



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,
 OFFICE OF THE COMMISSIONER OF CUSTOMS(APPEALS),अहमदाबाद AHMEDABAD,
 चौथीमंज़िल 4th Floor, हडको बिल्डिंगHUDCO Building, ईश्वर भुवन रोड़ IshwarBhuvan Road,
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
 दूरभाषक्रमांक Tel. No. 079-26589281
DIN- 20260171MN000000E00C

क	फ़ाइलसंख्या FILE NO.	(1) S/49-188/CUS/MUN/2024-25 (2) S/49-189/CUS/MUN/2024-25
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 की धारा 128के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-648 to 649 -25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	21.01.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	(1) Bill of Entry No. 5067115 dated 15.08.2024 (2) Bill of Entry No. 5067113 dated 15.08.2024
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्तकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. Diamond Mink Blankets Ltd., Space E, 3 rd Floor, Surya Kiran Building, 92, The Mall, Ludhiana 141 001. Email: hlqgroup93@gmail.com



1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते 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.
	खत सम्बन्धित आदेश/Order relating to :
(क)	बैगज के रूप में आयातित कोई माल।
(a)	any goods imported on baggage.
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी।
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए।
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षक 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, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad- 380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10 % अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, या दंड के 10 % अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

ORDER - IN - APPEAL

M/s. Diamond Mink Blankets Ltd., Space E, 3rd Floor, Surya Kiran Building, 92, The Mall, Ludhiana 141 001 (hereinafter referred to as the 'appellant') have filed the following two separate appeals in terms of Section 128 of the Customs Act, 1962, as per details given in Table – I below, challenging the assessment made in the Bills of Entry mentioned therein which were filed at Customs, Mundra Port.

TABLE – I

Sr. No.	Appeal File No.	Bill of Entry No. & date
1	S/49-188/CUS/MUN/2024-25	Bill of Entry No. 5067115 dated 15.08.2024
2	S/49-189/CUS/MUN/2024-25	Bill of Entry No. 5067113 dated 15.08.2024

2. As the issue involved is identical in all the 2 appeals, they are taken up simultaneously for disposal. Facts of the case, in brief, as per appeal memorandum, are that the appellant had imported the goods namely "Knitted Fabric 100% Polyester Odd lot/Left Over Rolls of different colours / length/ texture/ thickness/gsm sl/SCS from the foreign supplier M/s Changxing Guanfeng Silk Co ltd, China. On arrival of the goods, the appellant filed the Bills of Entry (as per Table-I above) along with all relevant import documents such as commercial invoice, packing list, Bill of Lading etc.

2.1 The value declared by the appellant was enhanced by the Assessing authority during assessment as per Table-II below .

Table-II

Sr. No.	BE No.	Declared goods	Value declared (USD/Kg)	Enhanced value (USD/Kg)
1	5067115 15.08.2024	Knitted Fabric 100% Polyester Odd lot/Left Over Rolls of different colours	0.88	0.90
2	5067113	Knitted Fabric 100% Polyester Odd lot/Left Over Rolls of different colours	0.83	0.90

The appellant in order to save detention / demurrage charges, paid the duty however, under protest and also requested for necessary speaking order be passed to enable them to deal with the same in accordance with law. However, no speaking order was passed per the provision of section 17 (5) of the Customs act, 1962.

3. Being aggrieved with the assessment of impugned Bills of Entry the appellant have filed the present appeals . In their grounds of appeal they have mainly contended as under:

- *The assessment done by the respondent in the impugned Bill of Entry is against the law and contrary to the procedure prescribed as well as without following the principles of natural justice.*
- *The Respondent has not disclosed the basis such as Bill of Entry or NIDB data of contemporaneous imports of identical/similar goods in compliance with the provisions of Rule 12(2) of the Customs Valuation Rules 2007 before discarding the declared value and before enhancing the value under Section 17(4) of the Customs Act, 1962.*
- *In the present case without disclosing any evidence of Contemporaneous import, value available for enhancement or doubting the truth on declared value, value has been enhanced arbitrarily*
- *It is well settled law that transaction value reflected in invoice has to be first rejected by department as incorrect value based on sufficient evidence on record . In this respect we rely upon the judgment reported in 2018 (362) ELT 134 (Tri. - Mumbai GARVA ENTERPRISE Versus COMMISSIONER OF CUS. (IMPORT), NHAVA SHEVA, para 2 is reproduced hereunder:*

