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 - 20260371MN0000310101

क	फ़ाइल संख्या FILE NO.	S/49-106 to 118/CUS/KDL/MAR/2025-26
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)	KDL-CUSTM-000-APP-177 to 189-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Bills of Entry as per Table-I
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Krishna Shipping & Allied Services, 53/54-A, Transport Nagar, Tankar Association Building, National Highway, Gandhidham - 370201

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 है.
	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)	बैगेज़ 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 दस्तावेज़ों 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 हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध 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 रुपए.**	
(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 रुपए**	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.**	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	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

M/s Krishna Shipping & Allied Services, 53/54-A, Transport Nagar, Tankar Association Building, National Highway, Gandhidham - 370201 (hereinafter referred to as the 'Appellant') has filed 13 appeals in terms of Section 128 of the Customs Act, 1962, challenging the assessment of the Bills of Entries as per details in Table-I below:

Table-I

Sr. No.	Appeal File No.	Bill of Entry (BOE) No.& date	Date of assessment	Date of Communication as per CA-1	Date of filling appeal	delay beyond 60 days from date of asseessment
1	S/49-106/CUS/KDL/MAR/25-26	7242313 dated 31.01.2026	05/02/2026	09/02/2026	13/03/2026	-
2	S/49-107/CUS/KDL/MAR/25-26	7242314 dated 31.01.2026	06/02/2026	09/02/2026	13/03/2026	-
3	S/49-108/CUS/KDL/MAR/25-26	7242315 dated 31.01.2026	02/02/2026	03/02/2026	13/03/2026	-
4	S/49-109/CUS/KDL/MAR/25-26	7243572 dated 31.01.2026	04/02/2026	06/02/2026	13/03/2026	-
5	S/49-110/CUS/KDL/MAR/25-26	7395692 dated 08.02.2026	11/02/2026	12/02/2026	13/03/2026	-
6	S/49-111/CUS/KDL/MAR/25-26	7395705 dated 08.02.2026	11/02/2026	12/02/2026	13/03/2026	-
7	S/49-112/CUS/KDL/MAR/25-26	7395716 dated 08.02.2026	11/02/2026	12/02/2026	13/03/2026	-
8	S/49-113/CUS/KDL/MAR/25-26	7459631 dated 11.02.2026	12/02/2026	14/02/2026	13/03/2026	-
9	S/49-114/CUS/KDL/MAR/25-26	7459634 dated 11.02.2026	13/02/2026	16/02/2026	13/03/2026	-
10	S/49-115/CUS/KDL/MAR/25-26	7459636 dated 11.02.2026	12/02/2026	14/02/2026	13/03/2026	-
11	S/49-116/CUS/KDL/MAR/25-26	7600765 dated 18.02.2026	18/02/2026	28/02/2026	13/03/2026	-
12	S/49-117/CUS/KDL/MAR/25-26	7600766 dated 18.02.2026	18/02/2026	28/02/2026	13/03/2026	-
13	S/49-118/CUS/KDL/MAR/25-26	7600767 dated 18.02.2026	18/02/2026	28/02/2026	13/03/2026	-

2. As the issue involved in all the 13 appeals is same, they are taken up together for disposal. Facts of the case, in brief, as detailed in the appeal

memorandum are that the Appellant is engaged, *inter alia*, in the business of import of Dry Date covered under CTH 08041030. The appellant is having IEC No. 24AADFK8760C2ZH and have imported consignments of Dry Dates from a UAE based supplier at negotiated price of USD 350 per MT (CIF). The appellant filed Bills of Entry as detailed in Table 1 above with Custom House, Kandla for clearance of the said imported consignment.

2.1 The Appellant self-assessed duty in the said Bills of Entry at the negotiated value mentioned in the invoice by the overseas supplier. The same is reflected in the check-list of the Bills of Entry. The value declared by the Appellant was actual transaction value as per Section 14 of the Customs Act, 1962. However, the assessing officer re-assessed Bills of Entry by way of enhancing the declared value. The Assessing Officer raised a query regarding the declared value because there is a practice of re-assessment by enhancing value in accordance with guidelines issued by NAC. The appellant in reply requested the assessing officer to proceed with the assessment of the Bill of Entry (BOE) at the value of USD 600 per metric ton as agitating at that stage was not practical for the appellant because of increasing demurrage/detention/rent charges and delay in clearance which might cause cancellation of subsequent sale orders to prospective buyers. Therefore, the Appellant consented and paid the enhanced duty and got the imported goods cleared from Customs. Based solely on NAC guidelines, reassessment was done at USD 600 PMT. Rule 12 of the Customs Valuation Rules was not followed though legally transaction value can be rejected only under Rule 12 recording proper reasons and providing evidence. Enhancement solely based on NAC guideline is contrary to valuation law.

