



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद
 OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
 चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhavan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
 दूरभाषक्रमांक Tel. No. 079-26589281
 DIN – 20260171MN000011691B

क	फ़ाइलसंख्या FILE NO.	S/49-248/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमाशुल्क अधिनियम, 1962 कीधारा 128(क)के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-813-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.01.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	OIO No. 109821/2024 dated 04.10.2024 issued by Deputy Commissioner of Customs(Gr-IV),Custom House, Chennai-II
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	30.01.2026
	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. Suncity Metals and Tubes Pvt 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) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 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)	बैगजकेरूपमेंआयातितकोईमाल.	
(a)	any goods imported on baggage.	
(ख)	भारतमेंआयातकरनेहेतुकीसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसे	



	कमीहो.
(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 नियम आवली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उसके 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 साधमूल 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 शीर्षक 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 :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंजिल, बहुमाली भवन, निकट गिरधर नगर 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 कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और ब्याज 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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पाँचहज़ाररुपए
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहज़ाररुपए.
(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)	इसआदेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके ₹10 अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके ₹10अदाकरनेपर,जहांकेवलदंडविवादमेंहै,अपीलरखाजाएगा।
(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.	उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएगलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.
	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, 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. 109821/2024 dated 04.10.2024 (hereinafter referred to as the "impugned order") issued by the issued by Deputy Commissioner of Customs(Gr-IV),Custom House, Chennai-II (hereinafter referred to as the "adjudicating authority").

2. Briefly stated, facts of the case is that the appellant had imported the goods declared as 'Stainless Steel Cold Rolled Coils (Grade-J3-Finish-2B)' classifying the said goods under CTH 72193490 vide Bill of Entry No. 4971720 dated 09.08.2024. The said Bill of Entry was filed on 2nd Check basis. The said Bill of Entry was allotted to FAG at Chennai Sea Port (INMAAI) for assessment. At the time of filing the said Bill of Entry, the importer has uploaded Invoice, Packing List and NOC from Technical Division, Ministry of Steel.

2.1 The Importer had declared the Unit Price for item no. 1 to item no. 4 as 1.22 USD/KGS, 1.175 USD/KGS, 1.16 USD/KGS and 1.16 USD/KGS respectively. The price of the goods was found to be on the lower side as compared to contemporaneous import data and as per CAVR guidelines issued vide Order No 02/2023-Cus dated 15.11.2023.

2.2 The importer was given first query as below:

"In Terms of NAC Meeting held on 03.07.2024, in respect of CAVR Onler No 02/2023-Cus dated 15.11.2023, under Rule 12 of CAVR,2023, regarding undervaluation in imports of Stainless Steel of 13 Grade. the imported Cargo appeurs to he undervalued."

Importer replied to the above query as follows:

"Sir, as per your query required documents are uploaded in e-Sanchit vide IRN No.. Please do the needful and oblige."

Since, the importer failed to justify the query, a second query was raised as follows:

"In Terms of NAC Meeting held on 03.07.2024, in respect of CAVR Order No 02/2023-Cus dated 15.11.2023, under Rule 12 of CAVR.2023, reganling undervaluation in imports of Stainless Steel of J3 Grade, the imported Cargo

appears to be undervalued. Please justify or give consent to load the value as per guidelines issued in the above mentioned NAC Meeting."

The importer gave the following reply for the second query:

"Sir, as per your query required clarification with documents are uploaded in e-Sanchit vide IRN No... Please do the needful and oblige."

2.3 After implementation of self-assessment importer is responsible for filing correct documents and follow legal provisions. Import of "Stainless Steel Cold Rolled Coils (Grade-13) is allowed subject to compliance of mandatory provisions of BIS as per the IS No. 6911. 2017. The importer in the instant case has produced the NOC from Ministry of Steel.

2.4 Therefore, the value was re-determined as USD 1.30 per KG as per Rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 based on the contemporaneous import of similar goods mentioned in the Table above.

