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 – 20250971MN000000C7EF

क	फ़ाइल संख्या FILE NO.	S/49-226/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-266-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	23.09.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Orders – In – Original No. 03/ADJ/DC/HAZIRA/24-25 dt. 21.08.2024 issued by the D.C, Customs, Hazira Port, Surat.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	23.09.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s LAUF INDUSTRIES, First Floor, D-1535, DSIIDC, Narela Industrial Area, Delhi – 110 040.

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 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 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 ब्याज 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 ब्याज 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 ब्याज 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

M/s Lauf Industries, First Floor, D-1535, DSIIDC, Narela Industrial Area, Delhi – 110 040. (hereinafter referred to as the appellant') have filed the present appeal challenging Order-In-Original No.: 03/ADJ/DC/Hazıra/2024-25, dated 21.08.2024 (hereinafter referred to as 'the impugned order'), passed by the Deputy Commissioner, Customs, Custom House, Hazira Port, Surat (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant had imported goods declared as "100% Polyester Knitted Fabric Mix stock lot of different colours". They had filed one (1) self assessed Bills of Entry, in the month of August-2022, for clearance of the said goods for home consumption at Hazira Port. Details of import are given in Table below:

Table-I

Sr. No.:	Bill of Entry No.	Date	Declared Unit price	Assessed Unit price
1	9997955	13.08.2022	1.05 USD/KGS	1.30 USD / KGS

2.1 The Appellant had declared the value of the good @ USD 1.05/Kgs as per the Invoice and Sales Contract. However, the Ld Assessing Authority without giving reasons as to why the Invoice value is not acceptable as per the Customs Valuation Rule, proposed to load the assessable value to @ USD 1.30/Kgs. They were forced to deposit the duty on the enhanced value as the goods were urgently required and any delay to clearance would have resulted in bearing the burden of detention and demurrage in case of any litigation and also cancellation of order by the customers. They had also submitted a protest letter vide email dated 16.08.2022.

2.2 The appellant filed an appeal before the Commissioner (Appeals), Customs, Ahmedabad against the said assessed Bill of Entry. The Commissioner (Appeals) allowed the appeal by way of remand vide OIA No.: AHD-CUSTM-000-APP-459-23-24 dated 28.02.2024, with directions to pass a speaking order under Section 17(5) of the Customs Act, 1962. In remand proceeding, the adjudicating authority i.e. Deputy Commissioner, Customs, Hazira Port, Hazira, Surat vide OIO No.: 03/ADJ/DC/Hazıra/2024-25, dated 21.08.2024 upheld the assessment of said One Bill of Entry at enhanced value and hold that there is no need to recall or re-assesses this Bill

of Entry once again. Hence, this present appeal is filed, being aggrieved and dissatisfied with the impugned order.

3. Aggrieved by the assessment on the enhanced assessable value, the appellant has filed the present appeal challenging the value enhancement. In support of their claims, the appellant has raised several contentions and made detailed submissions on the following points:

- That the value declared by the Appellants for 100% Polyester knitted fabric Mix Stock Lot of different colors in the B/E was enhanced by the Customs authorities without disclosing to the Appellant any reason and not following the customs valuation rules. Therefore, the assessed bill of entry is bad in law and the impugned enhancement of value is liable to be set aside on this ground only.
- That in Para 3 of impugned order, it is mentioned that assessment has been done by the assessing officer as per the NIDB Data of similar imported items, it is pertinent to mention here that Ld. Assessing officer has not compared or analyzed NIDB data and no contemporaneous data was shown to the appellant at any stage.
- That in Para 3.1 of impugned order, it is mentioned that the importer was asked to justify the declared price, which importer failed to explain which is entirely wrong, the appellant had submitted all the requisite documents i.e. Bulk Sales Contract, Commercial Invoice, Packing List etc. to justify the declared price and until Assessing officer has anything else to prove that declared value is not correct declared value shall be accepted as declared value. That Ld. Assessing officer mentioned that importer consented to pay the duty but with protest, it is really surprising that how Ld. Assessing officer can say that importer consented as well as protested, it can either be a consent or a protest.
- That in a similar matter wherein similar goods were imported by another importer and goods were cleared after enhancement of declared price and the appellant filed appeal against such unjust enhancement of declared price. The Honb'le Commissioner of customs(Appeals), Ahmedabad allowed the appeal filed by setting aside the enhancement of price and granting consequential relief by Order in Appeal No. AHD-CUSTM-000-APP-363-23-24 dated 04.01.2024 and Order in Appeal No. AHD-CUSTM-000-APP-140-23-24 dated 02.06.2023. It is pertinent to mention here that refund against such enhancement of price was granted to the importer. This matter being a similar matter and goods are also similar , appeal filed by us shall be allowed on this ground only.

