F. No.: GEN/ADJ/COMM/205/2024-Adjn-O/o Pr Commr-Cus-Mundra

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,

CUSTOM HOUSE: MUNDRA, KUTCH

MUNDRA PORT& SPL ECONOMIC ZONE, MUNDRA-370421

Phone No.02838-271165/66/67/68
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A. File No.	:	GEN/ADJ/COMM/205/2026-Adjn-O/o Pr. Commr- Cus-Mundra.
B. Order-in-Original No.	:	MUN-CUSTM-000-COM-32/26-27
C. Passed by	:	**Nitin Saini** **Commissioner of Customs,** **Customs House, AP & SEZ, Mundra.**
D. Date of order and Date of issue:	:	30.09.2026 30.09.2026
E. SCN No. & Date	:	SCN No. 02/2026-27/COMM/NS/Adjn/MCH
F. Noticee(s) / Party / Importer	:	M/s Pashupati Polytex Pvt Ltd, Gram Hariyawal, Hariyawala, Konda Road, U.S.Nagar Kashipur-244713

1. यह अपील आदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।

   This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सी ए 3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

   Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

   "**केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ**, 2nd **फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद**-380 004" **"Customs Excise & Service Tax Appellate Tribunal,**

West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004."

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।

   Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ -/ 1000 रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज,दंड याशास्ति रूपये पाँच लाख या कम माँगा हो5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्तिया दंड पाँच लाख रूपये से अधिक किंतु पचास लाख रूपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्डपीठ बेंच आहरित ट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

   Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची-1, न्यायालय शुल्क अधिनियम, 1870 के मद सं°-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

   The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

   Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

   While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Brief Fact of the Case

M/s. **Pashupati Polytex Pvt Ltd**. (IEC: 6109000485) having registered address at Gram Hariyawala, Hariyawala, Konda Road, U.S. Nagar, Kashipur-244713 (hereinafter referred to as "the Importer") filed 99 Bills of Entry for the clearance of the goods having description as "Pet Lumps" under CTH 39076990 and paid BCD @ 10 % and IGST @ 18%.

2. During the course of Post Clearance Audit, it has been observed that the value declared by the importer in respect of the goods described as "Pet Lumps" is significantly lower than the contemporaneous international prices prevailing during the relevant period. On comparison with internationally recognized price publications, namely PLATT (Platts) price data for the region CFR South East Asia, for the relevant period, it appears that the declared transaction value is substantially lower.

3. In view of the above, reasonable doubt arises regarding the truth and accuracy of the declared transaction value in terms of Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

4. A consultative letter dated 20.01.2026 was issued to M/s. Pashupati Polytex Pvt Ltd. in terms of the proviso to Section 28(1) of the Customs Act, 1962, wherein it was, inter alia, indicated that during the course of Post Clearance Audit, the value declared in respect of the imported goods described as "PET LUMPS" appeared to be significantly lower when compared with contemporaneous import price which was in line with the internationally recognized PLATT (Platts) price data for the relevant period, giving rise to reasonable doubt regarding the truth and accuracy of the declared transaction value. In the said letter, it was conveyed that the declared value appeared liable for rejection under Rule 12 of the Customs Valuation Rules, 2007, and that the value was proposed to be re-determined after suitable adjustments

based on PLATT benchmarks. The importer was accordingly requested to explain the basis of the declared value and to pay the differential duty along with applicable interest. The said consultative letter also clearly indicated that the Department reserves the right to initiate appropriate proceedings, including issuance of a Show Cause Notice under Section 28 of the Customs Act, 1962

5. Another Consultative cum Pre-Notice Consultation Letter dated 27.03.2026 was issued to the importer, informing that the valuation of the subject goods would be undertaken on the basis of PLATT (Platts) price benchmarks in accordance with the provisions of the Customs Valuation Rules, 2007. It was also clarified that comparison with contemporaneous import data was not being relied upon due to the non-availability of such data. The importer was accordingly afforded an opportunity to submit a written reply and to indicate their willingness for a personal hearing.

