



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
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DIN – 20260171MN000000BA93

क	फ़ाइल संख्या FILE NO.	S/49-153/CUS/AHD/24-25
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) :	AHD-CUSTM-000-APP-498-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	01.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	O-I-O No. 70/ADC/VM/O&A/2024-25 dt. 14-06-2024 passed by the Additional Commissioner of Customs, ICD-Khodiyar, Ahmedabad.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Shukhar Exim LLP, 291/21, Behind Dudheshwar Water Tank, Dudheshwar, Ahmedabad-380004



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 हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगज के रूप में आयातित कोई माल.
(a)	any goods imported on baggage
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3	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 दस्तावेजों 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 हजार मात्र), जैसा भी मामला हो, से सम्बन्धित 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 सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं				
	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 :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-				
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -				
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.				
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;				
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रूपए				
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;				
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.				
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees				
	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।				
	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty of duty and penalty are in dispute, or penalty, where penalty alone is in dispute.				
	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

M/s Shukhar Exim LLP, 291/21, Behind Dudheshwar Water Tank, Dudheshwar, Ahmedabad-380004 (hereinafter referred to as "the Appellant") have filed the present appeal challenging the O-I-O No. 70/ADC/VM/O&A/2024-25 dt. 14-06-2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs, ICD-Khodiyar, Ahmedabad (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that the Appellant filed two Shipping Bills bearing Nos. 3594452 and 3614886, both dated 31.08.2023, (herein after to as "the impugned SBs) at ICD Khodiyar for export of "Parts and Accessories for Three-Wheelers" to the overseas buyer M/s Super Gulf Worldwide Auto Spare Parts Trading LLC, Dubai, UAE. The goods were classified under CTH 8708 99 00 and the exports were effected through their Customs Broker M/s Pacific Clearing & Forwarding Pvt. Ltd. .

2.1 The said exporter claimed Duty Drawback and RoDTEP benefits in the Shipping Bills filed for export of the goods, on payment of IGST @ 28% on the value of the goods. The details of the Shipping Bills filed are as under :

Table-I

Shipping Bill No. & Date	Description of Goods	Invoice Value (Rs.)	FOB Value (Rs.)	Duty Drawback Claimed (Rs)	RoDTEP Claimed (Rs.)	IGST Paid (Rs.)	Market Value ascertained by Customs (Rs.)
1	2	3	4	5	6	7	8
3594452 dt. 31.08.2023	Parts & Accessories for Three Wheelers	1,09,91,003.10 (USD 133,710.50)	1,09,91,003.10 (USD 133,710.50)	2,19,820/-	54,955/-	30,77,480.87	₹ 26,38,500/-
3614886 dt. 31.08.2023	Parts & Accessories for Three Wheelers	94,45,273.20 (USD 114,906.00)	94,45,273.20 (USD 114,906.00)	1,88,905/-	47,226/-	26,44,676.49	₹ 27,14,000/-
		2,04,36,276.30	2,04,36,276.30	4,08,725/-	1,02,181/-	57,22,157.36	53,52,500/-

2.2 As per intelligence, the examination of the goods covered under the impugned SBs, was conducted on 02.09.2023 by the officers of Customs at ICD, Khodiyar, in the presence of Customs Broker M/s Pacific Clearing and Forwarding Pvt. Ltd., and Shri Durgesh Bhatt, the forwarder of the consignment.

2.3 As the goods appeared to be overvalued, the examination was also carried out by an Empanelled Government Valuer, Shri Atanu Kundu, Chartered Engineer. Shri

Atanu Kundu, vide Valuation Report No. AK/12/2023-24 dated 12.09.2023 and AK/13/2023-24 dated 12.09.2023, submitted his valuation reports in respect of the goods covered under the impugned SBs.

