

सीमाशुल्क(अपील) आयुक्तकाकार्यालय, अहमदाबाद

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

चौथी मंजिल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड IshwarBhuvan Road

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN - 20250571MN00006184E0

क	फ़ाइलसंख्या FILE NO.	S/49-64/CUS/JMN/2023-24
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	JMN-CUSTM-000-APP-014-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.05.2025
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	08/DC/KKK/GPPL/2022-23, Dated 03.04.2023
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	30.05.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s Akshat Plastic Private Ltd., 4648/15, Jai Mata Market, Trinagar, New Delhi - 110035.



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 (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :

(क)	बैगेज 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.	<p>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 :</p> <p>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 :</p> <p>(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.</p> <p>(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.</p> <p>(ख) सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो</p> <p>(b) 4 copies of the Order-in-Original, in addition to relevant documents, if any</p> <p>(ग) पुनरीक्षण के लिए आवेदन की 4 प्रतियां</p> <p>(c) 4 copies of the Application for Revision.</p> <p>(घ) पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 में निर्धारित फीस जो अन्यरसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में से 1 (रूपए दो सौ मात्र) यारु. 1000/- (रूपए एक हजार रुपये) जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलानटी. आर. 6 यदि शुल्क, मांगा गया व्याज, लगाया गया दंड की राशि और रूपए एकलाख या उससे कम महतों पर एसीफीस के रूप में रु. 200/- और यदि एकलाख से अधिक होतो फीस के रूप में रु. 1000/-</p> <p>(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/-.</p> <p>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</p> <p>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 :</p> <p>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ</p> <p>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</p> <p>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</p> <p>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</p> <p>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-</p> <p>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 -</p> <p>(क) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रुपए.</p>



(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रुपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रुपए से अधिक हो तो; दस हजार 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)	इसादेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके %10 अदाकरनेपर,जहांशुल्कपाशुल्कएवंदंडविवादमेहै,यादंडके %10 अदाकरनेपर,जहांकेवलदंडविवादमेहै,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) रोकआदेशकेलिएपागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - 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 Akshat Plastic Private Limited, 4648/15 Jai Mata Market, Trinagar, New Delhi- 110035 (IEC 0504021907) (hereinafter referred to as "the Appellant") has filed the present appeal in terms of Section 128 of the Customs Act, 1962 against Order-in-Assessment No. 08/DC/KKK/GPPL/2022-23, dated 03.04.2023 (hereinafter referred to as "the impugned order") passed by the Deputy Commissioner, Custom House, Pipavav (hereinafter referred to as "the Assessing authority").

2. Fact of the case, in brief, are that the Appellant filed Bill of Entry No. 4770516 dated 23.02.2023 through their Customs House Agent (CHA), M/s Kashyap Shipping Pvt. Ltd. (AAACK6275GCH001), for clearance of 280 MT of PVC Resin Grade S-1000 (Suspension Resin) at a unit price of USD 0.895 per kg on a CIF basis. The goods were imported from M/s Xiamen Xiangyu Chemical Co. Ltd., Units 02, 03, 05, 06a, 10/F, Building E, Xiamen International Shipping Center, No. 99 Xiangyu Road, Xiamen Area of China. The Bill of Entry was filed under Self-Assessment and was selected for verification by the Risk Management System (RMS). Upon verification, the declared value of the goods appeared low compared to the prevailing Platts rates for the relevant period.

2.1. A query was raised by the Assessing Officer concerning the low declared value in comparison to the prevailing Platts price. It was further stated that the Appellant was not eligible for a 10% discount on the Platts price, as the supplier was a trader and not a manufacturer. The Appellant was requested to provide consent for re-determination of the CIF value. However, the Appellant disagreed with the proposed enhancement and submitted a bank remittance copy (IRN No. 2023022400083517 dated 24.02.2023) and a sales contract copy (IRN No. 2023022400083518 dated 24.02.2023), stating that the cargo had been purchased at the true market value. The Appellant also contended that the contract for the shipment was finalized in December 2022, at which time the rate was USD 895 per MT, although the cargo was loaded in February 2023. The Appellant requested assessment at the declared value.