6. The Importer has also failed to provide satisfactory explanation or supporting evidence to justify such lower declared value despite being given an opportunity vide consultative letters as discussed above. Therefore, it appears that the declared value is not true and correct and is therefore liable for rejection under Rule 12 of CVR, 2007.

7. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in Varsha Plastics Pvt. Ltd. vs. Union of India [2009 (235) E.L.T. 193 (S.C.)], wherein it was held that internationally accepted price publications such as PLATT can be relied upon as a guiding factor for valuation, provided the same is applied in a reasonable and judicious manner. It is further settled law that transaction value can be rejected where contemporaneous evidence indicates significant undervaluation, and valuation can be determined on the basis of reliable external data, including international price bulletins, subject to necessary adjustments.

8. Accordingly, the PLATT prices for PET material published for CFR South East Asia region during the relevant period have been adopted as the most reliable and contemporaneous benchmark for determining the value of the imported goods. Further, necessary adjustments have been made to align the PLATT prices with the facts of the present imports, including allowance of appropriate trade discount.

9. The assessable value is required to be determined in terms of the Customs Valuation Rules, 2007 in a sequential manner. In the present case, the declared transaction value has been rejected under Rule 12 due to reasonable doubt regarding its truth and accuracy; hence, Rule 3 is not applicable. Rule 4 and Rule 5, relating to transaction value of identical and similar goods respectively, are also not applicable as no reliable and verifiable contemporaneous import data of identical or similar goods, satisfying the criteria of comparability in terms of quality, grade, country of origin, quantity, and commercial level, is available on record. Rule 7 (deductive value method) cannot be applied as there is no dependable data regarding subsequent sale of the imported goods in India to determine the deductive value. Rule 8 (computed value method) is also inapplicable due to the absence of requisite information regarding cost of production, profit, and general expenses from the foreign supplier. Accordingly, in the absence of applicability of Rules 3 to 8, the value is required to be determined under Rule 9 (Residual Method) using reasonable means consistent with the principles and general provisions of the Rules and Section 14 of the Customs Act, 1962. In the present case, internationally recognized PLATT prices have been adopted as a reasonable and reliable benchmark for determining the assessable value, as they reflect prevailing global market trends for comparable goods. Necessary adjustments towards freight, insurance, and appropriate trade discount have been duly made to align such benchmark prices with the facts and circumstances of the present imports. Accordingly, the assessable value has been determined under Rule 9 on the basis of PLATT price, being the most appropriate and reasonable method available in the given circumstances.

10. RELEVANT LEGAL PROVISIONS

Provisions of Customs Act, 1962

i. In terms of section 28(1) of the Customs Act, 1962, where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason of collusions or any wilful mis-statement or suppression of facts,-

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid

or which has been short-levied or short-pad or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

PROVIDED that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed.

(b) the person chargeable with the duty or interest, may pay, before service of notice under clause (a) on the basis of,-

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid:

PROVIDED that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.

Section 28AA of the Customs Act, 1962: Interest on delayed payment of Duty:

1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

2) Interest at such rate not below ten percent and not exceeding thirty-six percent per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

11. Thus, the relevant PLATT price published for the Region CFR SE ASIA has been taken for valuation purpose of these goods. After loading correct Freight Charges and allowing % discount on the PLATT Price, the unit value of the goods imported has been re-determined as per **Annexure-A.**

12. Now, therefore, M/s Pashupati Polytex Pvt Ltd. (IEC: 6109000485) having registered address at Gram Hariyawala, Hariyawala, Konda Road, U.S. Nagar, Kashipur-244713, are hereby called upon to show cause to the Commissioner of Customs, Custom House, Mundra having office at 1st Floor, PUB Building 5B, Adani Port, Mundra, as to why:

(i) the declared value in respect of the Bills of Entry detailed in **Annexure-A** should not be rejected under Rule 12 of the Customs Valuation Rules, 2007, on account of being not true and correct, and why the same should not be re-determined under Rule 9 of the said Rules, as detailed in Annexure-A, based on reasonable and reliable valuation methodology.