2.4 Findings of Valuation Report in respect of Shipping Bill No. 3594452 dated 31.08.2023. (Valuation Report Ref. No. AK/12/2023-24 dated 12.09.2023)

The valuation report reveals the following:

- On comparison with the purchase invoices, it is observed that the export invoice was prepared with an enhancement of 28.76% in the FOB value, which has been projected as profit margin.
- However, based on the market price survey, it is revealed that the export consignment is overvalued by approximately 4.17 times the maximum fair market price.
- As per the attached valuation sheet, the total maximum market value of the consignment is assessed at Rs. 26,38,500/-, whereas the exporter declared a value of Rs. 1,09,91,003.10/-, which is substantially higher than the prevailing market value.
- It is further stated that the parts and accessories for three-wheelers (auto-rickshaws) manufactured for export are generalised items and are readily available in the domestic market in India.
- The goods do not possess any special characteristics, nor are they tailor-made items.
- The exporter declared the value of the consignment as USD 133,710.50 (Rs. 1,09,91,003.10) in the Shipping Bill, which appears to be irrational and unjustified in comparison with the market survey.

2.4.1 Findings of Valuation Report in respect of Shipping Bill No. 3614886 dated 31.08.2023. (Valuation Report Ref. No. AK/13/2023-24 dated 12.09.2023)

The valuation report reveals the following:

On comparison with the purchase invoices, it is observed that the export invoice was prepared with an enhancement of 41.44% in the FOB value, which has been shown as profit margin.

However, on the basis of the market price survey, it is revealed that the export consignment is overvalued by approximately 3.48 times the maximum fair market price.

- As per the attached valuation sheet, the total maximum market value of the consignment is assessed at Rs. 27,14,000/-, whereas the exporter declared a value of Rs. 94,45,273.20/-, which is significantly higher than the market value.



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- It is further stated that the parts and accessories for three-wheelers (auto-rickshaws) meant for export are generalised parts, readily available in the domestic market in India.
- The goods do not possess any special characteristics.
- The exporter declared the value of the consignment as USD 114,906.00 (Rs. 94,45,273.20) in the Shipping Bill, which appears to be irrational and unjustified in comparison to the findings of the market survey.

2.4.2 From the above valuation certificates, it appeared that the export goods were grossly overvalued with the intent to avail higher export incentives, viz. IGST refund, Duty Drawback, and RoDTEP benefits, in contravention of the provisions of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The Panchama dated 12.09.2023 was drawn in the presence of independent panchas, Customs Broker and forwarder. On the basis of reasonable belief, the goods covered under the impugned SBs, were held to be liable for confiscation under Section 113 of the Customs Act, 1962. Consequently, the said goods were seized under Section 110 of the Customs Act, 1962, as there existed reasonable belief that the goods attempted to be exported were liable for confiscation under Section 113 of the Customs Act, 1962. The seizure was effected vide Seizure Memo dated 12.09.2023.

2.5 During the inquiry, letters dated 14.09.2023, 21.09.2023, 09.10.2023 and 20.10.2023, were written to the Appellant requesting to submit copies of purchase invoices for inward supply of goods, GST returns, remittance details, etc. In response, the appellant vide letters dated 27.09.2023, 23.10.2023 and 31.10.2023 submitted copies of purchase invoices, GST returns, etc.

2.6 The appellant's request for provisional release of the seized goods were accepted vide letter dt. 05.10.2023 subject to the adherence of below mentioned conditions :-

- (i) Execution of a bond of an amount equivalent to the value of the goods in respect of both of the said Shipping Bills;
- (ii) Submission of a Bank Guarantee of an amount equal to 20 % (Twenty Percentage) of the value of the goods in respect of both of the said Shipping Bills.

2.7 The samples drawn under panchnama dated 12.09.2023 were sent to Central Revenues Control Laboratory (CRCL), Vadodara for its testing. In response, the Chemical Examiner, CRCL Vadodara vide Lab Report No. RCL/AH/EXP/3787-3794/20.10.2023 all dt. 19.12.2023 submitted the test report which suffice the characteristics of the samples whether the same is metallic or polymeric article.