- The Ld. Appellate Authority rejected the appellant's claim of arbitrary value enhancement without providing evidence that the invoice value was incorrect. Merely comparing NIDB data and noting that the declared price was lower does not suffice to reject the transaction value under Section 14 of the Customs Act, 1962 read with the CVR, 2007.
- That there was no Contemporaneous data shown to the appellant as mentioned in the Order in Original at the time of assessment of goods. Contemporaneous data were not shown to the appellant even at the time of issuing both the Orders in Original which is a clear violation of conditions given by Honb'le commissioner of customs (appeals) to follow principle of natural justice.
- The appellant submits that the impugned order violates the principles of natural justice, as the Ld. Deputy Commissioner did not verify whether the NIDB data used to reject the transaction value related to similar goods or identify proper comparables as required by law. The proceedings were thus conducted without giving the appellant a fair opportunity. On this ground alone, the order is not tenable and should be quashed and set aside.
- That the Adjudicating Authority has failed to appreciate that the NIDB data cannot be the sole ground for rejecting the transaction value without any evidence to prove that the goods under import have been undervalued. It is an admitted fact in the impugned order that the Adjudicating Authority has only analyzed the NIDB data and they had no documents available while adjudicating the matter for comparison of the parameters required under Rule 5.
- That the Final Order No. 51584-51619 / 2020 of the Honb'le Cestat Delhi is not at all applicable in present case as there is no acceptance. The Appellant has submitted a protest letter for clearance of goods. It is mentioned in the said letter that duty at enhanced price is paid to avoid detention , demurrage and delay in clearance of goods. As goods are seasonal in nature and any delay in customer it may lead to cancellation of orders by customers.
- In terms of Section 14 of the Customs Act, 1962 read with Rule 3 (1) & (2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the Department is bound to accept the declared transaction Reliance in this regard is placed on the Judgment of HonCommissioner of Customs (Imporहम Tughlakabad V M/s Rainbow Fashions, Delhi;
- It is settled law that the onus is on the Department to prove that the goods have been under valued. They had filed copy of all the required documents at the time of customs clearance and on the basis of commercial invoice raised by the seller.

Department has filed to bring on record as to how they were covered under any of the exceptions as enumerated under the proviso to Rule 3 (2) of the Valuation Rules.

- The Department does not have any evidence to prove that any additional consideration was paid to the exporters or they are related to each other and that the price is not the sole consideration for sale and fettered by any other consideration. There is no evidence to prove that the declared price is not the price actually paid or payable. Reliance in this regard is placed on the judgment of Hon'ble Supreme Court in case of M/s. Prodelin India (P) Ltd. [2006 (202) ELT 13 (SC)]
- They relied on the following judgment in support of their contention that it is well settled that in absence of any supporting evidence to prove under-valuation, assessable value cannot be re-determined and enhanced:
  a) D.M. International - [2013 (297) ELT 450 (Tri.-Del.)]
  b) Rainbow Impex - [2013 (296) ELT 207 (Tri-Del)]
  c) Century Metal Recycling Pvt Ltd - [2013 (295) ELT 726 (Tri-Del)]
  d) Marble Art - [2013 (289) ELT 346 (Tri.-Del)]