2.2 Since then, a considerable period more than the statutory period of 15 days has elapsed but the appellant has not received speaking order from the respondent.

SUBMISSIONS OF THE APPELLANT:

3. Since the assessing officer has enhanced the value declared in Bills of Entry the appellant has filed the present appeals against the arbitrary re-assessment which is contrary to the law, on the following grounds:

- It is humbly submitted that consent does not validate illegal assessment. As per Section 17(5) of the Customs Act, 1962, the only consequence of consent is that Speaking Order may not be issued. It does not take away right to challenge the Assessment in appeal. The consent was under business compulsion to avoid delay in clearance and demurrage. We did

not relinquish our rights to appeal. It was not a waiver of statutory rights and cannot cure an illegal reassessment. It is settled law that there is no estoppel against statute which means a person cannot rely on consent, conduct, mistake, or agreement to prevent the operation of a law and if something is contrary to a statute, it remains illegal even if a party agreed to it. Courts and tribunals have consistently held that enhancement accepted to avoid demurrage does not bar appeal if valuation rules were not followed. It is a settled principle of law that there is no estoppel against statute. A statutory mandate cannot be defeated by consent, acquiescence, or conduct of a party. The reassessment in the present case, being contrary to Section 14 of the Customs Act, 1962 read with the Customs Valuation Rules, cannot be validated merely because the appellant consented to enhancement to avoid delay and demurrage. Such consent, given under commercial compulsion, does not amount to waiver of the appellant's statutory right to challenge an illegal assessment.

- The appellant further submitted that the Hon'ble Supreme Court in the case of Dunlop India Limited v. UOI reported in 1983 (13) E.L.T. 1566 (SC) has laid down that even assuming that there is an acceptance it does not preclude the assessee from challenging by way of appeal as there cannot be an estoppel against law. Similar view was taken in [2015 (329) E.L.T. 307 (T)] and 2016 (343) E.L.T. 963(T).
- The appellant further submitted that in the matter of Commissioner of Customs, Delhi Versus Maruti Fabric Impex, reported at 2016 (343) E.L.T. 963 (Tri. - Del.), it has been held by the Hon'ble CESTAT that in case of clearance of goods by the importer on the enhanced value so as to avoid detention and demurrage charges, the subsequent challenge of enhancement before the higher appellate forum amounts to the effect that such enhanced value was not accepted by the assessee and they cannot be stopped from contesting the same. Further, in the present case, there are guidelines of NAC and in the said matter there was alert of DRI and the Hon'ble Tribunal held that it is settled law that DRI Alerts cannot be adopted as a reason for enhancing the value and the same aspect applies here and thus, enhancement of value on the basis of NAC is contrary to law.
- The present appeal is being filed against erroneous re-assessment of Bill of Entry. The present appeal is being filed against assessment under Section 17 of the Customs Act, 1962. It is settled law that assessment on Bill of Entry is an appealable order and thus appeal against the same can

be filed by any aggrieved party. In the present matter, the appellant is aggrieved party due to re-assessment by the respondent by way of enhancement of declared transaction value. The appellant relies on the following judicial pronouncements:

(i) Ruchi Soya Industries Ltd. Versus Commissioner of Customs, Jamnagar, reported at 2013 (296) E.L.T. 1144 (Tri. – Ahmd.)

(ii) ITC Ltd. *Versus* Commissioner of Central Excise, Kolkata-IV, reported at 2019 (368) E.L.T. 216 (S.C.)