2.5 The adjudicating authority decided that matter wherein he rejected the declared unit value of item nos. 1 to item no. 4 @ 1.22 USD/KGS, 1.175 USD/KGS, 1.16 USD/KGS and 1.16 USD/KGS respectively covered vide BE No. 4971720 dated 09.08.2024 (total declared value Rs. 3,30,51,207.78/-) and re-determined the same @1.3 USD/KGS (total re-determined assessable value Rs. 3,66,25,980/- under Rule -5 of Customs Valuation Determination of Value of Imported Goods) Rules 2007. He ordered to assess the said Bill of Entry accordingly

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

3.1 The assessing officer rejected the declared "value" on the ground that value declared was below the CAVR order No. 02/2023-Customs dated 15.11.2023, whereas the value declared by the appellant was comparable to "identical goods" imported from the same supplier and for **same commercial value** in the contemporaneous period.

3.2 The assessing officer has also assessed the impugned BE in **contravention to the principle of Natural justice** as he had not granted personal hearing in spite of "SPECIFIC" disagreement raised by the appellant for proposed loading of the value by the proper officer of the Customs by his two quarries as mentioned in Para-4 of the order in original.

(B) In this regard it is stated that CAVR order No. 02/2023-Customs dated 15.1.2023 is only for guidance and cannot override the Customs **RULES** as

prescribed in "The Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, (hereinafter referred to as :CVR 2007) as the **RULES** as per CVR 2007 will always prevail over guidance prescribed under CAVR order No. 02/2023.

3.3 In this case the "**identical goods**" imported from the same supplier and for **same commercial value** in the contemporaneous period the BEs have been assessed by the proper officer of Customs @ 1.235 USD/kg vide BE No. **4964813 dated 09/08/2024** and the information for the same was available on the portal for NIBD data before the Adjudicating authority and as such in this case the assessing officer had assessed the impugned BE in contravention of the provisions of Customs Valuation (Determination of Value of Imported Goods) Amendment Rules, 2007.

3.4 In this case the assessing officer had rejected the value as per rule 12 of CVR,2007, whereas as per CVR 2007,even if the declared value is rejected, the same has to be assessed by proceeding **sequentially through rule 4 to 9 of the CVR 2007**. The CVR, 2007 provides the method for the determination of the method of valuation and as per rule 3(4) of the said rule it is provided that if the value cannot be determined under the provisions of sub-rule (1) of rule 3 of CVR , 2007, **the value shall be determined by "proceeding sequentially" through rule 4 to 9. The relevant portion of said sub rule (4) of rule 3 of CVR ,2007 is reproduced as below:**

*"(4) if the value cannot be determined under the provisions of sub-rule (1), the value **shall be determined by proceeding sequentially through rule 4 to 9.**"*

3.5 It is a mockery of power vested with the officers of the Customs that one BE vide BE No. 4964813 dated 09/08/2024 for "identical goods" supplied from the same supplier and for same commercial level is assessed at @ 1.235 USD/kg and the present BE No., 4971720 Dt. 09.08.2024 (filed on the same date) is assessed for "identical goods" @ 1.30 USD /KGs which is for the same commercial level, and also for "identical goods which have been supplied from the same supplier and also imported at the same port of import.

3.6 In view of the above, the assessing officer made a grave error of law by jumping to rule (5) of the CVR,2007 by comparing the value of the goods of so called "similar goods" whereas in this case the value of "identical goods" was available to him as per the assessed BE No **4964813 dated 09/08/2024 @ 1.235 USD per Kg** for identical goods of the same supplier to us and as such only rule 4 of CVR 2007 for "identical goods" was applicable the

adjudicating authority illegally resorted to rule-5 of CVR ,2007 to adopt the value of so-called similar goods and as such the impugned order is Bad in law

3.7 In this regard it is stated that the Customs department cannot enhance the value by rejecting the value of identical goods which were available on the Customs portal specifically when the value of said identical goods were for same DAY and from same supplier and for same commercial level.

Reliance is placed upon the decision of CESTAT Chennai in the case of *COMMISSIONER OF CUSTOMS, NEW DELHI Vs INTERNATIONAL TRADERS reported at 2009(239)ELT290(Tri-Delhi) wherein it has been held as under:*

Valuation (Customs) - Transaction value - Value enhanced by Department based on NIDB data - Evidence of contemporaneous imports produced by respondent but rejected and value enhanced - Communication from EDI Section stating that value of impugned item not available - Evidence produced by respondent to show that same goods imported at lower price - Impugned order setting aside enhancement of value sustainable - Sections 14 and 17 of Customs Act, 1962. [paras 2, 4].