"On going through the impugned order of the Commissioner, we find that he has referred to the NIDB data for redetermining the assessable value. Apart from the fact that the goods were admittedly stock lot goods and as such there can be no available price of contemporaneous goods even in NIDB data, we find that NIDB data cannot be made the sole basis for rejection of the transaction value. In terms of import of stock lot goods, admittedly the price is a negotiated price and agreed upon by the importer and the supplier. The same has to be first rejected by the Customs authority by production of evidences which are positive and cogent. There being no such evidence in the present case to discard the transaction value, the Revenue's contention of NIDB data cannot be allowed to be justifiable. Reference can be made to the Tribunal's decisions in the case of Venture Impex Pvt. Ltd. v. CC(I&G), New Delhi 2016 (338) E.L.T. 739 (Tri.-Del.) and Kelvin Infotech Pvt Ltd. v. CCB&ST, Meerut 2015 (316) E.L.T. 146 (Tri.-Del.) and upheld by the Hon'ble Supreme Court reported as 2016 (339) E.L.T. A291 (S.C.)."



- None of the ingredients of Rule 12 have been followed by the respondents.
- Before rejecting the transaction value the respondent has to give cogent reason for doubting the truth of the declared value with supporting documents Which has not been done in the instant case.
- Department has not challenged the classification and description of the goods.
- Principal of natural justice demand, whenever a document/report is sought to be used against the importer for the purpose of rejecting their declared value and re-determining the same, all information pertaining to the same ought to be furnished to the importer and importer also to be afforded opportunity of justifying their declared value. But in the instant case this rule has not been followed in the letter and spirit.
- It is to state that each stock lot/mixed lot is distinct and different from the other Hence the price of one stock lot goods cannot be implied to other stock lot goods being having different structure. In this respect we rely on the Order in Appeal No. 891/2015 dt. 23.12 2015 passed by Shri S Kannan Commissioner of Customs Appeals II) Chennai.
- There are plethora of judgments that NIDB data cannot be used as a tool for rejection of declared transaction value
- We refer to the OIA No. 126/2015 dated 04.02.2016 passed by Shri Sanjay Kumar Agarwal, Commissioner (Appeals-II) Chennai Commissioner Appeal. Para 8 of the Commissioner(A) is reproduced hereunder :

"8. I observe that the Hon'ble Supreme Court in the case of Motor Industries Company Limited vs Commissioner of Customs 2009 (244) ELT 4(S.C.) has held as under :

However, before rejection the invoice price the department has to give cogent reasons for such rejection. This is because the invoice price forms the basis of the transaction value. Therefore, before rejecting the transaction value as incorrect or unacceptable, the department has to find out whether there are any imports of identical goods or similar goods at a higher price at around the same time. Unless the evidence is gathered in that regard, the question of importing Section 14(1A) does not arise. In the absence of such evidence, invoice price has to be accepted as the transaction value. Invoice is the evidence of value. Casting suspicion on invoice produced by the importer is not sufficient to reject it as evidence of value imported goods. Undervaluation has to be proved. If the charge of undervaluation cannot be

supported either by evidence or information about comparable imports, the benefit of doubt must go to the importer. If the department wants to allege undervaluation, it must make detailed inquiries, collect material and also adequate evidence.”

- The OIA of Commissioner Appeal, IGST Ludhiana has passed an Order in Appeal No LUD-EXCUS-001-APP-2004-2012-2019 dated 16.01.2019 in the case of our associate firm M/s HLG Trading, in which it has been held that NIDB data cannot be used as sole basis for rejection of transaction value and redetermination of import goods quoting various judgments and in the discussions and findings it has been held as under:

Further in para 6.2 it has been held as under.

“6.2 I find that each stock lot/leftover consignment is distinct and different from other even it is imported by the same buyer from the same supplier. The value negotiated by the seller and buyer of the stock lot/left over consignment is the value negotiated by the seller and buyer of the stock lot/left over items depends on the urgency to clear such stock and other commercial considerations. Thus the value of the stock lot / left over items depends on the vulnerability and negotiating skill of the buyer and seller. Therefore price of one stock lot cannot be taken as bench mark for deciding the value of another stock lot. Moreover no similarity /identity could be established with respect to stock lot / left over item consignments. I also find that no misdeclaration was found by the officers of customs during the examination of the goods where the goods were found to be as per declaration in the form of plastic plain/printed/flexible films rolls in various sizes, lots, colour, weight and width.”



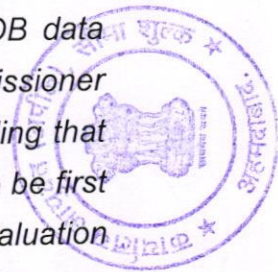
- And lastly this respected authority has allowed our 3 appeals on the similar issue were allowed vide Order in Appeal No LUD-EXCUS-001-APP-957-972-2021 dated 31 12 2021. Order in Appeal No LUD-EXCUS-001-APP-85-86-2022 dated 22.04 2022 and OIA No. MUN-CUSTM-000-APP-02-09/24-25 Dt. 16.04.2024 holding as under

"7. In view of the discussion made in forgoing paraes I find that there was no basis for rejection of declared value and thus allow all the appeals (detailed in Table I) The orders in original (detailed in column 3 of Table I) are set aside." The above order is totally applicable in the instant case also.