2.8 During the course of investigation, statement dt. 28.11.2023 of Shri Mahesh Shrikumar Nair, Partner of M/s Shukhar Exim LLP, was recorded u/s 108 of Customs Act, 1962. He inter-alia stated and accepted as under:

- That he is the active partner in the said firm; that Shri Dhaval Patel, who is the another partner of the firm looks after the activities related to financing; that he looks after the work related to sales, marketing, legal, etc; that he was mostly indulged in day to day activities of the said firm.
- That he had been shown panchnama dated 12.09.2023 drawn at ICD Khodiyar, that he agreed with the contents mentioned therein, that the Shipping Bills No. 3594452 and 3614886 both dated 31.08.2023 had been filed by M/s.) Shukhar Exim LLP through their Customs Broker M/s. Pacific Clearing and Forwarding Pvt. Ltd. Vide the said Shipping Bills, they attempted to export automobile parts (parts of auto rikshaw).
- That he had been shown valuation report ref. No. AK/12/2023-24 and AK/13/2023-24 both dated 12.09.2023 issued by Chartered Engineer Shri Atanu Kundu (M-150528-3) in respect of valuation of goods covered under Shipping Bill No. 3594452 dated 31.08.2023 and 3614886 dated 31.08.2023 respectively, that he agreed with the said valuation reports; that he put his dated signature on the last page of each of the valuation reports in token of having seen it and agreed with the contents mentioned therein; that the copies of the valuation reports are already in their possession.
- That he agreed that both of the consignments covered under Shipping Bills No. 3594452 dated 31.08.2023 and 3614886 dated 31.08.2023 were highly overvalued as stated by the Chartered Engineer in their report; that they overvalued the said goods in order to claim high IGST refund, drawback and RODTEP, that these export incentives are based on value of the goods. As soon as he increased the value of the goods, they were supposed to get more export incentives.
- That on being asked regarding the reasons of price variation of same items as mentioned in panchnama dated 12.09.2023, he stated that there should not be any reasons of variation in price as items were procured from the same supplier, that it may be inadvertently mentioned due to oversight.
- That on being asked regarding the past consignments exported, he stated that these consignments were not overvalued. Before the present two consignments, they exported goods vide Shipping Bills No. 9356882 dated 17.04.2023, 9577190 dated 27.04.2023, 9659967 dated 29.04.2023 and 9665102 dated 29.04.2023 He further stated that the same commodities were exported vide the above stated Shipping Bills and these past consignments were not overvalued.



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- That on being asked regarding the whereabouts of supplier of goods, he stated that the suppliers of the goods were having offices; that he did not know whether they were manufacturing the same or trading the same, that he received goods alongwith invoices, that he visited the office of M/s. Tech Auto Parts which was in Delhi, that he also visited the office of M/s SM Global Export & Import, Ahmedabad and M/s Bhavani Manufacturers Auto Works, Ahmedabad. One of the firm M/s. Mediterranean Export is having his office at Baroda, that he had visited their offices; that he had never visited their factory premises or warehouse.
- That he agreed that they have contravened the provisions of Section 113(1) 113(ia) and 113(ja) of the Customs Act, 1962 by way of overvaluing the goods, that he was fully aware of the provisions of the Customs Act, that he reiterated that he had declared high valuation of goods in order to claim excess IGST, Drawback and RoDTEP.
- That he agreed that he had contravened the provisions of the Customs Act which made goods liable for confiscation, that he confessed that they had highly overvalued the goods in contravention of the provisions of the Customs Act.

2.9 After completion of investigation, Show Cause Notice dt.13.02.2024 was issued to the appellant proposing :

- (i) Rejection of the value declared by the exporter in the impugned SBs to the tune of Rs. 109,91,003.10/- and Rs. 94,45,273.20/- respectively in terms of provisions of Section 14 of the Customs Act, 1962 read with the provisions of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (ii) Acceptance of the value as per Chartered Engineer's report amounting to Rs. 26,38,500/- and Rs. 27,14,000/- in respect of the impugned SBs respectively for the purpose of the valuation of goods intended for export, in terms of the provisions of Section 14 of the Customs Act, 1962 read with provisions of Rule 4 and Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (iii) Confiscation of the goods intended for export vide the impugned SBs having declared FOB value Rs. 1,09,91,003/- and Rs. 94,45,273/- respectively, under Section 113(i) 113(ia) and 113(ja) of the Customs Act, 1962.
- (iv) Imposition of penalty on M/s. Shukhar Exim LLP under Section 114(iii) and 114AA of the Customs Act, 1962.