3.8 In this case the contemporaneous value of the "identical goods" was available and as such the assessing officer was duty bound to adopt rule 4 of CVR 2007 instead of rule 5 of CVR 2007 because the rule 3 of CVR 2007 debars the customs officer to jump to rule 5 of CVR 2007, if the "value" of "identical goods" is available as per rule 4 of CVR 2007 and in such case the value can only be re-determined under rule 4 of the CVR. 2007. The sub-rule (1) of rule 3 of CVR , 2007, categorically states that the value shall be determined by "proceeding sequentially" through rule 4 to 9. In this case the price of identical goods was available to the proper officer of the Customs, vide BE No 4964813 dated 09/08/2024 @ 1.235 USD per Kg which were from same supplier under and filed on the same date and the adjudicating authority had not considered the same.

3.9 The description of comparable imports relied upon by Department had not been made available to the appellant and not been reflected anywhere in the adjudicating order and the same is not for same commercial level as the quantity of import relied upon by the adjudicating authority vide Sl. No. 1 of Table-1 of Para-9 and 10 is for quantity 14210 Kgs whereas our quantity in the impugned BE is 333024 Kgs and as such the BE for 1.3 USD/Kg relied upon by the adjudicating authority is not for same commercial level and also not for same thickness and characteristic of the material imported and as such the



value of such so-called similar goods cannot be adopted by the adjudicating authority Attention in this regard is invited towards the decision of CESTAT in the case of GLOBAL INDUSTRIES Versus COMMISSIONER OF CUSTOMS, COCHIN Reported at 2011 (272) E.L.T. 724 (Tri. - Bang.) wherein it has been held that:

Valuation (Customs) - Transaction value - Rejection of - Appellants imported goods regularly during 2010 at US \$275 per MT and placed on record the details of such regular imports - Entire quantities under the two contracts placed on record have been imported by appellants as per details submitted by them - Quantity and description of imports from same supplier under various Bills of Entry not doubted by Revenue - Description of comparable imports relied upon by Department is not the same - Imported goods are agricultural produce and have different varieties - Appellants have imported the goods in bulk and other imports are not comparable both on account of quality and quantity - Invocation of Rule 5 of Customs (Valuation) Rules, 1975 not sustainable. [paras 14, 21, 24, 25, 26, 27]

3.10 The proper officer of the customs in his two quarries raised as per Para-4 of the impugned order never raised a issue to the effect that contemporaneous value for "identical goods" is not available before him as required under rule-4 of CVR-2007 and therefore he wanted to resort to contemporaneous value of "similar goods" to re-determine the "value" as per rule-5 of CVR 2007, without adopting the rule-4 of CVR-2007.

3.11 In view of the above, the BE has been re-assessed against the principle of natural justice by adopting the value of "similar goods" under rule-5 of CVR Rules,2007 without putting the appellant to a NOTICE as required under Customs law. The impugned order deserves to be set aside on this point as the same has been passed on the "grounds" which were not the subject matter of the quarries raised as per Para-4 of the impugned order.

3.12 The two quarries of the proper officer of the customs raised as per Para-4 of the impugned order related to the issue as to why the assessment of the impugned BE should not be made as per CAVR order No. 02/2023-Cus dated 15/11/2023 under Rule of CAVR 2023 and in the said quarries there was no iota that the goods are to be assessed as per value of "similar goods" ignoring the value of "identical goods" available on the customs portal.

3.13 The assessing officer has adopted the price of 1.3 USD/KGS vide BE No. 5075800 Dt. 16/08/2024 and BE No. 4935126 Dt. 08/08/2024 (Sl. No 1

and sl. No. 3 of Table-1 as per Para-9 to Para 10 of the “order”). The quantities imported under said Bill of entries is for **14210 Kg and 51940 Kgs** respectively whereas the quantity imported by the appellant as per impugned BE No.4971720 Dt. 09/08/2024 is for **3,33,024 Kgs** and as such the **quantities** relied by the assessing officer cannot be termed as for same “commercial level” which is essential requirement as CVR Rules 2007 as the quantities imported under relied upon BEs are even less than 20% in case of BE No. 4935126 Dt. 08/08/2024 and is less than 50% in the case of BE No. 5075800 Dt. 16/08/2024..