2.2. On 27.02.2023, the Assessing Officer raised another query, referencing Standing Order (S/O) No. 7493/99 dated 03.12.1999 issued by the Chief Commissioner of Customs, Mumbai, which was subsequently amended by S/O No. 12/2009 dated 31.03.2009 and S/O No. 44/2016 dated 08.07.2016 for valuation of polymers. In the said query the assessing officer pointed out that *the contract is not registered, the applicable plats is before B/L, Accordingly, applicable platt is dated 01.02.2023 and the PVC platt rate to be considered is 914\$/MTS(FOB). 10% discount is not applicable as the supplier is trader as per the information available on website of the supplier. The re-determined CIF value,*



including Freight (USD 30) and Insurance (1.125%), was calculated at USD 954.62/MT. The Appellant was again asked to give consent, but disagreed and instead submitted copies of three previously assessed Bills of Entry with rates of USD 895/MT, USD 840/MT, and USD 770/MT, requesting similar treatment.

2.3. On verification of the documents uploaded, the Assessing officer was of the opinion that the Appellant had submitted false declaration as the Appellant had uploaded Xerox copy of Proforma Invoice No. XY-Akshat- 20221224 dated 24.12.2023 and has not uploaded the contract copy for justification of declared value. Further, the appellant had submitted bank remittance copy wherein 2nd installment was paid on 21.02.2023 however the same was required to be paid before 7 days of shipment as per Xerox copy of proforma invoice uploaded. Further, the Appellant could not produce any concrete evidence to justify their declared price except the Xerox copy of proforma invoice and Bank Remittance which is not as per payment installments to be paid as far as the date of payment is concerned as mentioned in Xerox copy of proforma invoice.

2.4. The Bill of entry was assessed on 28.02.2023 by enhancing the assessable value of imported goods to USD 954.62/MTS on the basis of merit and facts of the case and taking into consideration the Platts rate of the PVC as 954.62/MTs including Freight & Insurance charges.

2.5. Aggrieved by the assessment, the Appellant paid the import duty under protest on enhanced value and requested a Speaking Order in the matter.

2.6. A personal hearing was scheduled for 16.03.2023 at 11:30 a.m. via email dated 15.03.2023. However, the Appellant declined the hearing via email dated 15.03.2023 and reiterated the request for issuance of a Speaking Order.

2.7. After examining all facts, the Assessing Authority passed the impugned order, inter alia rejecting the declared value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The value was re-determined at USD 954.62/MT under Section 14 of the Customs Act, 1962, read with Rule 5 of the CVR, 2007 and the Standing Orders mentioned above.

3. Being aggrieved with the impugned Order the Appellant has filed the present appeal and mainly contended that:

- The reassessment of the BE at enhanced value confirmed by the Assessing Authority is bad in law, unsustainable and contrary to the fact and law and the same is liable to be set aside.
- The Rejection of declared value and using Platt price for valuation is wrongful when there is no corroborative evidence to show undervaluation.



Further, no such collateral evidence is on record in the present case. They also placed reliance on several case laws in this regard.