4. The appellant was given personal hearing in the matter to present their case, Shri Rajesh Garg, Director of the appellant, attended hearing on 10.09.2025 through virtual mode. He had reiterated the submissions made in the appeal memorandum. During hearing he made additional submission that their matter is covered by Order No.: AHD-CUSTM-000-APP-363-23-24 dt. 04.01.2024 and AHD-CUSTM-000-APP-140-23-24 dt. 02.01.2023, They also quoted that the order no.: 51584-51619 of M/s Hanuman Prasad by assessing officer in the mentioned OIO was set aside by the Hon'ble High Court of Delhi vide Order 2024(11) TMI 1361.

5. Before going into the merits of the case, I find that from the Form C.A.-1, the date of communication of the Order-In-Original dated 21.08.2024 & Corrigendum dated 12.09.2024, has been shown as 27.08.2024 & Corrigendum dt. 18.09.2024 and the date of filing Appeal shown as 11.11.2024. I find that the present appeal has been filed within prescribed time limit of 60 days as stipulated under Section 128(1) of the Customs Act, 1962.

5.1 I have carefully gone through the impugned order, appeal memorandum filed by the appellant and submissions made by the appellant during course of hearing as

well as the documents and evidences available on record. The issue is to be decided in the present appeal is whether the impugned order passed by the adjudicating authority upholding the assessments made in one (1) Bill of Entry with value loading to USD 1.30/Kgs, in the facts and circumstances of the case, is legal and proper or otherwise ?

5.2 It is observed that the appellant had imported a consignment of 100% Polyester Knitted Fabric Mix Stock Lot of different colors', and had filed the said BE for clearance of the imported consignment for home consumption. The Appellant had declared the value of the good @ USD 1.05/Kgs as per the Invoice and Sales Contract However, the adjudicating Authority observed that the assessing officer without giving any reasons as to why the Invoice value is not acceptable as per the Customs Valuation Rule, proposed to load the assessable value to @ USD 1.30/Kgs and the impugned rder was passed . It is the contention of the appellant that they were forced to deposit the duty on the enhanced value as the goods were urgently required and any delay to clearance would have resulted in bearing the burden of detention and demurrage in case of any litigation and also cancellation of order by the customers. They had also submitted a protest letter vide email dated 16.08.2022.

It is observed that appeal was filed against the said assessed Bill of Entry before the Commissioner (Appeals), Customs, Ahmedabad who vide OIA No.: AHD-CUSTM-000-APP-459-23-24 dated 28.02.2024, allowed the appeal by way of remand vide with directions to pass a speaking order under Section 17(5) of the Customs Act, 1962. In pursuance of the directions of this OIA, the adjudicating authority vide impugned order 21.08.2024 upheld the enhanced assessment of the Bill of Entry and held that no recall or reassessment is required.

6. It is observed that the adjudicating authority in the impugned order recorded that the assessing officer found that the price of the said imported goods was lower than the prices of similar goods in NIDB data. The assessing officer, on the basis of contemporaneous value of the similar goods, available in the NIDB data, in pursuance of the provisions laid down under Rule 4 & 5 of the valuations Rules, enhanced the value of the imported goods from USD 1.05/kg to USD 1.30/kg in the assessment of the said Bill of Entry detail as per Table above.

It is observed that even though the adjudicating authority has recorded that the declared assessable unit price of the imported goods, as declared by the appellant, was lower as compared to the contemporaneous unit price of similar goods as reflected in NIDB data, he had not provided any such data to the appellant or recorded such data

in the impugned order to support his findings. Hence, the impugned order is a non speaking order and is liable to be set aside on this count only.