(ii) the short payment of Basic Customs Duty amounting to **Rs. 1,34,64,902/-** (Rupees One Crore Thirty Four Lakhs Sixty Four Thousand Nine Hundred two only) should not be demanded and recovered from them under Section 28(1) of the Customs Act, 1962;

(iii) Interest should not be recovered from them under Section 28AA of the Customs Act, 1962;

13. DEFENCE SUBMISSION

Noticee has submitted written reply vide letter dated 02.08.2026, 10.08.2026 and 05.09.2026 and written synopsis dated 25.07.2026. The same is being summarised here for ready references.

a. The Proposed adaption of PLATT prices as the assessable value, without satisfying the foundational requirement is contrary to Section 14 of the Customs Act, 1962.

b. Invalid rejection of declared transaction value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

c. Illegal and unsustainable adoption of Platt prices under rule 9 of CVR, 2007.

d. Failure to follow the mandatory sequential application of CVR, 2007 and improper invocation of Rule 9 as a residual method.

e. Declared Transaction value can't be replaced by Platt prices.

f. Imported item can't be compared with the Platt price of virgin material.

g. Appellate authority allowed refund of Enhanced Duty paid under protest.

h. Assessing officer has already revised the assessable value in case of Sr No. 54,66,69,97 and 98 of the Annexure-A. Further consignments pertaining to Sr no. 23,24 and 25 has already been auctioned. Consignment appearing at Sr No. 99 has been re-exported.

14. Record of Personal Hearing:

Opportunities of personal hearing in the case were given to the Noticee under the provisions laid down in Customs Act, 1962 and following the principles of natural justice. Representative of Noticee appeared on 06.08.2026 and 07.09.2026 and re-iterated the submission.

15. <u>Discussions and Findings:</u>

After having carefully gone through the Show Cause Notice, the relied upon documents and the submissions made by the Noticee available on record, I now proceed to decide the case on merit. The main issues involved in the case which are required to be decided in the present adjudication are as below:

(i) Whether the declared value in respect of the Bills of Entry detailed in Annexure-A is liable to be rejected under Rule 12 of the Customs Valuation Rules, 2007, on account of being not true and correct, and whether the same is liable to be re-determined under Rule 9 of the said Rules, as detailed in Annexure-A, based on reasonable and reliable valuation methodology.

(ii) whether the differential duties amounting to Rs.1,34,64,902/- (Rupees One Crore Thirty-Four Lakh Sixty-Four Thousand Nine Hundred and Two only) is liable to be demanded and recovered from them under Section 28(1) of the Customs Act, 1962;

(iii) Whether Interest is liable to be recovered from them under Section 28AA of the Customs Act, 1962;

15.1. Rejection of declared value.

a. I find that the present Show Cause Notice proposes to reject the valuation declared b/y Noticee under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. During the course of post clearance audit, the value declared by the Importer was found to be significantly low in compare to the prevailing Platt price data for the region CFR South East Asia. Noticee in his written submission has also contested the adoption of PLATT price for rejection of valuation under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 for rejection of declared transaction value. I find that the Show cause notice doesn't contemplate adoption of Platt prices mechanically or as the sole basis for determination of value. Rather, due consideration has been given to the nature and description of the imported goods and appropriate and reasonable discount of 45% have been applied to the PLATT benchmark to account for any variation in the form and commercial factors.