Thus, it is submitted that appeal can be filed against assessment of a Bill of Entry under Section 17 of the Customs Act, 1962

- Section 14 of the Act governs valuation aspect. It provides 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 of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf. It is humbly submitted that the Appellant had negotiated value with the overseas supplier and both the parties amicably agreed at the value of USD 350 per MT. Accordingly, the overseas supplier is mentioning this negotiated value in the invoices and the Appellant is making payment of that amount only. There is no other consideration in monetary of any other manner. The overseas buyer and the Appellant are not related parties. Thus, this value is clearly transaction value of the import by the Appellant from this overseas supplier. Thus, the re-assessment by way of enhancement of value is totally arbitrary and illegal and is liable to be set aside with consequential relief.
- Under the said Section 14, the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 have been framed. Rule 3 of the said Rules provide for determination of the method of valuation. It states that subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10. The Rule 10 provides for inclusion of certain factors which is not the case in the present matter. Further, sub-Rule (2) of the said Rules provides conditions for acceptance of value of imported goods viz. there are no restrictions as to the disposition or use of the goods by the buyer, the sale or price is not subject to some condition or consideration for which a value cannot be determined, no part of the proceeds of any subsequent resale, disposal or

कार्यालय आयुक्त (अपील), सीमाशुल्क अहमदाबाद.

use of the goods by the buyer will accrue directly or indirectly to the seller and the buyer and seller are not related. It is humbly submitted that in the present matter there is no restriction as to the disposition or use of impugned goods. Further, the sale/ price is not subject to any condition/ consideration for which a value cannot be determined. Further, sale proceed of impugned goods in local market belongs to the Appellant only and no part of it is accrue to the overseas supplier. The Appellant and the overseas supplier are totally independent parties and are not related in any manner. Further, as per Rule 12, declared value can be rejected in certain specific circumstances but the same are absent in this case. No reasons as stipulated in the said Rule 12 have been communicated to the Appellant. Thus, the re-assessment by way of enhancement of value is totally arbitrary and illegal and is liable to be set aside with consequential relief.

- Section 17(1) of the Customs Act, 1962 provides that an importer entering any imported goods under section 46 shall self-assess the duty, if any, leviable on such goods. As per sub-section (2) the proper officer may verify the entries made under section 46 and the self-assessment of goods and for this purpose, examine or test any imported goods or part thereof. Sub-Section (3) provides that for the purposes of verification, the proper officer may require the importer to produce any document or information, whereby the duty leviable on the imported goods can be ascertained and thereupon, the importer shall produce such document or furnish such information. Sub-section (4) provides that where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods. Seb-section (5) provides that where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer and in cases other than those where the importer confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry. In the present case, the Appellant being importer filed self-assessed Bill of Entry as provided under Section 17(1) ibid. No examination/ testing of the goods was done for determining value of the impugned goods under Section 17(2). Further, the Appellant was not asked to produce any document/ information for the purposes of verification as provided under Section 17(3). Further, it is

not known as to what kind of verification has led the respondent to the conclusion that self-assessment is not correct as provided under Section 17(4) of the Act. Therefore, it is humbly submitted that the re-assessment done by the respondent is arbitrary and contrary to law.

- It is humbly submitted that the declared value is the value negotiated with the overseas supplier considering quality and quantity. It is actual transaction value. There is no allegation of any payment by the Appellant over and above the declared value. Rejection of declared value and enhancement of the same is arbitrary and contrary to law as submitted above. The re-assessment is erroneous as actual transaction value has not been accepted by the Respondent. Hence, re-assessment is liable to be set aside and self-assessment is liable to be restored with consequential relief.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 17.03.2026, following the principles of natural justice, wherein Abhishek Darak, Chartered Accountant, appeared for the hearing, and he reiterated the submission made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned Bills of Entries, the defense put forth by the Appellant in their appeal, arguments advanced during the course of the personal hearing. It is observed that the issue to be decided in the present appeals is whether the reassessment done in Bills of Entry enhancing the assessable value on the basis of NAC guidelines without rejecting the transaction value in the facts and circumstances is legal and proper or otherwise.

5.1 It is observed that the appellant have imported consignments of Dry Dates from a UAE based supplier at negotiated price of USD 350 per MT (CIF). The appellant filed Bills of Entry with Custom House, Kandla for clearance of the said imported consignment. The appellant self-assessed duty in the said Bills of Entry at the negotiated value mentioned in the invoice by the overseas supplier. The same is reflected in the check-list of the Bills of Entry. The value declared the Appellant was actual transaction value as per Section 14 of the Customs Act, 1962. However, the assessing officer re-assessed Bills of Entry by way of enhancing the declared value solely based on NAC guidelines, reassessment was done at USD 600 PMT ignoring the transaction value which was USD 350 PMT.

