vis Reason to believe or satisfaction - Expression used in Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is "reason to doubt" which is different from expression "reason to believe" or "satisfaction" which are positive terms - Reason to believe would have required proper officer to show facts and figures on existence of positive belief - On other hand 'reason to doubt' only entails un-certainty and irresolution reflecting suspicion and apprehension - However, doubt by proper officer must be reasonable i.e. have a degree of objectivity and basis/foundation for suspicion must be based on 'certain reasons' and not a simple doubt - Reasonable doubt would mean a doubt that still persists even after submission of initial explanation by importer in preliminary enquiry - Subjecting imports to detailed enquiry on mere suspicion because one is distrustful and unsure, is contrary to statutory provisions - Rule 12 ibid - Section 14 of Customs Act, 1962. ***[paras 17, 18]***

Valuation (Customs) - Valuation alerts - Relevance of - These alerts are issued by DOV based on monitoring of valuation trends of

sensitive commodities with a view to take corrective measures - These may provide guidance to field formation in valuation matters and help ensuring uniform practice but they should not be construed as interfering with discretion of assessment authority - Needless to mention that assessing authority is required to pass an Assessment Order in given factual matrix - Section 14 of Customs Act, 1962. [para 25]

Provisional Assessment - Valuation disputes - Scope of - Statutory provisions providing provisional assessment in specified cases are enumerated in Section 18 of Customs Act, 1962 where under proper officer can direct provisional assessment - In case of valuation disputes, proper officer should resort to provisional assessment for expeditious clearance as final adjudication on merits may take time - C.B.E. & C. Circular No. 38/2016-Cus., dated 22-8-2016 confirms this position - Under no circumstances, authorities can direct importer to forgo its statutory right of provisional assessment - Section 18 of Customs Act, 1962. ***[para 19]***

Writ appellate jurisdiction - Alternate Remedy against Adjudication Order - Valuation (Customs) - Rejection of Transaction Value - Notwithstanding that statutory appeal under Section 128 of Customs Act, 1962 is available against adjudication order, matter cannot be relegated to alternative remedy in view of violation of Apex Court decision in 2019 (365) E.L.T. 3 (S.C.) on aforesaid issue in respect of sister unit of appellant - Articles 32 and 134 of Constitution of India. ***[para 5]***

Words and Phrases - Term 'payable' used in Section 14(1) of Customs Act, 1962 refers to the particular transaction and pay ability in respect of 'the transaction' - It refers to notional value, albeit transaction value as declared in Bill of Entry plus amount which has to be added under Rule 10 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. ***[para 7]***

Interpretation of Statute - Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are subject to provisions of Rule 3 ibid thereby giving primacy to Rule 3 ibid which in turn gives primacy to Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. ***[para 13]***

The aforesaid case the Hon'ble Court while allowing the appeal filed by the appellant have occasion to analyze the Rule 12(1) ibid wherein in it has been explained why and how the value declared under Section 14(1) read with Rule 3(1) ibid could have been rejected.

- The Assessing Officer has placed Reliance on web site data WEBSITE ALIBABA.COM & WWW.CROPEXCHANGE.COM **is for CALIFORNIA**

WALNUT BOARD is baseless instead the department ought to have relied on NIDB data.

In this regard the appellant would rely on the case law of **Technigroup International Pvt. Ltd.** Versus **Commissioner Of Customs, Chennai** Final Order No. 40417 of 2024 in Appeal No. C/42168 of 2014, decided on 12-4-2024 **(2024) 19 Centax 226 (Tri.-Mad)** wherein the facts of the matter and what has been held by the Hon'ble Tribunal are as under.

> *Customs: Rejection and enhancement of transaction value in respect of imported used furniture goods on basis of value arrived at by chartered engineer based on hypothetical calculation and information collected from web portals is not legally correct.*
>
> *Customs: In absence of any grounds for rejection of transaction value, goods could not be confiscated under Section 111(m) of Customs Act, redemption fine and penalty also to be set aside.*
>
> *Valuation (Customs) - Furniture - Import of used furniture - Transaction value was enhanced based on certificate issued by chartered engineer appointed by Department to appraise correct value* - ***Value of goods was not correctly considered by Chartered Engineer - Enhanced value was arrived at based on hypothetical calculation and information collected from web portals*** - ***No reasons were stated for rejection of transaction value declared by assessee-Value re-determined on basis of Chartered Engineer's report was not legally correct - Rejection of transaction value and enhancement of value was to be set aside - Section 14 of Customs Act, 1962 - Rule 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. [paras 5 and 6]***
>
> *Improper import - Confiscation of goods - Capital goods - On import of used furniture, misdeclaration of value was alleged - Confiscation under Section 111(d) of Customs Act, 1962 was already set aside by Commissioner (Appeals) observing that imported goods fell under capital goods - There were no grounds for rejection of transaction value and goods could not be confiscated under Section 111(m) ibid. - Redemption fine and penalty should also be set aside entirely - Section 111 of Customs Act, 1962. [para 7]*
>
> [emphasis supplied by underline]