3.14 Surprisingly in this case the assessing officer had not given any finding that the price adopted by him even for the “similar goods” , vide BE No. 5075800 Dt. 16/08/2024 and BE No. 4935126 Dt. 08/08/2024 (Sl. No 1 and sl. No. 3 of Table-1 as per Para-9 to Para 10 of the “order”) **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.”



3.15 The assessing officer has not supplied the relevant copies of Bill of entries ,invoice and Mill Test certificate(which reveals the % of ingredients) with regard to the price adopted by him as per BE No. 5075800 Dt. 16/08/2024 and BE No. 4935126 Dt. 08/08/2024 (Sl. No 1 and sl. No. 3 of Table-1 as per Para-9 to Para 10 of the “order”) and as such in absence of the same it cannot be justified by the adjudicating authority that the above BEs for so called **similar goods** were for same commercial value /same thickness / same percentage of vital elements like Nickel, chromium etc.

3.16 It is a settled law that the value cannot be enhanced for imported goods on the basis of other Bill of entries, **the copies of which are not supplied to the importer.** Reliance in this regard is made towards the CESTAT judgment in the case of SHREE PANCHGANGA AGRO vs COMMISSIONER OF CUSTOMS,

NHAVA SHEVA reported at 2010 (250) E.L.T. 55 (Tri. - Mumbai) wherein it has been held as under:

*“Natural justice - Non-supply of copies of Bills of Entry relied upon - Valuation (Customs) - Assessable value enhanced based on 3 bills of entries - **Said B/E not supplied to assessee** - Without going into merits of orders passed by lower authorities, matter remanded to Commissioner (Appeals) who will supply copies of Bills of Entry to appellants and hear them afresh and decide the matter. [para 3]*

Further reliance is made towards the decision in the case of MANISH MEHTA Versus COMMISSIONER OF CUSTOMS (ACC & IMP), MUMBAI – reported at 2008 (230) E.L.T. 516 (Tri. - Mumbai)

Valuation (Customs) - Undervaluation - Enhancement of value in terms of Rule 5 of the Customs (Valuation) Rules, 1988 - Natural justice - Violation of - Contention of appellants that copies of invoices of import at Chennai by HCL Infosystem and copy of market enquiry report were not submitted to them, hence principles of natural justice stand violated, is acceptable - Matter remanded for a fresh decision to Commissioner with a direction to furnish copies of relevant documents to appellants - Section 14 of Customs Act, 1962. [para 3]

3.17 The order do not reflect any where that prices adopted by the adjudicating authority as BE No. 5075800 Dt. 16/08/2024 and BE No. 4935126 Dt. 08/08/2024 (Sl. No 1 and sl. No. 3 of Table-1 as per Para-9 to Para 10 of the “order”) were “**declared value**” by the importers or “**loaded assessable value**” by the customs department because the “**loaded assessable value**” cannot be termed as “contemporaneous value” as per settled law by CESTAT.

3.18 Attention in this regard is invited towards the CESTAT Chandigarh judgment in the case of **Artex Textile Pvt. Ltd vs CCE, Delhi-Iv** (delivered on 19 June, 2017) in appeal nos. C/3167-3176, 4179-4182/2012 wherein in Para -9 it has been held that “**In the case laws cited by the appellant, this Tribunal has already held that for the purpose of comparison to contemporaneous imports, the value to be adopted is not the value arrived at after loading by the department but the value that has been declared and accepted without any enhancement. The relevant portion of the judgment is as below:**