- The observations of the Assessing Authority and the assessing officer's opinion that the proforma invoice uploaded by them is not a contract is wrongful. The proforma Invoice contains all the essential elements of a sale contract like Description of Goods, Quantity, Unit Price, Amount, Payment terms, Bank Name, Signature of the buyer and seller and Bank Endorsement and they further emphasized that a contract can even be oral, as per Contract Act, 1872.
- The Assessing Authority has erroneously used the Contemporaneous import data and has not provided the method and manner of using the said data for enhancement of the value. Further, the details of Bill of Entry No. 4724062 dated 20.02.2023 which was nearest to the Bill of Entry under reference were never considered though the said Bill of Entry was in respect of the same goods imported from the same country i.e China and was assessed at a declared price of USD 895/MT without any objection from the department.
- The Assessing Authority passed Order -In -Assessment on mere suspicion on late payment of 70% of the contracted/transacted price. Such suspicion does not lead to a reasonable doubt based on some material evidence. They further relied upon the Judgement of Hon'ble Apex Court in the case of Aggarwal Industries Ltd. – 2011 (272) ELT 641 (SC) wherein it is held that mere suspicion on the invoice price would not make 'reasonable doubt' for rejection of transaction value.
- The Assessing Authority has failed to prove with evidence for redetermining the value and consequent enhancement therein. The Assessing Authority time and again, has observed about the late payment of 70% of the contracted/transacted price as if it is the evidence in the hands of the Assessing Authority for rejection of the declared value.
- The Assessing Authority has totally failed to discharge the onus cast on its shoulder to prove with sufficient evidence relating to comparable goods imported in comparable quantity from the same country of origin and at comparable time.

4. Opportunity of personal hearing was afforded to the Appellant on 19.11.2024, 13.02.2025, 24.02.2025, 17.03.2025 and 30.04.2025. However, neither the Appellant nor any authorized representative appeared for personal hearing. Accordingly, the matter is being decided based on the documents available on record and the written submissions made by the Appellant.

5. I have carefully examined the submissions made by the Appellant, along with the relied-upon documents, relevant case laws, and the contents of the

impugned order. The main issue to be determined in the present matter is as follows:

- Whether the order of the Assessing Authority in rejecting the declared value of the imported goods under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and re-determining the assessable value at USD 954.62 PMT under the provisions of Section 14 of the Customs Act, 1962, read with Rule 5 of the said Valuation Rules, is legally sustainable and factually justified in the facts and circumstances of the present case or otherwise.

6. Upon examination of the impugned order, it is noted that the Assessing Authority rejected the declared transaction value of the imported goods primarily on the following grounds:

- i. The declared price of the imported goods was found to be substantially lower than the prevailing Platt's price at the relevant point in time;
- ii. The proforma invoice submitted by the Appellant, claimed to be a copy of the contract, was held inadmissible as evidence of a valid contractual agreement by both the Assessing Officer and the Assessing Authority;
- iii. The payment for the imported goods was not made in accordance with the terms and conditions specified in the said proforma invoice.
- iv. Non submission of documents as per Rule 11(1)(b) of the CVR, 2007 with reference to the manufacturer invoice.

6.1 These factors formed the basis for the Assessing Authority's decision to reject the declared value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Therefore, in order to determine the validity of such rejection, each of the above grounds need to be examined independently.

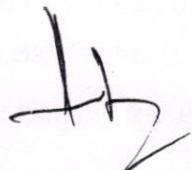
I. Comparison with Platt's Price: The Assessing Authority has relied on the prevailing Platt's price at the relevant time to justify rejection of the declared transaction value. The assessing officer has not considered the bank remittance copy (IRN No. 2023022400083517 dated 24.02.2023) and a sales contract copy (IRN No. 2023022400083518 dated 24.02.2023) submitted by the appellant. Thus, the Platt's price, being a reference index, may only serve as an indicative benchmark and cannot be the sole basis for rejection under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, when the appellant has submitted bank remittance copy (IRN No. 2023022400083517 dated 24.02.2023) and a sales contract copy (IRN No. 2023022400083518 dated 24.02.2023) unless it is supported by cogent evidence indicating manipulation or



under-invoicing. In the present case, no such corroborative evidence has been presented to establish any price manipulation by the Appellant.