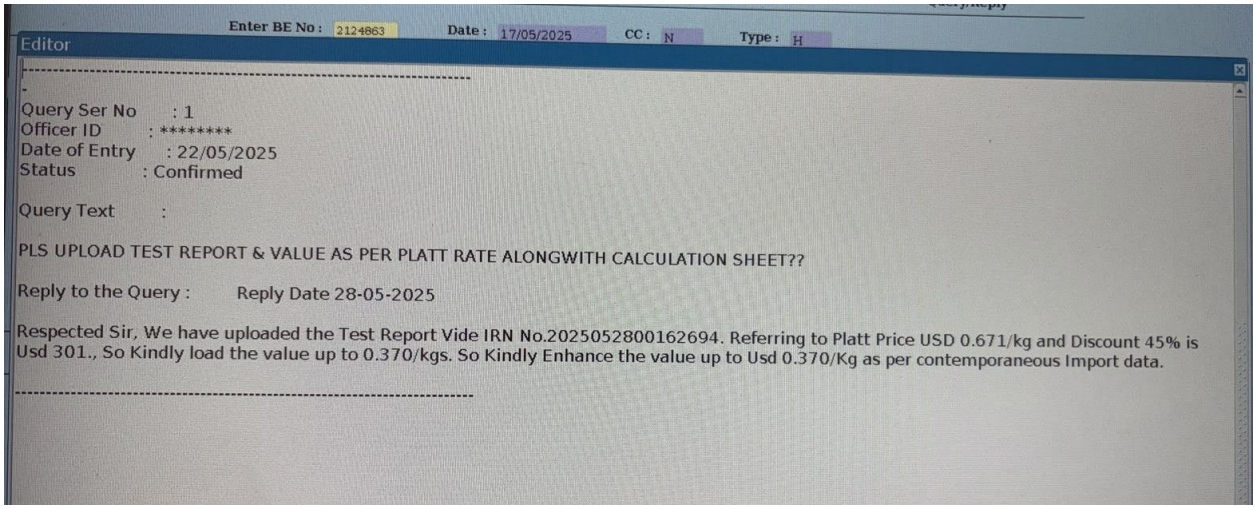
b) In this same context I would like to refer to the Hon'ble Apex Court judgement in case of ***Century Metals Recycling Pvt. Ltd. Vs. UOI*** ***[2019(367) ELT 3 (SC)]***, ***Century Metals Recycling Pvt. Ltd. Vs. UOI*** ***[2019(367) ELT 3 (SC)]***, wherein Apex Court has meticulously explained the expression reason of doubt:

> *Clause (iii) of Explanation to Rule 12 states that the proper officer can on 'certain reasons' raise doubts about the truth or accuracy of declared value. 'Certain reasons' would include conditions specified in clauses (a) to (f) i.e. higher value of identical similar goods of comparable quantities in a comparable transaction, abnormal discount or abnormal deduction from ordinary competitive prices, sales involving the special prices, misdeclaration on parameters such as description, quality, quantity, country of origin, year of manufacture or production, non-declaration of parameters such as C/22417, 22422/2015 brand and grade etc. and fraudulent or manipulated documents. Grounds mentioned in (a) to (f) however are not exhaustive of 'certain reasons' to raise doubt about the truth or accuracy of the declared value*

The choice of words deployed in Rule 12 of the 2007 Rules are significant and of much consequence. The Legislature, we must agree, has not used the expression "reason to believe" or "satisfaction" or such other positive terms as a pre-condition on the part of the proper officer. The expression "reason to believe"

*which would have required the proper officer to refer to facts and figures to show existence of positive belief on the undervaluation or lower declaration of the transaction value. The expression "reason to doubt" as a sequitur would require a different threshold and examination. It cannot be equated with the requirements of positive reasons to believe, for the word 'doubt' refers to un-certainty and irresolution reflecting suspicion and apprehension. However, this doubt must be reasonable i.e. have a degree of objectivity and basis/foundation for the suspicion must be based on 'certain reasons'***.**

c) Noticee has relied upon the of ***Century Metals Recycling Pvt. Ltd. Vs. UOI [2019(367) ELT 3 (SC)]***, where Hon'ble Court has illustrated the certain circumstances for the reason of Doubt. Noticee has contended that mere availability of a higher market quotation can't be equated with evidence of undervaluation. I find that in the same order, Ho'ble Apex Court has specifically stated that the instances mentioned in clauses (a) to (f) are not exhaustive but are inclusive for there could be other instances when the proper officer could reasonably doubt the accuracy or truth of the value declared. Further, the discounted PLATT benchmark is accepted by the Noticee in the assessment process when the Bills of Entry were interdicted for assessment. I would like to present a query and reply:


Enter BE No : 2124863 Date : 17/05/2025 CC : N Type : H

Editor

Query Ser No : 1
Officer ID : ********
Date of Entry : 22/05/2025
Status : Confirmed

Query Text :

PLS UPLOAD TEST REPORT & VALUE AS PER PLATT RATE ALONGWITH CALCULATION SHEET??

