



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल **4th Floor**, हडको भवन **HUDCO Bhawan**, ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**  
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad - 380 009**  
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20260171MN000000FCC8

क	फ़ाइल संख्या FILE NO.	S/49-91/CUS/MUN/2023-24
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-627-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	01.01.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/DC/SP/FA/Gr III/255/2016-17 dated 19.07.2016
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. SPJ International, X-789,1st Floor, Chandmohallah Gandhinagar, New Delhi-110031



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.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(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 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक 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
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> 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 हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

**ORDER-IN-APPEAL**

Appeal has been filed by M/s. SPJ International, X-789,1st Floor, Chandmohallah, Gandhinagar, New Delhi-110031, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/DC/SP/FA/GrIII/255/2016-17 dated 19.07.2016 (hereinafter referred to as 'the impugned order') issued by the Deputy Commissioner, Customs, Mundra.

2. Facts of the case, in brief, are that the appellant presented the following Bill of Entry through their CHA M/s Bright Shiptrans Pvt. Ltd., Gandhidham, at Custom House, Mundra, seeking clearance of Mixed lot of 100% Polyester Knitted Fabrics in assorted colour & weight falling under CTH 60053200 of Custom Tariff Act, 1985, originating from China and declaring the unit price as mentioned in the below table:

S. No.	Bill of Entry No.	Date	Qty (kgs)	Ex. Rate	Unit Price Per Kg (USD)	Assessable Value	Duty Paid Total
1	2318310	20/8/2015	23151.4	64.35	1.9	2858912	772787
			23658.1	64.35	1.9	2921483	789700
			23164.7	64.35	1.9	2860554	773231
<b>Total:</b>						<b>2335718</b>	

2.1 The importer claimed the benefit of Sr. No. A 181 of Notfn. No. 72/2005-Cus dt.22.07.2005 which is specifically admissible to the goods falling under CTH 60053200. Thus, in order to ascertain the admissibility of exemption notification and other parameters suitable examination orders were incorporated while assessing the Bills of Entry. It was also found that declared unit price is around (USD \$1.9/Kg CIF)) Rs.122/Kg whereas the contemporaneous imports of this commodity is (USD 2.2/Kg CIF)) Rs.148/Kg during the relevant time. Bill of Entry was assessed provisionally for want of test report from Textile Committee, Mumbai to ascertain the presence of prohibited dyes in terms of Notification No. S.O. 11 108 (E) dated 30.01.90 and S.O. 243 (E) dated 26.03.1997 or otherwise and its composition and for



determination of unit price of the goods (valuation). The representative sample of the goods were drawn and sent to the Textile Committee who vide Test report No. 0153031516-7197 Part-I & II) dtd. 21.10.2015 reported that there is no presence of prohibited dyes in terms of Notification No. S.O. 14 108 (E) dated 30.01.90 and S.O. 243(E) dated 26.03.1997 and composition of the said goods reported as 100% Polyester.

2.2 On the basis of Test Report received from the Textile Committee, Mumbai, the Adjudicating Authority took the matter for Final Assessment of Bills of Entry referred above. To follow the principles of natural justice, an opportunity of Personal Hearing granted to the appellant on 01.01.2016, 08.01.2016 & 22.01.2016. In reply to above, appellant, vide their letter dated nil received on 08.01.2016, informed that due to some unavoidable circumstances (engaged in trade promotion activities) they are unable to appear attend the hearing, thus the requested for some date for hearing after 20.01.2016 but till passing of impugned order, no submission made on their behalf or nobody turned up for personal hearing before the undersigned on due date and time.

2.3 Consequently, the Adjudicating Authority passed the order as under:

(a) She rejected the value declared by the importer under the provisions of Rule 12 of CVR, 2007 and re-determine the value as USD 2.2 per Kg CIF under Rule 5 of CVR, 2007 and Bills of Entry referred above were assessed finally.

(b) On finalisation of Bills of Entry mentioned above, she ordered for recovery of differential duty as stated in Col.12 of Table annexed in Para 20 above under Section 28 (1) read with Section 18 (2) of Customs Act, 1962.