2.10 No reply to the Show Cause Notice dated 13.02.2024 was filed by the appellant. The appellant also did not appear before the adjudicating authority in response to the opportunities of personal hearing granted in the matter. Consequently, after observing the principles of natural justice and on the basis of the evidences available on record, the adjudicating authority passed the impugned order, containing the following directions:

- (i) Rejected the value declared by the exporter in the impugned SBs to the tune of Rs. 109,91,003.10/- and Rs. 94,45,273.20/- respectively in terms of provisions of Section 14 of the Customs Act, 1962 read with the provisions of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (ii) Accepted the value as per Chartered Engineer's report amounting to Rs. 26,38,500/- and Rs. 27,14,000/- in respect of the impugned SBs respectively for the purpose of the valuation of goods intended for export, in terms of the provisions of Section 14 of the Customs Act, 1962 read with provisions of Rule 4 and Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- (iii) Order for Confiscation of the goods intended for export vide the impugned SBs having declared FOB value Rs. 1,09,91,003/- and Rs. 94,45,273/- respectively, under Section 113(i) 113(ia) and 113(ja) of the Customs Act, 1962.
- (iv) Option to redeem the goods on payment of redemption fine of Rs. 10,00,000/- under section 125 of the Customs Act, 1962.
- (v) Imposed penalty of Rs. 53,52,500/- on M/s. Shukhar Exim LLP under Section 114(ii) of the Customs Act, 1962.
Imposed penalty of Rs. 20,00,000/- on M/s. Shukhar Exim LLP under Section 114AA of the Customs Act, 1962.



Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal. The Appellant have, inter-alia, raised various contentions and filed detailed submissions in their Appeal memorandum dt. 00.08.2024, received in the appeal section on 18.09.2024. The brief of the grounds of appeal raised by the appellant in support of the present appeal are reproduced below:

- The appellant has assailed the impugned Order-in-Original primarily on the grounds that the same was passed ex-parte, allegedly in violation of the principles of natural justice, and is therefore not sustainable in law.
- It is contended that the adjudicating authority erroneously rejected the declared FOB value of the export goods covered under Shipping Bills No. 3594452 and 3614886, both dated 31.08.2023, without valid reasons and contrary to the provisions of Section 14 of the Customs Act, 1962 read with

the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

- The appellant submits that the finding holding the export goods liable for confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962 is based on assumptions and presumptions of overvaluation, without cogent evidence. Consequently, the imposition of redemption fine under Section 125 and penalties under Sections 114(iii) and 114AA is stated to be excessive, unjustified and unwarranted.
- It is further argued that the allegation of overvaluation with intent to avail higher Drawback, RoDTEP and IGST refund is not supported by any independent or reliable evidence. The valuation adopted by the Department is stated to be based merely on approximate website price offers, which do not constitute "transaction value" or evidence of price in the course of international trade as envisaged under Section 14 of the Customs Act.
- The appellant contends that the Chartered Engineer's valuation report relied upon by the Department is neither based on proper market enquiry nor reflective of actual transaction values and is internally inconsistent, rendering it unreliable.
- Reliance has been placed on judicial precedents, including Parson Overseas v. Commissioner of Customs (Export), Mumbai [2017 (357) ELT 604 (Tri-Mumbai)], to contend that market enquiry for export valuation can be resorted to only in exceptional cases and not routinely.
- It is submitted that as per the Export Valuation Rules, transaction value is the primary basis for export valuation, and rejection thereof under Rule 8 can be done only when supported by reasonable doubt, due enquiry, and compliance with prescribed procedures, which according to the appellant, were not followed in the present case.
- The appellant also challenges the invocation of powers under Section 110(1) of the Customs Act, contending that the mandatory requirement of "reason to believe" was not satisfied. Various judgments of the Hon'ble Supreme Court, High Courts and the Tribunal have been relied upon in support of these submissions.