Reply to the Query : Reply Date 28-05-2025

Respected Sir, We have uploaded the Test Report Vide IRN No.2025052800162694. Referring to Platt Price USD 0.671/kg and Discount 45% is Usd 301., So Kindly load the value up to 0.370/kgs. So Kindly Enhance the value up to Usd 0.370/Kg as per contemporaneous Import data.

d) In several other Bills of Entry too, Noticee has readily accepted the determination of value as per PLATT benchmark after the query was raised by Importer. Hence, a considerable reason of doubt is being raised on the truth and accuracy of declared value in the Bills of Entry where the assessments have not been prescribed by the Risk Management System. Thus, comparison of transaction value with respect to the discounted PLATT rate can constitute a substantial reason for doubting the truth and accuracy of transaction value. Noticee has relied on the Wellman Distributors vs Commissioner of Customs Chennai, Customs Appeal No. 40088 of 2017 where value was enhanced on the basis of NIDB without furnishing the details to Noticee. However, in the present case, all the Relied upon Documents including PLATT rate has been supplied to the Importer. Hence, the facts and circumstances of the case is different and the same can't be relied upon in the present case.

Importer has also contended that assessing officer has already revised the assessable value in case of Sr No. 54,66,69,97 and 98 of the Annexure-A. Further consignments appearing at Sr no. 23,24 and 25 has already been auctioned. Consignment appearing at Sr No. 99 has been re-exported. I have gone through all these cases. In case of Bill of Entry appearing at Sr No. 66,69,97 and 98 the assessing officer has already re-assessed the value in line with PLATT Price, however in case of Bill of Entry appearing at Sr No. 54, re-assessment has not been done by assessing officer. Further in case of consignment covered under Bills of Entry at Sr No. 23,24 and 25, containers have been auctioned/process of auction has started. In case of consignment

covered under Bill of Entry at Sr No. 99, goods have been re-exported. Hence, I opt not to intervene in these cases mentioned by Noticee except Bill of Entry appearing at Sr No. 54 where re-assessment has not been done.

On the basis of the above discussion, I find that the declared transaction value in case of Bills of Entry detailed in Annexure A except the Bills of Entry appearing at Sr No. 23,24,25,66,69,97,98 and 99 is liable to be rejected under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

15.2 Re-determination of Value under CVR, 2007 for goods covered under 91 Bills of Entry

a) I, now proceed to examine the next issue concerning re-determination of value under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

I find that Show Cause Notice states that since the transaction value is rejected under Rule 12 due to reasonable doubt regarding its truth and accuracy, hence Rule 3 is not applicable. Further Show Cause Notice contemplates that Rule 4 and Rule 5, relating to transaction value of identical and similar goods respectively, are also not applicable as no reliable and verifiable contemporaneous import data of identical or similar goods, satisfying the criteria of comparability in terms of quality, grade, country of origin, quantity, and commercial level, is available on record. Rule 7 (deductive value method) cannot be applied as there is no dependable data regarding subsequent sale of the imported goods in India to determine the deductive value. Rule 8 (computed value method) is also inapplicable due to the absence of requisite information regarding cost of production, profit, and general expenses from the foreign supplier. Accordingly, in the absence of applicability of Rules 3 to 8, the value is required to be determined under Rule 9 (Residual Method) using reasonable means consistent with the principles and general provisions of the Rules and Section 14 of the Customs Act, 1962. In the present case, internationally recognized PLATT prices have been adopted as a reasonable and reliable benchmark for determining the assessable value, as they reflect prevailing global market trends for comparable goods. Necessary

adjustments towards appropriate trade discount have been duly made to align such benchmark prices with the facts and circumstances of the present imports.