6.1 It is observed that, at the time of assessment and enhancement of the value of the imported goods, the adjudicating authority sought justification from the appellant. It is recorded in the impugned order the appellant were ready to pay the duty under protest to avoid demurrage and detention charges. It is further observed from the impugned order that the appellant got agreed with the value loading as per NIDB data and the consented value become the assessable value requiring no further investigation. The adjudicating authority placed reliance on the Final Order No.: 51584-51619/2020 dtd 20.10.2020 of the Hon'ble CESTAT, Principal Bench, New Delhi in the case of Commissioner of Customs V/S M/s Hanuman Prasad & Sons wherein the appeal of the revenue was allowed. The said case is squarely applicable in the present matter.

In this context, it is observed that the appellant during personal hearing submitted that order no.: 51584-51619/2020 dtd. 20.10.2020 of M/s Hanuman Prasad which was relied upon by the adjudicating authority in the said impugned order, was set aside by the Hon'ble High Court of Delhi vide Order 2024(11) TMI 1361. It is observed from the appellant's protest letter 16.08.2022 that they submitted all necessary evidence required for the justification of transaction value, sales contract entered between shipper and consignee, despite this, the assessing office assessed the goods at enhanced price. From the protest letter and records, it clearly emerges that the appellant consented to the enhancement of the declared value not as a voluntary acceptance of the correctness of such valuation, but only under compulsion and in order to mitigate avoidable financial burdens. The appellant has specifically contended that the enhancement was agreed to merely with a view to prevent accumulation of demurrage and detention charges at the port and also to safeguard their business interest by ensuring timely clearance of the consignments so as not to lose their customers.

6.2 It is noted that the appellant contends that the adjudicating authority ignored the mandatory procedure under Rule 12 of the Valuation Rules, the contemporaneous import data, purchase contract, invoice, and case laws relied upon. They also submit that the goods imported cannot be treated as similar to those of other importers for invoking Rule 5. However, a perusal of the impugned order shows that none of these contentions have been addressed by the adjudicating authority.

6.3 It is evident that the adjudicating authority noted that the unit price declared

in the Bills of Entry was lower than contemporaneous prices in the NIDB data but failed to record or share any such data with the appellant. The appellant was also not provided copies of the bills of entry, contracts, invoices, or other documents relied upon, amounting to a violation of natural justice. As no NIDB data has been placed on record to justify rejection under Rule 12(1), the rejection of the declared value is unsustainable and is required to be set aside.

6.4 It is observed that appellant submitted that - in a similar matter wherein similar goods were imported by the appellant and goods were cleared after enhancement of declared price and the appellant filed appeal against such unjust enhancement of declared price. The Commissioner of Customs (Appeals) allowed the appeal filed by setting aside the enhancement of price and granting consequential relief by Order in Appeal No.: AHD-CUSTM-000-APP-363-23-24 dated 04.01.2024 and Order in Appeal No. AHD-CUSTM-000-APP-140-23-24 dated 02.06.2023 (as per office records, date of the OIA is 10.08.2023). This matter being a similar matter and goods are also similar, appeal filed by them shall be allowed on this ground only. During the personal hearing also, the appellant referred these two cases laws.

These two above referred OIAs were passed by the then Commissioner of Customs (Appeals), Ahmedabad, in the matter of the appellant M/s. Sedna Impex India Pvt. Ltd., its head office at 105, H-3, Vardhman Plaza Tower, Netaji Subhash Place, Pitampura, Delhi–110034. On examination of the facts and findings of both the OIAs, it is evident that the issue involved in the present case stands on the same footing as that decided therein, with respect to the goods, their specifications, and description.

6.5 I find that the issue has already been discussed in detailed manner in the said two OIAs, wherein the appellant had challenged the enhancement of value in respect of imports of similar goods, i.e., *"mixed lot of 100% Polyester Knitted Fabric (rolls of assorted colours and weight)"*, during the period from July 2019 to April 2020. Both the said appeals were allowed by the Commissioner (Appeals), Customs, Ahmedabad. The relevant paragraphs from the OIA dated 10.08.2023 are produced herein below:

> *"7.7 On perusal of the impugned order, it is observed that the adjudicating authority has in the impugned order relied upon the consent letter of the appellant for enhancing the assessable value and accordingly considered it as the assessment order under Section 17(5) of the Customs Act, 1962. He has in Para 28 of the impugned order, considered the submission of*

the appellant. Thereafter, the adjudicating authority has upheld the enhanced assessable value. The relevant para of the impugned order is reproduced below :

> *"29. However, I find that the facts and circumstances in the aforesaid case laws are not similar to that in the present case.*
>
> *30. In this regard, I place reliance on Final Order No. 51584-51619/2020 dated 20.10.2020 of the Hon'ble CESTAT, Principal Bench, New Delhi in case of Commissioner of Customs Vs M/s Hanuman Prasad and Sons in CUSTOMS APPEAL NO. 51601 OF 2019 wherein the appeal of the revenue was allowed in similar case that is squarely applicable in the present case."*

7.8 It is observed that the adjudicating authority has neither recorded the contentions raised by the appellant in their defense submissions dated 17.03.2021 nor considered any of the submission made by the appellant in the earlier round of litigation, before concluding the proceedings. Hence, the impugned order is a non speaking order and is liable to be set aside on this count only.

7.9 It is observed that the adjudicating authority has recorded that the unit price of the said goods declared in these Bills of Entry were lower as compared to the contemporaneous unit price of similar goods as reflected in NIDB data. However, he has not recorded any contemporaneous import data as reflected in NIDB data. Further, there is nothing on record to suggest that any such data was provided to the appellant and their submissions were taken on record before rejecting the declared by the appellant. On the contrary, the appellant has submitted that there is violation of the principles of natural justice, in as much as, the appellant is not provided with copy of bill of entry, contract, invoice, bill of lading and other details/documents in respect of goods that are held comparable with goods imported by the appellant. Therefore, as the adjudicating authority has not recorded any NIDB data to support the rejection of value under Rule 12 Explanation (1)(iii)(a), therefore the rejection of the declared value under Rule 12 of the Valuation Rules, is not sustainable and is required to be set aside

7.10 Apart from the above, the appellant has raised contentions that the adjudicating authority grossly ignored the procedure as prescribed under the provisions of Rule 12 of the Valuation Rules, contemporaneous import data provided by the appellant, the Contract of purchase and the Invoice submitted by the appellant, Case laws relied by the appellant, comparison of the parameters of the goods and the goods imported by the appellant cannot be considered as similar to the goods imported by the other importers for the

purpose of invoking provisions of Rule – 5 etc. On perusal of the impugned order, it is observed that none of the contentions raised by the appellant have been addressed.

7.11 It is further observed that the adjudicating authority has held that Final Order No. 51584-51619/2020 dated 20.10.2020 of the Hon'ble CESTAT, Principal Bench, New Delhi in case of Commissioner of Customs Vs M/s Hanuman Prasad and Sons is squarely applicable in the present case, wherein, the appeal of the revenue was allowed in similar case. However, he has not recorded the similarity in both case cases and explained the applicability of the said judgment in the present case.

7.12 On the other hand, the appellant has submitted copy of Final Order No. A/10397-10407/2023 dated 06.03.2023 passed by the Hon'ble CESTAT, Ahmedabad, in their own case, for the same product, stating that order has been is accepted by the department. The relevant paras of the judgment are reproduced below of ease of reference :

> *"4.4 We find that in the present matter neither the adjudicating authority nor Commissioner (Appeals), have pointed to such special circumstances warranting the rejection of the declared transaction value by the appellant on Bills of Entry. Further, Rule 12 of Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 reads as below :*
>
> ***"12. Rejection of declared value. - .....***
>
> *From plain reading of the Rule 12 it is quite evident that the word "doubt" used in the rule has to be based on cogent reasons and evidences. No cogent evidence or reason has been put forth in the present case to justify the "doubt" of the assessing officer. Clearly, for rejection of the transaction value under Rule 12, there has to be a reasonable ground and it cannot be rejected merely on the ground that similar goods have been imported at higher value without examining the applicability of Rule 5 of Customs Valuation Rules, 2007.*
>
> *4.5 The enhancement of the value done by the Customs department is only on the basis of value of contemporaneous imports. In this context we find that the relevant provisions for valuation under Customs Act are as below :*
>
> ***Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.***