(c) She also ordered for recovery of interest at the appropriate rate under Section 28AA read with Section 18(3) of the Customs Act, 1962.

2.4 Aggrieved by the order of the Adjudicating Authority, the appellant filed appeal before the Appellate Authority. However, the Appellate Authority, vide OIA No. MUN-CUSTOM-000-APP-079 TO 094-17-18 dated 30.06.2017, rejected the appeal on the grounds that the Appeal Memorandum was not filed by the competent person in terms of Rule 3 of the Custom Appeals Rules, 1982.



Further, being aggrieved with said OIA, the Appellant filed further appeal before the Hon'ble CESTAT and Hon'ble CESTAT vide Order A/ 11161-11168/2023 dated 30.05.2023 has remanded back to the Commissioner (Appeals) to provide an opportunity to the appellant to correct this defect. Consequently, the appellant filed the rectified appeal memorandum on 01.08.2023.

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Deputy Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the Adjudicating Authority failed to follow the mandatory sequence for valuation prescribed under the Customs Valuation Rules (CVR), 2007. Specifically, the Authority is required to first formally reject the declared transaction value under Rule 12 before attempting to re-determine the value using subsequent rules. In this case, the appellant argues the Authority simply proceeded to apply Rule 5 (similar goods) based on assumptions and NIDB data without establishing a "reasonable doubt" or providing evidence of the specific circumstances required to discard the transaction value.

3.2 A significant portion of the appeal focuses on the denial of a reasonable opportunity to be heard. The appellant claims they were never provided with the specific details of the contemporaneous imports used for comparison—such as Bill of Entry numbers, dates, quantities, or countries of origin. Relying on Supreme Court precedent, the appellant argues that the Department must supply such information to the importer to allow them to establish whether the transactions are truly comparable. Furthermore, no written grounds for doubting the declared value were communicated, which the appellant asserts is a gross violation of natural justice.

3.3 The appellant challenges the technical basis for comparing their goods—Polyester Knitted Fabrics—to "similar goods" at a higher price. They argue that fabrics vary significantly in price based on specific parameters like



color, size, design, thickness, and chemical composition. The appellant asserts that the Adjudicating Authority failed to provide evidence that the compared goods possessed like characteristics or were commercially interchangeable. Additionally, the appellant submitted evidence of identical goods being assessed at the same rate of \$1.90 per Kg at various ports, contradicting the Authority's claim of undervaluation.

3.4 The appeal argues that the Adjudicating Authority erroneously used an "approximate/average" value of \$2.20 per Kg for re-assessment. The appellant points out that Section 14 of the Customs Act and Rules 4 and 5 of the CVR 2007 do not provide for "average" pricing; instead, if multiple transaction values are found, the law requires the lowest value to be used. Furthermore, they cite various legal rulings stating that NIDB data alone is not sacrosanct and cannot be the sole basis for rejecting a transaction value, especially when the Board itself has questioned the veracity of such data.

3.5 Finally, the appellant maintains that their declared price of \$1.90 per Kg is the true transaction value as defined under Section 14 of the Customs Act, 1962. They state that all legal conditions were met: the buyer and seller are not related, the price was the sole consideration, and the value is supported by commercial documents like the Contract, L/C, and Invoice. The appellant emphasizes that there is no evidence of mis-declaration or any indirect flow of additional money to the seller, meaning the transaction value must be accepted as the final price for assessment.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 28.10.2025, following the principles of natural justice wherein Ms Raksha Bhandari, Advocate, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal. She also filed compilation of legal provisions i.e Section 14 of Customs Act, 1962, CVR,2007 and following citations:-

- Commissioner of Customs, Vishakhapatnam v. Aggarwal Industries Ltd. 2011 (272) E.L.T 641 (S.C.)
- Agarwal Industries v. Commissioner of Customs Vizag-Tri.-Bangalore 2006 (193) E.L.T. 421 (Tri. - Bang.)