15.3 Application of Rule 4-9 of CVR, 2007 sequentially in the instant case

a) It is specifically mentioned in the Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 that the re-determination of value is to be done sequentially from Rule 4-9 of CVR, 2007. Rule 4 of CVR, 2007 states that subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. "Identical Goods" are defined as goods which are same in all respects, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of the goods and produced in the country in which the goods being valued were produced. Rule 5 states that 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. "Similar Goods" are defined as goods which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark and produced in the country in which the goods being valued were produced. I find that Show Cause Notice states that exercise of comparison with contemporaneous Import data was not carried out due to non-availability of the same. Further Noticee has also not provided any such references in the course of personal hearing or vide their submissions on various dates. However, during disposal of Show Cause related to the similar matter, contemporaneous import data of 'PET LUMPS' was brought to the notice. The same is being reproduced below:

Table-A

Sr No	Bill of Entry No and Date	Importer	COO	Description	Qty	Rate (USD/

						MT)
1	4009667/15.06.2024	Alliance Fibres Limited	US	PET Lumps	46160	390
2	3240990/27.04.2024	Alliance Fibres Limited	ES	PET Lumps	43420	420
3	2040816/08.02.2024	Alliance Fibres Limited	ES	PET Lumps	15990	370
4	2856309/03.04.2024	Alliance Fibres Limited	IT	PET Lumps	25240	300
5	3760238/31.05.2024	OSJS PRIVATE LIMITED	FR	PET Lumps	19660	501
6	2606525/16.03.2024	MAHALAKSHMI SPINTEX PRIVATE LIMITED	DE	PET Lumps	19200	473.15
7	2225210/20.02.2024	Kanchan India Limited	US	PET Lumps	22912	395
8	2724506/23.03.2024	Kanchan India Limited	SA	PET Lumps	23520	385

b) I have verified the authenticity of the Bills of Entry provided by Importer. I find that the description of the goods covered under Bills of Entry listed in Annexure-A except those appearing at Sr No. 18,19,38,48,58,68,71,73,80,84,91 and 96 differs from the description of the goods covered under the contemporaneous import data brought to my notice during the adjudication of a

similar case. Accordingly, the said Bills of Entry cannot be considered comparable with the contemporaneous import data furnished in Table-A. Further, I find that the description of the covered under the Bills of Entry appearing at Sl. Nos. 18, 19, 38, 48, 58, 68, 71, 73, 80, 84, 91 and 96 of Annexure-A is same to that of the goods covered under the import data mentioned in Table-A. However, despite the similarity in description, the goods are not directly comparable owing to differences in the country of origin, date of import and quantity. The Comparison of Bills of Entry is detailed as below:

Table-B

Sr No	BE	date	Coo	Description	Qty (in MTS)	Comparable Bill of Entry
18	4315839	03-07-2024	MALAYSIA	PET LUMPS	83.5	No comparable BE in terms of country of origin
19	4315906	03-07-2024	MALAYSIA	PET LUMPS	26.3	No comparable BE available having same country of origin
38	5620781	15-09-2024	VENEZUELA	PET LUMPS	14.0	No comparable BE available having same country of origin
48	5990921	07-10-2024	ITALY	PET LUMPS	2.0	No comparable BE available having similar quantity
58	6711023	16-11-2024	VENEZUELA	PET LUMPS	24.0	No comparable BE available having same country of origin
68	7388756	21-12-	VENEZUELA	PET LUMPS	56.0	No comparable

		2024				BE available having same country of origin
71	7557638	01-01-2025	MALAYSIA	PET LUMPS	23.5	No comparable BE available having same country of origin
73	7889557	20-01-2025	ITALY	PET LUMPS	20.0	No Bill of Entry available having contemporaneous period of import
80	8736927	06-03-2025	COLOMBIA	PET LUMPS	27.5	No comparable BE available having same country of origin
84	8937839	17-03-2025	ECUADOR	PET LUMPS	27.4	No comparable BE available having same country of origin
91	9769474	29-04-2025	GAUTEMALA	PET LUMPS	24.8	No comparable BE available having same country of origin
96	2122880	17-05-2025	MEXICO	PET LUMPS	91.7	No comparable BE available having same country of origin

Therefore, the Bills of Entry in Table-A are precluded from making a comparison for the purpose of determining the value under Rule 4 or Rule 5 of

the CVR, 2007. Accordingly, I don't find it appropriate to re-determine the value of the said goods under Rule 4 or Rule 5 of CVR, 2007.

c) I proceed to the next rule of Customs Valuation (Determination of Value of Imported Goods) Rules, i.e. Rule 6 which provides that where the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8.