“9. In the impugned order, we find that the Commissioner (Appeals) has relied on the assessed value and not the value declared. Rule 5 of the Valuation Rules provide for enhancement of the value is to be done as per said rule. Moreover, the declared value is found less

than the assessed value which cannot be the basis of enhance the value. In this case, the department has assessee identical goods at the rate of 2.85 US\$ per kg whereas the value declared by the appellant ranges between 2.00 US\$ to 2.63 US\$ per kg. The price which has been adopted to be assessed is not the declared value. In fact, the same is the assessed value. Therefore, the said value cannot be said as the value contemporaneous import. Similar issue came up before this Tribunal in the case of Ravi Dyeware Co. Ltd. (Supra) wherein this Tribunal has observed as under:

5.1 The enhancement of the value has been done under Rule 5 of the Customs Valuation Rules, 1988. As per the said Rule, if more than one value is found, then the lowest of the such value shall be used to determine the value of the imported goods. In the present case as pointed out by the Ld. Counsel; the department has assessed identical goods at lower values ranging from US \$ 1070 to US \$ 1090 PMT, whereas the value declared by the appellant is higher at US \$ 1100 PMT. Further, the price adopted for comparison is not a declared value but an enhanced value by the Customs. The values declared in those transactions ranged from US \$ 1050 to US \$ 1090 PMT. **In the case laws cited by the appellant, this Tribunal has already held that for the purpose of comparison to contemporaneous imports, the value to be adopted is not the value arrived at after loading by the department but the value that has been declared and accepted without any enhancement.** Besides, we notice that no evidence has been led by the Revenue in the instant case to counter the appellants contention that the transaction value declared by them, as evident from the documents is not the real transaction value."

3.19 The adjudicating authority was bound to adopt LOWEST price as mandated by rule 4(3) of the CVT 2007 which states as under:

"(3) In applying this rule, if more than one transaction value of identical goods is found, **the lowest such value** shall be used to determine the value of imported goods."

3.20 It is further submitted that our transaction value is the sole consideration for the import of the goods against the impugned bill of entry and no other consideration flows directly or indirectly. In such cases also the value cannot be re-determined under CVR 2007. Reliance is placed towards the



decision in the case of SIDDHARTHA POLYMER LIMITED Versus COMMISSIONER OF CUSTOMS, NEW DELHI 2007(216)ELT 604(Tri-Del) wherein it has been held that:

Valuation (Central Excise) - Undervaluation - No material showing fact that purchases were at a higher price or payments in excess at a higher price or payments in excess of invoice prices have taken place - Finding regarding misdeclaration of value is the off-shoot of finding regarding misdeclaration of description and not sustainable - Section 14 of Customs Act, 1962. [para 20].

PERSONAL HEARING

4. Shri Shyam Lal Bansal, consultant of the appellant attended the personal hearing on 04.09.2025 in virtual mode on their behalf. He reiterated the submission made in the appeal memorandum. He further submitted that in earlier appeals having "identical, issues" the matter had been remanded back for fresh adjudication order to the adjudicating authority and if the same course is adopted in these appeals, a time frame may kindly be prescribed to decide the matter afresh in remand proceedings by the adjudicating authority

DISCUSSION & FINDINGS

5. 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.



5.1 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 4964813, dated 09/08/2024 which had been assessed by the proper officer of Customs in the range of 1.235 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.

5.2 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.”

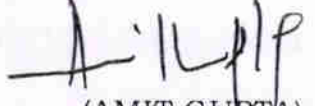
In this regard, it is observed that Bill of Entry No. 5483995 dated 07/09/2024, as submitted by the appellant, was presented before this office at the first instance and is found to pertain to the same goods and port of import. The said Bill of Entry has also been assessed by the proper officer. Accordingly, 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 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.

5.3 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.

6. The appeal is allowed by way of remand.

सत्यापित/ATTESTED

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


(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD

F. Nos. S/49-248/CUS/MUN/24-25 5653

Date- .01.2026

By Speed Post /EMail

To,
M/s. Suncity Metals and Tubes Pvt Ltd
503/2, 520/P2, Guntha, Gundala,
Gandhidham Mundra Highway,
Mundra, Kachch 370421



Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Custom House , Mundra.
3. The Deputy/Assistant Commissioner of Customs, Custom House, Mundra.
4. The Deputy/Assistant Commissioner of Customs, Custom House,
Chennai-II, 60, Rajaji
Salai, Chennai-600001
5. ✓ Guard File.