However, the assessing officer ought to have consider NIBD data for similar goods, instead preferred to enhance value purely relying on Web site data

and how the value 1.5$/kg is arrived at while re assessing Bill of entry, that too without issuance of show cause notice and speaking order.

- The Transaction value of 1.23$/per Kg be accepted with consequential relief as the appellant did not agree with the revised value; however, duty was paid under protest.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that the following issues need to be addressed:

(i) Whether the application for condonation of delay in filing the appeal should be allowed.

(ii) Whether the rejection of the declared transaction value and its re-determination by the assessing authority are legally sustainable under the Customs Act, 1962, and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007).

(iii) Whether the principles of natural justice were violated during the re-assessment process.

5.2 I find that the appeal has been filed with a delay of 20 days . The Appellant has filed an application for condonation of delay stating the delay of 16 days which is incorrect as the actual delay is 20 days . The reason cited is that the authorized signatory is aged and they had practical difficulties in arranging and preparing documents. Section 128 of the Customs Act, 1962, provides for a period of sixty days for filing an appeal, with a further grace period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed with a delay of 20 days beyond the initial sixty-day period, but within the extended thirty-day period. The Appellant has attributed the delay to the age of the authorized signatory and the practical difficulties in arranging and preparing documents. While parties are expected to exercise due diligence, minor

delays attributable to administrative oversights, especially when the appellant acts promptly upon discovering the issue, are generally condoned by appellate authorities to ensure that justice is not denied on mere technicalities. Considering the explanation provided, which indicates no deliberate inaction or gross negligence, I find that the Appellant has shown "sufficient cause" for the delay. Therefore, the miscellaneous application for condonation of delay is allowed in the interest of natural justice.

5.3 The core of this appeal revolves around the rejection of the transaction value under Rule 3 read with Rule 12 of CVR, 2007. The assessing authority rejected the declared value based on comparisons with e-commerce websites and international reports. The Supreme Court in CENTURY METAL RECYCLING PVT. LTD. Versus UNION OF INDIA [Civil Appeal No. 5011 of 2019] extensively clarified the procedure for rejecting transaction value. Key principles laid down include:

- Reason to Doubt (Rule 12): The proper officer must have a "reason to doubt the truth or accuracy" of the declared value. This doubt must be "reasonable" and based on "certain reasons" (e.g., significantly higher value of identical/similar goods, abnormal discount). It cannot be based on mere suspicion or ipse dixit.

- Preliminary Enquiry: Before rejecting the value, the importer must be asked to furnish further information/documents to justify the declared value. It is only if the doubt persists after this preliminary enquiry that the value can be rejected.

- Communication of Grounds (Rule 12(2)): On the importer's request, the proper officer shall intimate in writing the grounds for doubting the truth or accuracy of the value and provide a reasonable opportunity of being heard. This is a mandatory requirement.

- Sequential Application of Rules: Once the transaction value is rejected, the valuation must proceed sequentially through Rules 4 to 9 of CVR, 2007.

- Contemporaneous Imports: The Supreme Court emphasized that transaction value should not be discarded unless there are "contrary

details of contemporaneous imports or other corroborative evidence of import which would justify rejection of declared value and its enhancement." The contemporaneous imports must be of identical or similar goods and the comparison must be fair.

5.3 The application of the above judicial pronouncement to the Present Case is as:

- Insufficient Basis for Doubt: The assessing authority's reliance on e-commerce websites and general international reports (cropexchange.com) for "Chilean Inshell Walnuts" or "California Walnut Board" without establishing their direct comparability to the specific imported consignment (origin, quality, grade, commercial level, quantity) is problematic. The Supreme Court in Century Metal Recycling specifically cautioned against relying on general market data or foreign journals without conducting proper enquiries and ascertaining details with reference to the specific goods imported which are identical or similar. The Appellant provided past Bills of Entry of their own imports of same origin (USD 1.22/mt) which were previously accepted. This is highly relevant contemporaneous import data that was seemingly disregarded.