PERSONAL HEARING:

4. The appellant was granted four opportunities of personal hearing on 04.06.2025, 10.09.2025, 16.12.2025 and 24.12.2025 to present and defend the case. Despite such repeated opportunities, the appellant failed to appear for any of the hearings and also did not file any further submissions, thereby choosing not to avail the opportunities provided.



DISCUSSION & FINDINGS:

5. Before examining the merits of the case, I find from the appeal memorandum in Form C.A.-1 that the impugned Order-in-Original dated 14.06.2024 was received by the appellant on 22.07.2024. The present appeal was filed on 18.09.2024, which is within the statutory period of sixty days prescribed for filing an appeal before the Commissioner (Appeals) under Section 128(1) of the Customs Act, 1962. I further note that the appellant has deposited an amount of Rs. 5,51,500/-, being 7.5% of the penalty amount of Rs. 73,52,500/-, towards mandatory pre-deposit in compliance with the provisions of Section 129E of the Customs Act, 1962.

6. I have carefully gone through the appeal memorandum as well as records of the case and the submission made on behalf of the Appellant during the course of hearing. The issue to be decided in the present appeal is whether the adjudicating authority, vide impugned order, was justified in rejecting the declared FOB value of the export goods and adopting the lower value as assessed by the Chartered Engineer, and consequently ordering confiscation of the goods and imposition of penalties, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 It is noted that the appellant neither filed any written submissions nor appeared for personal hearing before the adjudicating authority. He also failed to appear before the undersigned despite repeated opportunities of personal hearing. Accordingly, the appeal is being decided on the basis of the records and evidence available on file.

6.2 It is observed that the appellant, filed two Shipping Bills bearing Nos. 3594452 and 3614886, both dated 31.08.2023, at ICD Khodiyar for export of "Parts and Accessories for Three-Wheelers" to M/s Super Gulf Worldwide Auto Spare Parts Trading LLC, Dubai, UAE, declaring FOB values of Rs. 1,09,91,003.10 and Rs. 94,45,273.20 respectively. The appellant claimed export incentives in the form of IGST refund, Duty Drawback and RoDTEP benefits, all of which are value-linked incentives.

6.3 Based on specific intelligence regarding possible overvaluation, the export consignments were examined on 02.09.2023 by Customs officers at ICD Khodiyar. As the declared values appeared disproportionately high, valuation was carried out by an empanelled Government Valuer, Shri Atanu Kundu, Chartered Engineer, who submitted Valuation Reports dated 12.09.2023 in respect of both Shipping Bills. The valuation reports categorically recorded that:

- The declared export invoices reflected enhancement of 28.76% and 41.44% respectively over the purchase invoices, claimed as profit margin;
- On the basis of market price survey, the consignments were found to be overvalued by approximately 4.17 times and 3.48 times respectively of the maximum fair market price;
- The goods were generalised auto-rickshaw parts, readily available in the domestic market, without any special characteristics or customization;
- The declared FOB values were irrational and unjustified when compared with prevailing market prices.

Accordingly, the fair market values were assessed at Rs. 26,38,500/- and Rs. 27,14,000/- respectively.

6.4 On the basis of reasonable belief arising from the valuation reports, the goods were seized under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 12.09.2023, as being liable to confiscation under Section 113 of the Act. A panchnama was drawn in the presence of independent panchas, Customs Broker and forwarder. Representative samples were drawn and sent to CRCL, Vadodara, which confirmed the nature and characteristics of the goods, thereby corroborating that the items were ordinary metallic/polymeric automobile parts and not specialized or high-value products warranting the declared prices.

6.5 A crucial piece of evidence in the present case is the statement dated 28.11.2023 of Shri Mahesh Shrikumar Nair, Partner of M/s Shukhar Exim LLP, recorded under Section 108 of the Customs Act, 1962. In his voluntary statement, he:

- Admitted being actively involved in day-to-day operations of the firm;
- Acknowledged the filing of the impugned Shipping Bills;
- Accepted the valuation reports issued by the Chartered Engineer and appended his dated signatures on the same in token of acceptance;
- Categorically admitted that the consignments were highly overvalued;
- Admitted that the overvaluation was deliberately done to avail higher IGST refund, Duty Drawback and RoDTEP benefits, which are directly linked to the declared FOB value;
- Acknowledged contravention of the provisions of Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.