Rule 12 - Explanation 1(iii)

The Proper Officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include –
(a) The significantly higher value at which identical or similar goods imports at or about the same time in comparable quantities in a comparable commercial transaction were assessed;

Rule 5 - Transaction of value of Similar goods :-

(I) Subject to the provisions of Rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued Provided that such transaction value shall not be the value of the goods provisionally assessed under Section 18 of the Customs Act, 1962.
(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of Rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

From the above provisions, it is clear that if there is any doubt about the transaction value declared by the assessee, then if at all the value of contemporaneous import needs to be applied, the value of identical goods or similar goods should be applied. However, in the present case though the contemporaneous import goods were relied upon, but both the adjudicating authority failed to ascertain that whether the goods of contemporaneous imports is identical or similar to the goods of the assessee . Appellants have disputed the said comparable data on the ground that contemporaneous goods provided by the revenue is for Polyester Knitted Fabrics whereas goods imported by the appellant are of Mixed lot of Polyester Knitted Fabric (Rolls of Assorted Colors & Weight), the value of the above referred type of fabrics is low because the goods are mixed lot of fabrics of different colours and different weight and quality is not same as fresh quality polyester knitted fabrics.

4.6 We noticed that in present matter no effort was made by the adjudicating authority to ascertain quality, quantity, characteristics of the goods of contemporaneous import. In the present import without carrying out any test to the fact that goods

of contemporaneous import and the goods in question in present case are identical or similar, enhancement of the value is not legal and correct. It is also observed that other than contemporaneous import data, there is no other evidence to show that the assessee have suppressed the value.

4.7 We find that in the present case, the adjudicating authority enhanced the value as the declared value appears to be low compared to value available in NIDB data, otherwise, there is no material available. The Tribunal consistently observed that the declared value cannot be enhanced merely on the basis of NIDB data. Tribunal in the case of Neha Intercontinental Pvt. Ltd. v. Commissioner of Customs, Goa [2006 (202) E.L.T. 530 (Tri.-Mum.)] has held in the absence of rejection of transaction value, invoice value requires acceptance and when the contemporaneous import of similar goods is not established, value cannot be enhanced. In the case of Commissioner of Customs v. Modern Overseas [2005 (184) E.L.T. 65 (Tri.-Del.)] NIDB data was held to be insuffient, in the absence of clarity about various parameters. List of such decisions is unending and it is sufficient to say that NIDB data has been held to be insufficient for enhancement of value, in the absence of any other independent evidence. Admittedly in the present cases, there is no such evidence produced by the Revenue except reference to the NIDB data. In view of the discussions above, we hold that in the present case, the enhancement of value on the basis of NIDB data cannot be accepted."

7.13 Further, in reply to this office letter dated 28.07.2023, the Superintendent, Customs (RRA), Ahmedabad vide letter F. No. GEN/REV/TRIB/164/2023-RRA-O/o PR COMMR-CUS-AHMEDABAD dated 02.08.2023, informed that the Hon'ble CESTAT Final Order No. A/10397-10407/2023 dated 06.03.2023 in case of M/s. Sedna Impex India P. Ltd. has been accepted by the department on monetary grounds.

7.14 It is observed that the Hon'ble CESTAT, Ahmedabad has allowed the appeal of the appellant, and rejected the value enhancement, in respect of same product i.e. Mixed lot of Polyester Knitted Fabric (Rolls of Assorted Colors & Weight), and considering the same set of arguments. It is further observed that the Hon'ble CESTAT, Ahmedabad vide Final Order No. A/11267-11270/2023 dated 15.06.2023 in the case of Kunj Bihari Textiles, has set aside the value enhancement in respect of the same product. Therefore, I am of the considered view that these orders of the jurisdictional Hon'ble

CESTAT, Ahmedabad are binding upon the lower quasi judicial authorities including the Commissioner (Appeals), Customs, Ahmedabad.