- Lack of Cogent Reasons for Rejection: The FAG's queries did not sufficiently establish "certain reasons" to doubt the transaction value after considering the Appellant's specific submissions and past import data. The mere existence of higher prices on general platforms, without a detailed analysis of comparability, is not a sufficient ground for rejection, as per Century Metal Recycling. The adjudicating authority did not provide cogent reasons for rejecting the transaction value despite the Appellant providing supporting documents and referring to past accepted assessments.

- The Tribunal in AMARJEET ENTERPRISES Versus COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI [2019 (370) E.L.T. 1569 (Tri. - Mumbai)] held that the Commissioner had brushed aside contemporaneous values

- without proper reasoning. Similarly, in PRASAD ENTERPRISES Versus COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI [2014 (302) E.L.T. 261 (Tri. - Mumbai)] and GURU RAJENDRA METALLOYS INDIA PVT. LTD. Versus COMMR. OF CUSTOMS, AHMEDABAD [2020 (374) E.L.T. 617 (Tri. - Ahmd.)], the Tribunal emphasized the need for cogent reasons and proper application of valuation rules. These cases are directly applicable here.

- No Provisional Assessment: The Supreme Court in Century Metal Recycling also highlighted that in valuation disputes, Customs authorities should resort to provisional assessment under Section 18 of the Customs Act, 1962, for expeditious clearance, rather than compelling importers to accept re-valuation. The Appellant's letters clearly indicate they were under pressure to clear goods due to "heavy detention and ground rent."

Therefore, the rejection of the declared transaction value and its re-determination by the assessing authority are not legally sustainable as they appear to be contrary to the principles laid down by the Supreme Court in Century Metal Recycling Pvt. Ltd. and other Tribunal judgments.

5.4 The Appellant contends that no "speaking order" was passed and no opportunity of hearing was provided before the re-assessment, violating Instruction No. 09/2020-Customs dated 05.06.2020. Instruction No. 09/2020-Customs mandates that the FAG shall pass a speaking order within fifteen days from the date of re-assessment of the Bill of Entry if they are not satisfied with the self-assessment. It also explicitly states that the FAG shall provide an opportunity to be heard to the importer. In the present case, despite the Appellant's repeated submissions and requests for assessment based on their declared value and past imports, the FAG enhanced the value without issuing a formal speaking order explaining the rejection of the Appellant's submissions and the basis for the new value. No formal opportunity of hearing was provided before the final re-assessment. This is a clear violation of the principles of natural justice and the specific instructions issued by the Board.

5.5 The Madras High Court in TVL VIVEK SCIENTIFIC INDUSTRIAL SUPPLIERS [2019 (27) G.S.T.L. 350 (Mad.)] specifically set aside an order for gross violation of natural justice when a re-assessment was done without a speaking order. This precedent is directly applicable here. Therefore, the

principles of natural justice were violated during the re-assessment process due to the absence of a speaking order and a proper opportunity of hearing.

5.6 In view of the detailed discussions and findings above, this appellate authority concludes that the appeal filed by M/s. Golden Valley Overseas is sustainable on merits and the condonation of delay is also justified. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

(i) The application for condonation of delay of 20 days in filing the appeal is condoned.

(ii) The re-assessment of Bill of Entry No. 2155099 dated 15.02.2024, enhancing the declared value of "Chandler Inshell Walnuts" from USD 1.23/KG to USD 1.5/KG, is hereby set aside.

(iii) The Assessing Authority is directed to re-assess the Bill of Entry No. 2155099 dated 15.02.2024 by accepting the transaction value as declared by the Appellant, in accordance with Section 14 of the Customs Act, 1962, and Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

6. The appeal filed by M/s. Golden Valley Overseas is hereby allowed with consequential relief, if any as per law.

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-44/CUS/MUN/2024-25 3576

Date: 19.09.2025

By Registered post A.D/E-Mail

To,
M/s. Golden Valley Overseas,
D-122, Bulandshahar Road Industrial Area,
Ghaziabad, UP - 2010009.

सत्यापित/ATTESTED
अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद,
CUSTOMS (APPEALS), AHMEDABAD

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House Mundra.
3. The Deputy/Assistant Commissioner of Customs, Custom, Custom House Mundra.
4. Guard File.