- Eicher Tractors Ltd. v. Commissioner of Customs, Mumbai 2000 (122) E.L.T 321 (S.C.)
- Commissioner of Customs, Ahmedabad v. M/s Hamilton Housewares Pvt. Ltd. 2018 (10) TMI 274 CESTAT Ahmedabad
- Basant Industries v Addl. Collector of Customs, Bombay 1996 (81) E.L.T 195 (S.C.)
- Aditya Fuels Ltd. v. Commissioner of Customs Kandla 2006 (201) E.L.T. 464 (Tri. - Mumbai)
- Commissioner of Customs, New Delhi Prodelin India (P) Ltd. 2006 (202) E.L.T. 13 (S.C.)
- Mark Auto Industries Ltd. v. Commissioner of Customs, New Delhi 2003 (162) E.L.T. 261 (Tri.-Del.)
- Mosaic India Pvt. Ltd. v. C.C. Jamnagar (Prev) 2020 (6) TMI 285-CESTAT, Ahmedabad
- Italik Metalware Pvt. Ltd. v. C.C., Mundra 2023 (8) TMI 1157-CESTAT
- Sarda Energy and Minerals Ltd. v. Commissioner of Excise & Customs, Raipur 2018 (359) E.L.T. 262 (Tri.-Del.)
- JB Marmo Pvt. Ltd Vs CC Final Order No. 11632-11633/2023 Dt.28.07.2023
- ISGEC Heavy Engineering Ltd Vs CC Final Order No. 10254-255/2025
- Nayara Enerrgy Limited Vs CC, Jamnagar 2025 (4) TMI 834-CESTAT
- M/s. Elegant Internation v. CCE (Adjudication) Final Order No. 50912/2025 dated 23.06.2025

#### **DISCUSSION AND FINDINGS:**

5. I have carefully gone through the case records, impugned order passed by the Deputy Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal. The core issue before this Appellate Authority is the determination of the correct assessable value of the imported goods declared as "100% Polyester Knitted Fabrics" and whether the Adjudicating Authority was legally justified in rejecting the declared transaction value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as "CVR, 2007") and subsequently enhancing it under Rule 5 of the said Rules based solely on NIDB data. To arrive at a just and legal conclusion, it is imperative to examine the statutory provisions, the scheme of valuation under the Customs Act, 1962, the judicial pronouncements by the Hon'ble Supreme Court and High Courts, and




the binding Circulars issued by the Central Board of Indirect Taxes and Customs (CBIC).

5.1 The valuation of imported goods is fundamentally governed by Section 14 of the Customs Act, 1962. Section 14(1) lays down the golden rule of valuation, stating that the value of the imported goods shall be the "transaction value" of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, where the buyer and seller are not related and the price is the sole consideration for the sale. The legislature has explicitly prioritized the actual price paid by the importer over any arbitrary or notional value.

5.2 The Hon'ble Supreme Court of India has time and again reiterated the sanctity of the transaction value. In the landmark judgment of Eicher Tractors Ltd. vs. Commissioner of Customs, Mumbai [2000 (122) E.L.T. 321 (S.C.)], the Apex Court held:

*"It is only when the transaction value under Rule 4 is rejected, then under Rule 3(ii) the value shall be determined by proceeding sequentially through Rules 5 to 8 of the Rules. The mandate of the Section 14(1) is that the transaction value shall be the price actually paid or payable for the goods... The rules have to be interpreted in a manner which is consistent with the section."*

5.3 The Court further clarified that the existence of a specific price list or NIDB data showing higher prices is not, by itself, a ground to reject the transaction value unless there is evidence to show that the declared price does not represent the actual amount paid. Similarly, in **Commissioner of Customs, Calcutta vs. South India Television (P) Ltd. [2007 (214) E.L.T. 3 (S.C.)]**, the Supreme Court cautioned against the arbitrary rejection of transaction value. The Court observed:

*" Section 14(1) speaks of "deemed value". Therefore, invoice price can be disputed. However, it is for the Department to prove that the invoice price is incorrect. When there is no evidence of contemporaneous imports at a higher price, the invoice price is liable to be accepted. "*

5.4 Applying these ratios to the present case, the Adjudicating Authority was required to produce tangible evidence that the Appellant paid an amount



over and above the declared price of USD 1.90 per kg. A perusal of the OIO reveals that no such evidence—no incriminating documents, no statements of the importer admitting to undervaluation, no evidence of money flow through illicit channels—was brought on record. The entire case for rejection rests on a comparison with NIDB data, which brings us to the interpretation of Rule 12.

