



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,  
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,  
चौथी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009 दूरभाषक्रमांक Tel. No. 079-  
26589281  
DIN – 20250671MN0000911357

क	फ़ाइलसंख्या FILE NO.	S/49-254/CUS/MUN/23-24
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-079-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	16.06.2025
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	OIO No. 02/2023/DC/ICD/Sonipat dated 18.01.2024 issued by the Deputy Commissioner of Customs, ICD, Sonipat.
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	16.06.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. Suncity Metals and Tubes Private Limited,( earlier known as M/s. Suncity Sheets Private Ltd ) 503/2, 520/P2, Guntha, Gundala, Gandhidham Mundra Highway, Mundra, Kachch- 370421.

1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै. This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआ देशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं.



	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.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगोंकेरूपमेंआयातितकोईमाल.
(a)	any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो.
(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)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगीऔरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	कोर्टफीएक्ट, 1870केमदसं. 6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(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)	सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु.1000/- (रूपएकहज़ारमात्र), जैसाभीमामलाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क, मांगागयाब्याज, लगायागयादंडकीराशिऔररूपएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.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.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं
	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, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियधिकरण, पश्चिमीक्षेत्रीयपीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>



	दूसरी मंजिल, बहुमाली भवन, निकट गिरधर नगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमा शुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमा शुल्क 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 जहाँ किसी सीमा शुल्क 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 जहाँ किसी सीमा शुल्क 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; पाँच 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 जहाँ किसी सीमा शुल्क 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	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10 अदा करने पर, जहाँ शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10 अदा करने पर, जहाँ केवल दंड विवाद में है, अपील रखी जाएगी।	
	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.	
	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. Suncity Metals and Tubes Private Limited (earlier known as M/s. Suncity Sheets Private Ltd ) having address 503/2, 520/P2, Guntha, Gundala, Gandhidham Mundra Highway, Mundra, Kachch- 370421 (hereinafter referred to as the "appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against the OIO No. 02/2023/DC/ICD/Sonipat dated 18.01.2024 (hereinafter referred to as the "impugned order") issued by the Deputy Commissioner of Customs, ICD, Sonipat (hereinafter referred to as the "assessing authority").

2. Briefly stated, facts of the case are that the appellant, holders of IEC 1304009815, had imported the as 'Stainless Steel Cold Rolled Coils (Grade-J3-Finish-2B)' from M/s Intexport Steel, Hong Kong, China vide Invoice dated 28.11.2023, by classifying the said goods under CTH 72193390 vide Bill of Entry No. 9248740 dated 15.12.2023 and self-assessing the BOE under Section 17(1) of the Customs Act, 1962 while declaring the unit assessable value of 1.19 USD/kg – 1.215 USD/kg. Further, the aforementioned Bill of Entry was allocated to the assessing officer for assessment under Faceless Assessment System and during verification of the self-assessment of the aforementioned Bill of Entry done by the appellant, it appeared that the declared value of the goods, was lower than the contemporaneous import of similar goods at various ports for relevant period and it also appeared that the sale involved an abnormal discount and abnormal reduction from the ordinary competitive prices. While comparing the contemporaneous imports data, it appeared that the impugned goods had been imported by other importers at much higher prices. Accordingly, a query was raised in the ICES System informing the appellant that the declared value of the goods could not be accepted in light of Rule 12(2)(iii)(a) and 12(3)(1) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962 and it was requested from the appellant to provide material or evidence, for the purpose of record which can justify the declared value in terms of Section 17(3) of the Customs Act, 1962.

2.1 Further, the appellant submitted that their declared value is true transaction value and submitted the copy of contract. The said reply of appellant was examined and it was noticed that the same did not substantiate their declared value. Since appellant failed to justify the declared value, the same was rejected by the assessing officer. Further, the impugned goods were assessed at enhanced rate, on the basis of contemporaneous import data of similar goods being imported into India and cleared at various ports.





2.2 Since the declared value was very low and not supported by further documentary evidences, demanded by proper officer, in terms of Rule 12 of the Customs Valuation Rules, 2007, it appeared that the appellant had declared much lower transaction value vis-à-vis contemporaneous imports of similar goods under Section 14 of the Act read with Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as "CVR,2007"). Therefore, there existed a reasonable doubt that the declared value of the goods imported under the impugned bill of entry could not be considered as actual transaction value since there was mis-declaration on account of value of the goods when compared to the assessable value of the contemporaneous imports of similar goods and thus, the declared value of goods imported vide aforementioned Bill of Entry was liable for rejection under Rule 12 of CVR, 2007 and needed to be re-determined under the provisions relevant provisions of CVR, 2007. The assessing authority after giving enough opportunity to appellant to justify the declared value, who failed to submit any documentary evidence against the said Bill of Entry in the support of their declared value, found that the value of impugned goods should be assessed @ 1.4 USD/kg in terms of Rule 5 of the Customs Valuation (Determination of Value of the Imported Goods) Rules, 2007.

3. Thereafter, the assessing authority vide the impugned order passed the following order as:

*Reject the declared transaction value of goods, imported vide Bill of Entry No.9248740 dated 15.12.2023, under Rule 12(1) of CVR, 2007 and re- determine the declared value @1.4 USD/kg, in terms of Rule 5 of the Customs Valuation (Determination of Value of the Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962, without prejudice to any other action that may be taken under this Act.*

4. Being aggrieved with the impugned order, the Appellant have filed the present appeal and mainly contended the following:

- That the assessing officer claimed that no identical goods were available under Rule 4 of the Customs Valuation Rules (CVR), 2007 and instead adopted the value of similar goods under Rule 5, re-determining the value at USD 1.40/kg (against the declared USD 1.19/kg).
- That The appellant had submitted a contemporaneous Bill of Entry (B/E No. 9146328 dated 09.12.2023), assessed by the same customs

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station (Mundra), showing identical goods valued between USD 1.185 and 1.225/kg. This crucial evidence was ignored.