5.2 It is observed that the appellant has contended that Section 14 of the Customs Act, 1962 governs valuation aspect. It provides 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 of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf. The appellant further contended that he had negotiated value with the overseas supplier and both the parties amicably agreed at the value of USD 350 per MT. Accordingly, the overseas supplier is mentioning this negotiated value i.e. USD 350 PMT, in the invoices and the appellant is making payment of that amount only. There is no other consideration in any other manner. The overseas buyer and the Appellant are not related parties. Thus, this value is clearly transaction value of the import by the Appellant from this overseas supplier. Thus, the re-assessment by way of enhancement of value is totally arbitrary and illegal and is liable to be set aside with consequential relief.

5.3 I have perused Section 14(1) of the Customs Act, 1962 and the same is reproduced as under:

"SECTION [14. Valuation of goods. — (1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export 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, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf :

***Provided** that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf :*

***Provided** further that the rules made in this behalf may provide for,-*

(i) the circumstances in which the buyer and the seller shall be deemed to be related;

(ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;

(iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section :

[(iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria :]

***Provided** also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50."*

On plain reading of the Section 14, it is clear that it provides that the transaction value of goods shall be the price actually paid or payable for the goods when sold for export to India where the buyer and the seller of the goods are not related and the price is the sole consideration for the sale, subject to such other conditions as may be specified in the rules made in this behalf. The valuation Rules have been framed in exercise of the powers conferred by Section 14 of the Customs Act. Rule 12 of the Rules deals with rejection of the declared value and provides a mechanism to do so and reads as under:

"Rule 12. Rejection of declared value.

(1) when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such Imported goods cannot be determined under the provisions of sub-rule(1) of rule 3.

(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule(1).

Explanation. (1) For the removal of doubts, it is hereby declared that-:

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.

(iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include -

(a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;

(b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;

(c) the sale involves special discounts limited to exclusive agents;

(d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;

(e) the non declaration of parameters such as brand, grade, specifications that have relevance to value;

(f) the fraudulent or manipulated documents."

5.4 Thus, the Rule 12 provides that when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may call further information from importer including documents or other evidence and in case, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of rule 3(1). Explanation (iii) to rule 12 provides that the proper officer shall have the power to raise doubts on the truth or accuracy of the declared value based on certain reasons, which may include any of the six reasons contained therein. In the present case no such reason was there to doubt the truth or accuracy of the value declared. It is evident from the querry raised by the assessing officer that "*THERE IS CLEAR DIRECTION FROM NAC GR-1A IN THE NAC MEETING DATED 24.09.2025 THAT THE PRICE OF DRY DATES CANNOT BE BELOW $0.75/KG+-20%*". Thus from the wording of the querry raised by the assessing officer it is clear that none of the six reasons was present in the present case to doubt the truth or accuracy of the value declared.

5.5 Here, it is pertinent to note that Customs Valuation Rules in sub-rule 2 of Rule 9 prescribe that no value shall be determined under the provisions of Valuation Rules on the basis of "(vii) arbitrary or fictitious values".

5.6 Further as in the present case when there is virtually no evidence on record to indicate that the value agreed upon between the importer and the exporter is not correct or any consideration of the goods has flown back to the exporter from the appellant, I rely upon the decision in the case of VENTURE IMPEX PVT. LTD. Versus C.C. (IMPORT & GENERAL), NEW DELHI [2016 (338) E.L.T. 759 (Tri. - Del.)] wherein the Hon'ble Tribunal dealing with identical situation held that the transaction value would reflect the correct assessable value of the imported items. The relevant paras are reproduced as under:

> ***"8.*** *As regards valuation, we find from the above reproduced para from the Commissioner (Appeals) order that the Revenue has solely relied upon the NIDB data for the purpose of enhancement of value of the imported goods. Tribunal in the case of CC, New Delhi v. Virasat Electronics reported in 2015 (317) E.L.T. 295 (Tri.-Del.) as also in the case of CC, New Delhi v. Marble Art reported in 2013 (289) E.L.T. 346 (Tri.-Del.) has held that for adopting any other method for enhancement of the value of the imported goods, first of all transaction value is required to be rejected as incorrect/false on the basis of some evidences. It is only thereafter that the other method of deciding value has to be adopted. In any case, the Tribunal has observed that NIDB data cannot be held to be the proper basis for enhancement of the value.*
>
> ***9.*** *When we apply the ratio of the above decisions to the facts of the present case, we find that Revenue has not made any efforts to reject the transaction value. There is virtually no evidence on record to indicate that the value agreed upon between the importer and the exporter is not correct or any consideration of the goods has flown back to the exporter from the appellant. If that be so, we agree with the learned Advocate that the transaction value would reflect the correct assessable value of the imported items. Otherwise also, we find that the reliance by the lower Authorities on the NIDB data is not correct. Apart from above two referred decisions, there is catena of decisions holding so. As such, we are of the view that the impugned orders are not proper and justified. The same are accordingly set aside and appeal is allowed with the consequential relief to the appellant."*