5.5 Rule 12 of CVR, 2007 empowers the proper officer to reject the declared value, but this power is not unbridled. It requires the officer to have a "reason to doubt" the truth or accuracy of the value. The term "reason to doubt" does not mean "suspicion" or "whim." It refers to a doubt based on material evidence or objective parameters. The Board has issued clear instructions in Circular No. 10/2010-Cus regarding the application of Rule 12. Paragraph 5 of the Circular states:

*"Rule 12 of the CVR, 2007 provides that... the proper officer shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared... and provide a reasonable opportunity of being heard... It is clarified that strictly speaking, Rule 12 is a mechanism to reject the declared value, but it does not provide a method to determine the value."*

5.6 The Adjudicating Authority in the instant case seems to have treated Rule 12 as a tool to automatically enhance value based on a database, ignoring the requirement to first establish the invalidity of the declared price through a

speaking order. The National Import Database (NIDB) is an administrative tool intended to alert officers to potential valuation risks. It serves as a starting point for inquiry, not a concluding proof of undervaluation. In **Commissioner of Customs vs. Aggarwal Industries Ltd. [2011 (272) E.L.T. 641 (S.C.)]**, the Hon'ble Supreme Court held that NIDB data cannot be the sole basis for rejecting the transaction value. The Court noted that prices fluctuate due to various commercial factors, and a higher price in the NIDB does not automatically imply that a lower declared price is false. In the present case, the Adjudicating Authority noted that "prices in NIDB range from USD 2.10 to USD 2.30." This observation is fraught with difficulties:

- **Averages are Misleading:** Using a range or an average of NIDB prices ignores the specific commercial realities of the Appellant's transaction.




- Lack of Specificity: The OIO does not clarify whether the NIDB data pertains to goods of the exact same quality, quantity, and commercial level.

Therefore, the reliance on NIDB data to form a "reason to doubt" without any corroborative evidence of extra-commercial payments renders the rejection of the transaction value legally unsustainable.

5.7 Having rejected the transaction value, the Adjudicating Authority proceeded to determine the value under Rule 5 (Transaction value of similar goods). This application is critically flawed for several reasons. Rule 2(1)(f) defines similar goods as imported goods which requires that the quality, reputation, and trademark of the goods be considered. For "100% Polyester Knitted Fabrics," establishing similarity is highly technical. The value of fabric depends on:

- GSM (Grams per Square Meter): This is the most critical parameter. A fabric with 120 GSM is cheaper per meter but might be more expensive per kg compared to a 200 GSM fabric. Without knowing the GSM of the "similar goods" in the NIDB data, no valid comparison is possible.
- Construction/Weave: Interlock, jersey, rib, polar fleece—each knitting style has different production costs.
- Finish: Greige, dyed, printed, rotogravure printed, embossed—the finishing adds significant value.
- Origin and Brand: Goods from different manufacturers in China can have vastly different quality standards (A-grade vs. Stock lot).

5.8 The Adjudicating Authority has not brought on record any technical comparison. There is no finding in the OIO that the GSM of the imported goods matched the GSM of the goods in the NIDB data. There is no finding regarding the width or the finish of the fabrics. Comparing a "Stock Lot" of unbranded fabric with "Prime Quality" fabric from a reputed mill based solely on the description "Polyester Knitted Fabric" is a violation of Rule 5. Even if similar goods are identified, Rule 5(2) mandates adjustments for differences in commercial levels and quantity levels. The Appellant imported a specific quantity. If the NIDB data relied upon was for a much smaller quantity (e.g., sample consignments or air shipments), the price would naturally be higher. The OIO is silent on whether any such adjustments were made, further vitiating the valuation. The OIO lacks any technical analysis or lab report comparison



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between the imported goods and the "contemporaneous" goods used for enhancement. Therefore, the rejection of the transaction value is procedurally flawed.