7.15 In view of the above, I am bound to follow the precedence judgment of Hon'ble CESTAT, Ahmedabad, in light of the law laid by Hon'ble High Court of Gujarat in case of Lubi Industries LLP [2018 (337) E.L.T. 179 (Guj.)] on judicial discipline and binding nature of Judgment of superior court :

> *"6. In our opinion, the Assistant Commissioner committed a serious error in ignoring the binding judgment of superior Court that too in case of the same assessee. The principle of precedence and judicial comity are well established in our legal system, which would bind an authority or the Court by the decisions of the Coordinate Benches or of superior Courts. Time and again, this Court has held that the departmental authorities would be bound by the judicial pronouncements of the statutory Tribunals. Even if the decision of the Tribunal in the present case was not carried further in appeal on account of low tax effect, it was not open for the adjudicating authority to ignore the ratio of such decision. It only means that the Department does not consciously agree to the view point expressed by the Tribunal and in a given case, may even carry the matter further. However, as long as a judgment of the Tribunal stands, it would bind every Bench of the Tribunal of equal strength and the departmental authorities taking up such an issue. An order that the adjudicating authority may pass is made appealable, even at the hands of the Department, if the order happens to aggrieve the Department. This is clearly provided under Section 35 read with Section 35E of the Central Excise Act. Therefore, even after the adjudicating authority passes an order in favour of the assessee on the basis of the judgment of the Tribunal, it is always open to the Department to file appeal against such judgment of the adjudicating authority."*
>
> *(emphasis supplied)*

7.15.1 It will not be out of context to recollect the observations of the Hon'ble Supreme Court in case of Kamlakshi Finance Corporation Ltd. [1991 (55) E.L.T. 433 (SC)], on the issue :

> *"6. .....It cannot be too vehemently emphasised that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities. The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant*

Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not "acceptable" to the department - in itself an objectionable phrase - and is the subject-matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent Court. If this healthy rule is not followed, the result will only be undue harassment to assessees and chaos in administration of tax laws.

7. .....The position now, therefore, is that, if any order passed by an Assistant Collector or Collector is adverse to the interests of the Revenue, the immediately higher administrative authority has the power to have the matter satisfactorily resolved by taking up the issue to the Appellate Collector or the Appellate Tribunal as the case may be. In the light of these amended provisions, there can be no justification for any Assistant Collector or Collector refusing to follow the order of the Appellate Collector or the Appellate Tribunal, as the case may be, even where he may have some reservations on its correctness. He has to follow the order of the higher appellate authority. This may instantly cause some prejudice to the Revenue but the remedy is also in the hands of the same officer. ....."

7. In the present matter, it is observed that the adjudicating authority in the impugned order found that the unit price declared in the Bill of Entry was lower than contemporaneous prices in the NIDB data but failed to record or share any such data with the appellant. The adjudicating authority held that the importer agreed with the value loaded as per NIDB data and as such the consented value became the assessable value which require no further investigation. Further, he has relied upon the Final Order No. 51584-51619/2020 dated 20.10.2020 of the Hon'ble Principal Bench, New Delhi in case of Commissioner of Customs Vs. M/s. Hanuman Prasad and Sons. Further, the goods, specifications, description etc related to the imported goods are same. Therefore, it is observed that the facts of the present case and observation of the Commissioner (A) Customs, Ahmedabad in the said two OIAs are on the same line. Hence, the findings and orders passed vide Order - Appeal No. AHD-CUSTM-000-APP-140-23-24 dated 10:08 2023 and AHD-CUSTM-000-APP-363-23-24 dated 04.01.2024 (supra) are squarely applicable to the present case and the impugned order is required to be set aside.

8. Accordingly, the impugned order is set aside and the appeal is allowed, with consequential relief, if any, in accordance with law.

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

F. No.: S/49-226/CUS/AHD/2024-25 3677 Date : 23.09.2025

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