5.7 Further I also rely upon the decision in the case of SANJIVANI NON-FERROUS TRADING PVT. LTD. Versus C.C.E. & S.T., NOIDA [2017 (7) G.S.T.L. 82 (Tri. - All.)] wherein the Hon'ble Tribunal has held that as provided by Section 14 of Customs Act, 1962, the assessable value has to be arrived at on the basis of the price which is actually paid and in a case the price is not sole consideration or if the buyers and sellers are related persons then after establishing that the price is not sole consideration the transaction value can be rejected and taking the other evidences into consideration the assessable value can be arrived at. The Hon'ble Tribunal further observed that such exercise has not been done in

these cases on hand. Therefore, rejected the enhancement of assessable value in respect of the Bills of Entry under appeal. The relevant paras are as under:

> ***"7.*** *Having considered the rival contentions and on perusal of record, we find that the Original Authority was directed by the Hon'ble High Court to pass speaking order on the enhancement of assessable value. We find that the Original Authority in its Order-in-Original dated 25-3-2015 has passed comments on the grounds of writ petition and did not properly examine the evidence available with the department required to be examined for enhancement of assessable value. Further, we find that as held in the case laws stated above and as provided by Section 14 of Customs Act, 1962, the assessable value has to be arrived at on the basis of the price which is actually paid and in a case the price is not sole consideration or if the buyers and sellers are related persons then after establishing that the price is not sole consideration the transaction value can be rejected and taking the other evidences into consideration the assessable value can be arrived at. Such exercise has not been done in these cases on hand. Therefore, we reject the enhancement of assessable value in respect of the Bills of Entry which are involved in all the appeals being decided and we restore the assessable value as declared by the appellant in said Bills of Entry.*
>
> ***8.*** *In result, we set aside all the impugned Orders-in-Appeal and allow all the appeals. The appellant shall be entitled for consequential relief, if any, in accordance with law."*

5.8 In view of the foregoing discussion, it is observed that in the present case there is no material or evidence on record to indicate that the price paid by the appellant does not represent the actual transaction value of the imported goods. There is also nothing on record to suggest that the buyer and seller are related or that the price declared is influenced by any consideration other than the sale of the goods. In terms of Section 14 of the Customs Act, 1962, the transaction value, being the price actually paid or payable for the goods when sold for export to India, is required to be accepted as the basis for determination of the assessable value, provided the prescribed conditions are satisfied. The declared transaction value can be rejected only in situations where there are reasonable grounds supported by evidence to doubt the truth or accuracy of the declared value, or where the circumstances specified under the Customs Valuation Rules warrant such rejection. In the present case, no such grounds or evidence have been brought on record to justify rejection of the declared transaction value. In the absence of any cogent material to establish that the declared value does not reflect the actual price in the course of international trade, the transaction value declared by the appellant ought to be accepted for the purpose of assessment. Accordingly, the assessable value of the goods is required to be determined on the basis of the transaction value declared by the appellant. The enhancement

of value carried out by the assessing officer, without first rejecting the declared transaction value in accordance with the provisions of Section 14 of the Customs Act, 1962 read with the Customs Valuation Rules, is not sustainable in law and therefore cannot be upheld.

5.9 Further, the Rules mandate that the declared value can be rejected only on the basis of reasonable and cogent evidence, and the respondent Department has failed to discharge the burden. However, in the present cases, there is nothing on record to prove that the invoice value did not represent the true transaction value of the imported goods in the international transaction. Moreover, in the present cases, the department has also not alleged additional consideration or any of the exceptions of Rule 4(2) of the Valuation Rules. In such a situation, I find that when the department has nowhere proved that it is either a case of misdeclaration of value or there is a flow of additional consideration from the appellant, transaction value so declared by the appellant in the import documents cannot be rejected arbitrarily. I find that there are catena of decisions wherein it is held that "the transaction value has to be arrived at on the basis of price that is actually paid as provided by Section 14 of the Customs Act and the declared price can be rejected only by giving cogent reasons", but no such exercise was undertaken by the Assessing officer to reject the value declared in the Bills of Entry.