5.9 The principles of natural justice require that any evidence used against a party must be disclosed to them. In *Gira Enterprises vs. Commissioner of Customs* [2014 (307) ELT 209 (SC)], the Apex Court held that if the department relies on contemporaneous imports to enhance value, it must provide the copies of the Bills of Entry of those imports to the noticee. In the instant case, the Adjudicating Authority merely mentioned that "prices in NIDB range from USD 2.10 to USD 2.30." This is a vague statement. Without providing the B/E numbers, the date of import, the name of the manufacturer, and the specific description of the goods, the Appellant was denied the opportunity to demonstrate that their goods were not comparable.

5.10 The Adjudicating Authority relied on *Century Knitters vs. CC* [2013 (293) ELT 504]. However, the facts of that case are distinguishable. In *Century Knitters*, there was evidence suggesting mis-declaration of the description of the goods to evade higher duties. In the present case, the description "100% Polyester Knitted Fabrics" is accepted by the Department. No mis-declaration of description was alleged. Therefore, the ratio of *Century Knitters* regarding the shifting of the burden of proof does not apply here.

5.11 The Appellant cited *Basant Industries vs. CC* [1996 (81) ELT 195 (SC)], where it was held that a mere difference in price between two imports does not prove undervaluation. The markets fluctuate, and different suppliers offer different prices based on their overheads and inventory. Furthermore, in *Commissioner of Customs vs. Prabhu Dayal Prem Chand* [2010 (253) E.L.T. 353 (S.C.)], the Supreme Court held that the burden of proving undervaluation lies heavily on the Revenue. The Revenue must prove that the declared price is not the true transaction value. This burden cannot be discharged by merely referring to NIDB data. The Adjudicating Authority in the present case has failed to discharge this burden.

5.12 Based on the extensive legal analysis above, I find that the Adjudicating Authority has not recorded any valid "reason to doubt" the truth or accuracy of the declared value as required under Rule 12. The suspicion raised was based solely on NIDB data without any corroborating evidence of illicit



payments or relationship between the parties. The transaction value declared by the Appellant is supported by the commercial invoice and banking channels (L/C or TT), which have not been challenged. I find that the application of Rule 5 was mechanically done. The "similar goods" comparison was flawed because there is no comparison of technical parameters like GSM, weave, and finish, the "stock lot" nature of the Appellant's goods was ignored, no adjustments for quantity or commercial level were made, comparison of incomparable goods is legally impermissible. I find that the failure to provide the Appellant with copies of the contemporaneous Bills of Entry relied upon for enhancement is a fatal flaw. Following the ratio of the Supreme Court in Gira Enterprises, the order passed without such disclosure is liable to be set aside on this ground alone. In the absence of any evidence to the contrary, and in light of the Supreme Court's binding decision in Eicher Tractors, the declared transaction value of USD 1.90 per kg represents the price actually paid for the goods. It satisfies all conditions of Section 14(1). Therefore, the Department is bound to accept it. Since the enhancement of value itself is set aside, the demand for differential duty does not survive. Consequently, the question of interest under Section 28AA and penalty under Section 112/114A of the Customs Act does not arise. The allegation of mis-declaration/undervaluation falls flat, and therefore, the penal proceedings are unsustainable.

5.13 The impugned Order-in-Original is legally infirm, factually incorrect, and passed in violation of the principles of natural justice. The Adjudicating Authority has failed to appreciate the statutory hierarchy of the Valuation Rules and the binding judicial precedents regarding the sanctity of the transaction value. The reliance on NIDB data was excessive and unaccompanied by necessary corroborative evidence or technical comparison.

6. In view of the detailed discussion above, I pass the following order:

- a. I set aside the Order-in-Original No. MCH/DC/SP/FA/Gr.III/255/2016-17 dated 19.07.2016.



b. The appeal filed by M/s SPJ International is hereby allowed with consequential relief as per law.



सत्यापित/ATTESTED  
*[Signature]*  
अधीक्षक/SUPERINTENDENT  
सीमा शुल्क (अपील), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD

*[Signature]*  
(AMIT GUPTA)  
Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-91/CUS/MUN/2023-24

Date:01.01.2026

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Copy to:

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