- II.** Admissibility of the Proforma Invoice as a Sales Contract: The Assessing Authority has summarily rejected the proforma invoice submitted by the Appellant, stating that it is not admissible as a valid contract. However, no specific reasoning or findings have been provided to substantiate why the said document does not qualify as a valid contract.
- III.** Deviation from Payment Terms: The Assessing Authority has further observed that the Appellant did not adhere strictly to the payment schedule mentioned in the proforma invoice, particularly with respect to the second instalment, which was paid on 21.02.2023 instead of seven days prior to the shipment. In this regard, I am of the view that such deviation, in the absence of any evidence indicating collusion or financial irregularity, is not material enough to warrant rejection of the declared value. Payment terms are a matter of commercial arrangement between the buyer and the seller, and no adverse inference can be drawn in the absence of any indication of abnormal or suspicious transactions when the appellant has submitted bank remittance copy (IRN No. 2023022400083517 dated 24.02.2023) and a sales contract copy (IRN No. 2023022400083518 dated 24.02.2023).
- IV.** Non-submission of Manufacturer's Invoice under Rule 11(1)(b) of CVR, 2007: The Assessing Authority has also relied upon the non-submission of the manufacturer's invoice to discredit the declared value. However, I find that no reasoning has been offered as to how the absence of this document is material to the rejection.

6.2. The Appellant has further contested that while re-determining the value, the Assessing Authority relied on contemporaneous import data of similar goods from the same country, extracted from the ICES system, without disclosing the method or rationale applied in using such data for value enhancement. The Appellant has submitted that they had uploaded a copy of Bill of Entry No. 4724062 dated 20.02.2023 (IRN No. 2023022800132220 dated 28.02.2023), for the same goods imported from the same country at a lower price of USD 895/MT, which was assessed on the declared value. However, the said Bill of Entry was completely disregarded in the assessment order without any discussion or reasoning.




6.3 Upon examination of the contemporaneous import data provided in Table-B of the impugned order, it is observed that only the Bills of Entry at Serial Nos. 2 and 3 relate to the same grade of goods—PVC Resin (S-1000)—as imported by the Appellant. The remaining entries pertain to different grades or different country of origin. Moreover, the quantity involved in the imports at Serial Nos. 2 and 3 is significantly lower than the quantity imported by the Appellant, thus diminishing their comparability. It is also evident that the details of the Bills of Entry furnished by the Appellant were not taken into consideration by the Assessing Authority, as there is no discussion of the same in his findings.

6.4. In light of the foregoing findings, it is evident that the rejection of the declared transaction value by the Assessing Authority suffers from procedural and substantive infirmities. The rejection appears to be based on assumptions rather than on cogent evidence, and relevant submissions and documents placed on record by the Appellant have not been adequately considered.

7. In view of the above, the appeal is allowed by way of remand to the assessing authority for passing a reasoned and speaking order, after affording the appellant an adequate opportunity of personal hearing. The adjudicating authority is directed to examine all relevant facts, documents, and submissions placed on record during the appeal proceedings. Based on such examination, appropriate order shall be issued expeditiously, strictly in accordance with the principles of natural justice and the applicable legal provisions. It is clarified that, while passing this order, no findings or views have been expressed on the merits of the case or on the submissions made by the appellant. These shall be independently examined and considered by the adjudicating authority in accordance with law.



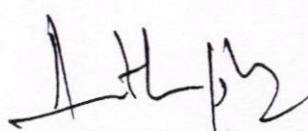
सत्यापित/ATTESTED

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

By Registered Post A.D.

F. Nos. S/49-64/CUS/JMN/2023-24


Dated -30.05.2025


 (AMIT GUPTA)
 COMMISSIONER (APPEALS)
 CUSTOMS, AHMEDABAD.

To,

✓ M/s Akshat Plastic Private Limited,
 4648/15 Jai Mata Market, Trinagar, New Delhi- 110035,

Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Principal Commissioner of Customs, Customs, Jamnagar.
3. The Deputy Commissioner of Customs, Customs House, Pipavav, Jamnagar
4. Guard File