My aforesaid views find support from the decision of the CESTAT principal Bench, Delhi, in Maruti Fabric Impex **[2016 (343) ELT 963 (Tri.-Del.)].** The Hon'ble Tribunal observed in the following para no. 2, 3 & 6 of its order as under:

"2. As per facts on record, the respondents imported fabrics and filed bills of entries declaring the transaction value as the assessable value in terms of the provisions of Section 14 of Customs Act. The bills of entries were assessed by the proper officer by enhancing the declared assessable value. The respondents cleared the goods on payment of duty on the enhancement.

3. The Appellate Authority took into consideration various facts including the issue as to whether an assessee can file an appeal against assessment made in the bills of entries, once he pays duty on the same and clears the goods observed that acceptance of enhanced value proposed by the Department by an assessee does not preclude him from challenging the enhancement by way of appeal.

.....

6. As regards the second issue, we find that Commissioner (Appeals) has

gone into detailed examination of the provisions of Section 14 as also the Customs valuation (Determination of value of Imported Goods) Rules, 2007. As rightly observed by him, for adopting the provision of Customs Valuation Rule, the transaction value is required to be rejected as incorrect value. There being no evidence to show that the importer has paid over and above than the transaction value, to the seter of the goods, there is virtually no reasons to reject the transaction value. It is also a settled law that DRI Alerts cannot be adopted as a reason for enhancing the value. As such, we find no infirmity in the views adopted by Commissioner (Appeals) so as interfere in the impugned order. Accordingly, the appeals filed by Revenue are rejected."

5.10 The present impugned assessments fall squarely within the ambit of Section 128A(3)(a) of the Customs Act, 1962, which empowers me to pass such an order as deemed "just and proper," including "confirming, modifying or annulling the decision or order appealed against." The impugned assessments in respect of the above-mentioned Bills of Entries suffer from fundamental legal defects that render it liable to be "annulled" rather than merely remanded.

5.11 Therefore, respectfully following the law laid down by the Hon'ble Supreme Court in the matter of M/s South India Televisions (P) Ltd., **2007 (214) ELT 3 (SC)** that the onus to prove that the Invoice value is incorrect lies on the Department and without adducing any evidence of contemporaneous Import of identical/ similar goods at higher price, rejection of transaction value, cannot be countenanced, I hereby set aside rejection of the declared transaction value and re-assessment of the impugned bills of entries as being arbitrary and contrary to stipulations of Valuation Rules discussed hereinabove.

5.12 In view of the foregoing discussion, I conclude that in the present case the assessing officer has acted in an arbitrary manner and has assessed the imported goods at a higher value, than the declared one, without assigning a reason and without establishing the declared value as not genuine. The appellant in the appeal filed before me has submitted that agitating the enhancement in the value done by the assessing officer at that stage was not practical for the Appellant because of increasing demurrage/ detention/rent charges and delay in clearance which might cause cancellation of subsequent sale orders to prospective buyers. Therefore, the Appellant consented and paid the enhanced duty and got the imported goods cleared from Customs. The contention of the appellant clearly show that they were not in agreement with the proposed enhancement of the assessable value by the assessing officer.

5.17 Having observed so, I conclude that since in the present case,

enhancement of value in respect of all the concerned Bills of Entry has been resorted by the assessing officer on an arbitrary manner, without any cogent reasons and in violation of all jurisprudential norms and in violation of the guidelines provided in the Customs Act, 1962, the said enhancement of value fails to sustain. Thus, the value enhancement order of the assessing officer needs to be set aside.

6. In view of the foregoing discussion and findings, I hereby set aside the value enhancement in respect of all 13 Bills of Entry corresponding to the Appeals at Sr. No. 1 to 13 as per Table-I above and order for re-assessment of the same at the value declared by the Appellant. All these 13 appeals are allowed along with consequential relief, if any, as per law.

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad
Date: 30.03.2026

F. No. S/49-106 to 118/CUS/KDL/MAR/2025-26

By Speed post A.D/E-Mail

To,
M/s Krishna Shipping & Allied Services,
53/54-A, Transport Nagar,
Tankar Association Building, National Highway,
Gandhidham - 370201,
Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House Kandla.
3. The Additional/Joint Commissioner of Customs, Custom House, Kandla.
4. The Deputy /Assistant Commissioner of Customs, Custom House, Kandla.
5. Guard File.