Accordingly, I proceed to Rule 7 of CVR 2007 i.e. the deductive value method. However, the same cannot be applied as there is no dependable data regarding subsequent sale of the imported goods in India to determine the deductive value. Rule 8 (computed value method) is also inapplicable due to the absence of requisite information regarding cost of production, profit, and general expenses from the foreign supplier. Accordingly, in the absence of applicability of Rules 3 to 8, the value is required to be determined under Rule 9 (Residual Method) using reasonable means consistent with the principles and general provisions of the Rules and Section 14 of the Customs Act, 1962. In the present case, as no other alternative method is available, I find it appropriate to adopt internationally recognized Platts prices as a reasonable and reliable benchmark for determining the assessable value, as they reflect prevailing global market trends for comparable goods. In this regard, I would like to refer to the judgment of the Hon'ble Supreme Court in *M/s Varsha Plastic Pvt. Ltd. v. Union of India* (Civil Appeal Nos. 835-836/2022), wherein the Hon'ble Supreme Court observed that:

"In so far as the reference to PLATT's Price Report or other reputed financial journals which are indicators of international prices for the value of imported goods for the purpose of Section 14(1) is concerned, suffice it to observe that once transaction value is rejected on valid grounds, the Customs Authority has to proceed to determine the value of goods by following Customs Valuation Rules and on the basis of contemporaneous import. However, in the absence of any evidence with regard to contemporaneous import, reference to foreign journals that may indicate the correct international price for the purposes of Section 14 may not be irrelevant and relying upon such journal cannot be said to be altogether unreasonable."

d) Further, while adopting the aforesaid valuation methodology, I have allowed an appropriate trade discount of 45% to align the benchmark prices

with the facts and circumstances of the present imports. The said discount is intended to accounts for the variation in the material, form and commercial factors. The said discount is stated to be in consonance with trade practices and the JNCH clarification dated 09.07.2015, and has also been accepted by the Noticee during the assessment process in several cases, as referred to in **Para 15.1 (c).**

e) The Noticee has contended that the comparison of imported PET Lumps with PET Bottle Grade which are two distinct commodities having different commercial identity, manufacturing process etc is wrong. In this regard I find that in terms of Note 6 to Chapter 39, the expression "primary forms" includes, inter alia, lumps, thereby indicating that lumps of plastics falling under headings 3901 to 3914 are recognized forms of polymers. Accordingly, merely describing the goods as "lumps" does not take them outside the ambit of comparable polymeric material for valuation purposes. The essential character of the goods continues to remain that of polymer falling under the relevant chapter heading, and therefore international price benchmarks of such polymers cannot be outrightly disregarded. It is further observed that PLATT is a globally recognized price reporting mechanism reflecting prevailing international price trends of polymer commodities and serves as a credible guiding benchmark. Further, it is noted that the PLATT prices have not been adopted mechanically or as the sole basis for determination of value. Rather, due consideration has been given to the nature and description of the imported goods, and appropriate and reasonable discounts have been applied to the PLATT benchmark to account for any variations in form and commercial factors. Thus, the valuation has been carried out by adopting PLATT prices as a guiding reference, with necessary adjustments, in accordance with the principles laid down under the Valuation Rules. Accordingly, reliance upon Platts prices, duly adjusted by a discount of 45%, which has also been accepted by the Importer during the assessment process in several Bills of Entry, is considered to reflect the commercial circumstances of the imports and constitutes a reasonable basis for re-determination of value under Rule 9 of CVR, 2007. Hence the contention of Noticee doesn't appear to be sustainable.

f) The noticee has further contended that the Appellate Authority has allowed refunds in similar cases and has furnished copies of the relevant orders in support of its contention. The noticee has also submitted that the Department has not filed any appeal against the said orders. In this regard, I have examined the facts and found that the Department accepted the said orders on monetary grounds and not on merits. Accordingly, the acceptance of those orders on monetary grounds cannot, by itself, be construed as acceptance of the findings on merits or as a precedent for deciding the present case.