- *There is no evidence in the present case to reject the transaction value in the form of flow back or any documentary evidence in the present case to reject the transaction value in the form of flow back or any documentary evidence to suggest the same We rely upon the following judgements:*
- 1) *Eicher Tractors Ltd. Vs Commissioner of Customs, Mumbai reported in 2000(122) ELT 321 (SC),*
 - 2) *Motor Industries Co. Ltd. Vs Commissioner of Customs reported in 2009 (244) ELT 4 (SC).*
 - 3) *Divine International Vs Commissioner of Customs, New Delhi reported in 2016 (338) ELT 142 (Tri-Del).*
 - 4) *Akash Enterprises Vs Commissioner of Customs New Delhi reported in 2017 (358) ELT. 987 (Tri-Del).*
- *We also rely upon the judgement as reported in 2013 (289) ELT 169 (Tri. Del) in the case of Commissioner of Customs New Delhi vs DM International, para 5 & 6 is reproduced hereunder*

"5. We find that there is no dispute that the customs has power to reject the transaction value and enhance the assessable value in terms of Customs Valuation Rules. However, such rejection of transaction value and enhancement of assessable value has to be on the basis of some evidences on record. Contemporaneous imports have to be considered with reference to quality, quantity and country of origin with the imports under consideration. It has been held in a number of decisions that NIDB data cannot be made the basis for enhancement of value. Commissioner (Appeals) has relied upon various decisions of the Tribunal for holding that any enhancement in assessment value, the transaction value has to be first rejected based on legal permissible ground as indicated in the Valuation Rules. He has also referred to Hon'ble Supreme Court decision in the case of Eicher Tractors Ltd. V. CC-2000 (122) E.L.T. 321 (S.C.) in support of his finding that transaction value cannot be rejected without clear and cogent evidence produced by the department with regard to quality, import of origin and place and time of import.

6. We find that in their memo of appeal, Revenue has not advanced any such evidences to support their case. Inasmuch as, no evidence for rejection of transaction value stands produced by the authority, we find no reason to interfere with the impugned order of Commissioner (Appeals).



Revenue's appeal is accordingly rejected."

In the instant case nothing has been placed on record since no speaking order has been issued. For other reasons and arguments that may be advanced at the time of personal the appellants pray that the order under challenge be set aside in its entirety with consequential relief to the appellants.

PERSONAL HEARING

4. Personal hearing in the matter was granted to the appellant. Shri B Satish Sundar, Advocate attended hearing in both appeals on behalf of the appellant on 07.11.2025 through virtual mode. He reiterated the submissions made at the time of filing of appeals.

DISCUSSION AND FINDINGS

5. Before going into the merits of the case, I find that as per appeal memorandum both appeals have been filed within statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962.

5.1 Now coming to the merits of the case, the issue to be decided in the present appeals is whether the assessment made in the Bills of Entry mentioned at Table -II above at a higher rate in the facts and circumstances of the case, is legal and proper or otherwise.

5.2 I find that both the 2 appeals have been filed against assessment of Bills of Entry. It is observed that the Hon'ble Supreme Court in case of ITC Ltd Vs CCE Kolkata [2019 (368) ELT216] has held that any person aggrieved by any order which would include self-assessment, has to get the order modified under Section 128 or under relevant provisions of the Customs Act, 1962. Hence, the appeals preferred by the appellant against assessment in the impugned Bills of Entry are maintainable as per the judgment of the Supreme Court in ITC case supra.

5.3 It is further observed that no speaking order by the proper officer in the matter is available. Hence, I find that entire facts are not available on records to verify the claims made by the appellant. Copies of appeal memorandum were also sent to the

jurisdictional officer for comments. However, no response have been received from the jurisdictional office. Therefore, I find that remitting the case to the proper officer for passing speaking orders in each case becomes sine qua non to meet the ends of justice. Accordingly, the case is required to be remanded back, in terms of sub-section (3) of Section 128A of the Customs Act, 1962, for passing speaking order by the proper officer under Section 17(5) of the Customs Act, 1962 by following the principles of natural justice. While passing the speaking order, the proper officer shall also consider the submissions made in present appeals on merits. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs – 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. – Del)] wherein it was held that Commissioner (Appeals) has power to remand the case under Section-35A(3) of the Central Excise Act, 1944 and Section-128A(3) of the Customs Act, 1962.

6. Accordingly, both the appeals filed by the appellant as per Table-I are allowed by way of remand.

(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

Date:21.01.2026

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