- The assessing officer made a grave error by overlooking available identical goods data and misrepresenting facts, thus violating the sequential mandate of Rule 3(4) of CVR, 2007 and the value adopted for similar goods was not adjusted as per the requirements of Rule 5(2) read with Rule 4(1)(c), particularly for differences in commercial level, quantity, and specifications.
- That the declared value was the sole consideration for the imports, with no evidence of under-invoicing or extra-commercial considerations and other BEs with identical goods from the same supplier were accepted and assessed by the department itself, establishing credibility of the declared price.
- They have relied upon the following Judgments:

- Siddhartha Polymer Limited Versus Commissioner of Customs, New Delhi 2007(216) ELT 604(Tri-Del)
- Commissioner of Customs New Delhi vs International Traders 2009 (239) ELT 290 (Tri- Del)

### **PERSONAL HEARING**

5. Shri Shyam Lal Bansal, consultant of the appellant attended the personal hearing on 15.05.2025 in virtual mode on their behalf. He reiterated the submission made in the appeal memorandum.

### **DISCUSSION & FINDINGS**

6. I have gone through the appeal memorandum filed by the appellant, records of the case and submissions made during personal hearing. The main contention in the appeal is that assessing officer wrongly rejected the declared value and skipped Rule 4 despite the availability of contemporaneous identical goods, violating Rule 3(4) of the Customs Valuation Rules, 2007. Therefore, the main issue to be decided is that the impugned order enhancing the assessable value under Rule 5 of Customs Valuation Rules, 2007 in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 Before going into the merits of the case, I find that as per CA-1 Form of the Appellant, the present appeal has been filed on 26.03.2024 against the impugned order dated 18.01.2024 received by the appellant on 06.02.2024, which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the



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stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

6.2 It is observed that the appellant has contended that the assessing authority has erred in rejecting the declared transaction value under Rule 12 of the Customs Valuation Rules, 2007, without properly applying Rule 4 of the Customs Valuation Rules, 2007, despite availability of contemporaneous imports of identical goods at the same port and from the same supplier. Instead, assessing authority applied Rule 5 of the Customs Valuation Rules, 2007 bypassing the mandatory sequential application of valuation rules as per Rule 3(4). Further, appellant stated that the contemporaneous price of "identical goods" was available at the Customs portal wherein the other importer had imported the identical goods vide Bill of Entry 9146328, dated 09/12/2023 which had been assessed by the proper officer of Customs in the range of 1.185000 USD/kg to 1.225000 USD /kg and the same was not taken into account and assessing authority had jumped to Rule 5 of CVR 2007 when the value of "identical goods" was available as per Rule 4 of CVR 2007.

6.3 Further, the appellant has also contended that assessing officer has not given any finding that the price adopted even for the similar goods are comparable with regard to "commercial level" / "quantity level" and "characteristics" thickness of the sheet, etc. and not suitably "adjusted" the price as required as per rule sub rule (2) of rule 5 read with rule 4(1)(c) of CVR Rules 2007 which states that:

*"(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value."*



In this regard, it is observed that Bill of Entry No. 9146328 dated 09/12/2023, as submitted by the appellant, was presented before this office at the first instance and is found to pertain to the same goods and port of import. The said Bill of Entry has also been assessed by the proper officer. Accordingly, the assessing authority is directed to examine the facts of the case in light of this Bill of Entry and consider the same for determination of the contemporaneous value of identical goods, in terms of Rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. As per the

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mandate of Rule 3(4) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the assessing officer is required to apply the valuation methods sequentially from Rule 4 to Rule 9 of CVR 2007 when the transaction value is rejected under Rule 12 of CVR 2007. In the interest of justice and to ensure fair and lawful determination of assessable value, the matter is hereby remanded back to the assessing authority with a direction to re-assess the goods in accordance with the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

6.4 In view of the above, I find that remitting the present appeal to the authority for passing fresh order for considering the submissions made by the appellant in the present appeal has on record, become sine qua non to meet the ends of justice. Accordingly, the case is remanded back to the adjudicating authority, in terms of sub-section of (3) of Section 128A of the Customs Act, 1962, for passing a fresh order by following the principles of natural justice. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs - 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del)] holding that Commissioner (Appeals) has power to remand the case under Section - 35A (3) of the Central Excise Act, 1944 and Section - 128A (3) of the Customs Act, 1962.

7. In view of the above discussion, I allow appeal by way of remand to the assessing authority with the direction to pass the fresh speaking order considering the submissions made by the appellant.



*A. L. Gupta*

(AMIT GUPTA)  
COMMISSIONER (APPEALS)  
CUSTOMS, AHMEDABAD

F. Nos. S/49-254/CUS/MUN/23-24  
By Registered Post A.D. *1550*

Dated -16.06.2025

To,  
M/s. Suncity Metals and Tubes Private Limited  
(earlier known as M/s. Suncity Sheets Private Ltd )  
503/2, 520/P2, Guntha, Gundala,  
Gandhidham Mundra Highway,  
Mundra, Kachch 370421

सत्यापित/ATTESTED

*[Signature]*  
अधीक्षक/SUPERINTENDENT  
सीमा शुल्क (अपील), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD Page | 8





**Copy to:**

1. ✓ The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Custom House , Mundra.
3. The Deputy Commissioner of Customs, ICD, Customs, Sonipat.
4. The Deputy/Assistant Commissioner of Customs, Custom House, Mundra.
5. Guard File.