g) Noticee has relied on the judgement in case of Shreem Worldwide Private limited vs Commissioner of Customs (Import), Customs Appeal No. 86273 of 2014. While going through the case I find that adjudicating authority has relied upon contemporaneous data without disclosing the same. In the present case, the PLATT rate with all relied upon documents have been provided to Noticee. Hence, the fact and circumstances of the mentioned case is therefore distinguishable from those of the present case.

h) Based on the above findings, I proceed to re-determine the valuation of goods imported vide 91 Bills of Entry under Rule 9 of CVR, 2007. The declared value in case of goods imported vide 91 Bills of Entry is Rs. 6,85,38,873/-. The less value declared in case of goods imported vide 91 Bills of Entry calculated using discounted PLATT price as mentioned in Annexure-A, comes to Rs. 4,65,65,202/-. Hence, the value is re-determined to Rs. 11,51,04,075/- (Declared value as per annexure-A+ Less value declared as per annexure-A).

15.4 Since, I have re-determined the value in the above paras, I would like to proceed with the determination of differential duty:

Table-C

Declared value for goods covered under 91 Bills of Entry as	Less Value Declared for goods covered under 91 Bills of Entry as	Re-determined value (A+B) (in Rs)	Duty paid for goods covered under 91 Bills of Entry (in Rs)	Duty payable for goods covered under 91 Bills of Entry (in	Differential Duty (E-D) (in Rs)

per annexure-A (in Rs)	per annexure-A (in Rs)		(@27.735%)	Rs) (@27.735%)	
A	B	C	D	E	F
6,85,38,873/-	4,65,65,202/-	11,51,04,075/-	1,90,09,256/-	3,19,24,115/-	1,29,14,859/-

I find that total differential duty excluding Bills of Entry mentioned at Sr. No. Sr No. 23,24,25,66,69,97,98 and 99 comes to Rs. 1,29,14,859/-. Hence, I find that a total differential duty of Rs. 1,29,14,859/- instead of the proposed differential duty of Rs. 1,34,64,902/- is liable to be demanded and recovered under Section 28(1) of the Customs Act, 1962.

15.5. Further, the interest at the applicable rate on such duty is also liable to be levied under section 28(AA) of the Customs Act, 1962. Hence, I find that the Importer is liable to pay applicable interest on the duty determined in the preceding paragraphs under Section 28AA of the Customs Act, 1962.

16. In view of the foregoing paras, I pass the following orders:

ORDER

16.1 I reject the declared value of the goods covered under Bills of Entry detailed in Annexure-A except goods covered under Bills of Entry mentioned at Sr. No. 23,24,25,66,69,97,98 and 99 under Rule 12 of CVR, 2007. I order to re-determine the value of these goods to **Rs. 11,51,04,075/-(***Rupees Eleven Crore Fifty-One Lakh Four Thousand Seventy-Five Only)* under Rule 9 of CVR, 2007.

16.2 I determine the differential duty amounting to **Rs. 1,29,14,859/-** *(Rupees One Crore Twenty-Nine Lakh Fourteen Thousand Eight Hundred and Fifty-Nine Only)* as against the proposed differential duty of **Rs. 1,34,64,902/-** *(Rupees One Crore Thirty-Four Lakh Sixty-Four Thousand Nine Hundred and Two Only)* under the provisions of Section 28(8) of the Customs Act, 1962, and order recovery of the said amount from M/s Pashupati Polytex Pvt Ltd. under the

provisions of Section 28(1) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962.

17. This OIO is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

Digitally signed by
Nitin Saini
Date: 30-09-2026
17:29:18

(Nitin Saini)
Commissioner of Customs,
Custom House, Mundra.

BY Speed Post A.D / E-mail

To, (The Noticee):-
M/s. Pashupati Polytex Pvt Ltd
Gram Hariyawala, Hariyawala,
Konda Road, U.S. Nagar,
Kashipur-244713.

Copy to:

1. The Addl. Commissioner (PCA), Customs House, Mundra.
2. The Deputy Commissioner of Customs, CCO, Ahmedabad.
3. The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra.
4. Notice Board.
5. Guard File