Such categorical admissions, made under Section 108, carry significant evidentiary value and have not been retracted at any stage.

6.6 It is also an admitted fact that no reply was filed to the Show Cause Notice dated 13.02.2024. The appellant did not appear for personal hearings before the



adjudicating authority despite opportunities. Even at the appellate stage, the appellant failed to appear or file submissions despite being afforded multiple opportunities. Thus, the appellant failed to rebut the allegations, valuation findings, or their own admissions on record.

6.7 In view of the overwhelming evidence, including independent valuation reports, market enquiry, laboratory reports, and unequivocal admissions of overvaluation by the appellant, I find that the declared transaction value was rightly rejected under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 by the adjudicating authority. The adoption of the Chartered Engineer's value under Rules 4 and 6, read with Section 14 of the Customs Act, 1962, is legally sustainable and properly reasoned by the adjudicating authority in impugned order.

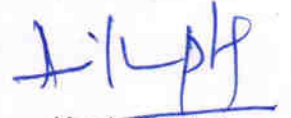
6.8 Once deliberate overvaluation with intent to avail excess export incentives stands established, the goods clearly attract confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962. Consequently, the imposition of redemption fine under Section 125 and penalties under Sections 114(ii) and 114AA of the Act is justified, proportionate, and in accordance with law.

7. I have also considered the contentions raised by the appellant and find that the same are not acceptable. The plea of violation of principles of natural justice is devoid of merit, as the records clearly establish that sufficient opportunities of personal hearing were granted to the appellant, which were consciously not availed. Mere non-appearance of the appellant despite repeated opportunities cannot render the proceedings ex-parte illegal. As regards rejection of the declared FOB value, I find that the adjudicating authority has recorded cogent reasons, based on contemporaneous material and valuation reports, for entertaining serious doubts regarding the truth and accuracy of the declared value, warranting rejection under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The valuation adopted is not based on presumptions alone, but on comparative price analysis, market data and expert valuation, which revealed abnormal and unjustified inflation in declared FOB value far beyond normal commercial parameters. The reliance placed by the appellant on transaction value principles is misplaced as transaction value is not sacrosanct and can be rejected when circumstances indicate overvaluation with intent to avail higher export incentives. The contention that Chartered Engineer's valuation is unreliable is also not tenable, as the report has been duly examined and relied upon only after considering its methodology and limitations, and the appellant failed to produce any credible counter-evidence to dislodge the same. The confiscation of goods under Section 113 of the Customs Act, 1962 and imposition of penalties under Sections 114(iii) and 114AA are justified in view



of the established attempt to overvalue export goods to wrongfully avail export incentives. The case laws cited by the appellant are distinguishable on facts and do not apply to the present case, where clear evidence of deliberate overvaluation exists. Accordingly, the grounds raised by the appellant are rejected.

8. In view of the foregoing findings and conclusions, I find no infirmity, illegality or impropriety in the impugned Order-in-Original passed by the adjudicating authority. The rejection of the declared FOB value, adoption of the value assessed by the Chartered Engineer, confiscation of the goods, and imposition of redemption fine and penalties are found to be legal, proper and justified in the facts and circumstances of the case. Accordingly, the impugned order is upheld and the appeal filed by the appellant is rejected.



(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-153/CUS/AHD/2024-25

Date: 01.01.2026

By email (as per Section 153(1)(c) of the Customs Act, 1962)

By Speed post.

To

M/s Shukhar Exim LLP,
291/21, Behind Dudheshwar Water Tank,
Dudheshwar, Ahmedabad-380004

Email- shukharexim@gmail.com



Copy to:

1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Additional Commissioner of Customs, (ICD- Khodiyaar,) Custom House, Ahmedabad. (cus-ahmd-adj@gov.in)
4. The Assistant Commissioner of Customs, ICD- khodiyar, Ahmedabad (icdkhd-ahd@gov.in icd_ahd@yahoo.co.in)
5. Shri P P Jadeja, consultant (ppjadeja2012@gmail.com)
6. Guard File.