



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS(APPEALS), अहमदाबाद AHMEDABAD,
चौथीमंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाष क्रमांक Tel. No. 079-26589281

DIN- 20250971MN000000A84C

क	फ़ाइलसंख्या FILE NO.	S/49-68/CUS/AHD/2025-26
ख	अपीलआदेश संख्या ORDER-IN- APPEAL No. (सीमाशुल्कअधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-211-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	01.09.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	13/AC/ICD-SND/AHD/2024-25 dated 20.03.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.09.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Arvind Polser Engineered Composite Panel Pvt. Ltd. (now merged with M/s Arvind Advanced Materials Limited) situated at Survey No. 12, Final Plot No. 10, Arvind Mills Premises, Naroda Road, Ahmedabad 380025



1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है. This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	लिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods imported on baggage.

(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।				
(ब)	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				
(ब)	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 मर्दों के शीर्षके 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 व्याज, 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 शुल्क संलग्न होने चाहिए।				
	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 :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd 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 हजार 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 हजार रुपए
(ब)	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 हजार रुपए.
(क)	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।
(द)	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 Arvind Polser Engineered Composite Panel Pvt. Ltd. (now merged with M/s Arvind Advanced Materials Limited) situated at Survey No. 12, Final Plot No. 10, Arvind Mills Premises, Naroda Road, Ahmedabad 380025 (hereinafter referred to as 'the appellants' for the sake of brevity) have filed the present appeal challenging Order-in-Original No. 13/AC/ICD-SND/2024-25 dated 20.3.2025 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner of Customs, ICD Sanand, Ahmedabad (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant had imported 'Second Hand Continuous Lamination and Moulding Machine for GRP (Glass Fibre Fabrics)' under Bill of Entry No. 3520313 dated 4.6.2019. The said Bill of Entry was provisionally assessed as the matter was referred to SVB on the ground of relationship of the recipient and the supplier. The investigation report of the SVB, Mumbai was issued vide letter dated 5.8.2021 issued from F. No. S/9-88-SVB/2019-20 NCH MUM wherein it was concluded as under:

- a) The importer viz. M/s Arvind Polser Engineered Composite Panel P Ltd and the supplier viz. M/s PolserSeffaf Cat iOtruleri San Tic A.S., Turkey are related in terms of Rule 2(2)(iv)(v) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as the 'Rules' for sake of brevity)
- b) The transaction value may not be accepted under Rule 3(3) of the Rules. The amount of 5,00,000 USD paid in the year 2018-19 towards technical know-how fees is to be included in the value of the goods in terms of the provisions of Rule 10(1)(e) of the Rules.
- c) If contemporaneous imports at higher prices are noticed or there exists reasons to doubt the value, the assessing group may evaluate the value of the imported goods under appropriate provision of the Customs Act and the rules made thereunder.

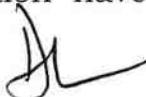
2.1 Subsequently, Show Cause Notice F. No. CUS/SVB/MUM/51/2024-1CD-SNND-CUS-COMMRTE-AHMEDABAD dated 14.5.2024 was issued by the Assistant Commissioner, ICD, Sanand, Ahmedabad wherein the Provisionally assessed Bill of Entry No. 3520313 dated 04.06.2019 was proposed to be finally

assessed under Section 18(2) of the Customs Act, 1962 after adding USD 5,00,000 paid towards one-time technical know-how fee in the assessable value.

3. The Show Cause Notice was decided vide Order-in-Original No. 13/AC/ICD-SND/2024-25 dated 20.3.2025 wherein the adjudicating authority ordered that the one-time technical know-how fees should be included in the value of the imported goods. Accordingly, the differential duty was demanded alongwith interest under Section 28AA of the Customs Act.

4. Being aggrieved with the impugned order passed by the adjudicating authority, the appellants have filed the present appeal. They have, *inter-alia*, raised various contentions and filed detailed submissions in support of their claims which are summarised as under:

- The sole ground for inclusion of the technical know-how fees is the SVB report wherein it has been observed that the payment towards technology transfer is a condition for sale.
- The payment of technology transfer is a condition for sale of 'contractual machinery' in terms of JV agreement between M/s PolserSeffaf Cati Urtuleri Tic A.S. (M/s Polser for short) and would not apply to other goods or machinery.
- The second-hand machinery imported under Bill of Entry No. 3520313 dated 4.6.2019 was not the contractual machinery in terms of JV agreement between M/s PolserSeffaf Cati Urtuleri Tic A.S. Thus, the technology transfer amount of USD 0.50 million will not be includable in the assessable value of the goods under import.
- The 'contractual machinery' is the equipment and goods which are to be supplied in kind basis through transfer of ownership and delivery of the machinery by M/s Polser as a part of their initial capital commitment which is evident from para 12 of the JV Agreement. However, the machinery covered under Bill of Entry No. 3520313 dated 4.6.2019 had not been supplied in kind but payment towards the said machinery had been made by the appellants to M/s Polser.
- In the instant case, M/s Polser had raised Proforma Invoice No. 31016 dated 27.11.2018 wherein a value of USD 7,00,000 had been quoted by the supplier and such offer by way of Proforma Invoice was accepted by the appellants. Thus, the contract in terms of Section 2 of the Indian Contract Act under which the goods under consideration have been procured is



Proforma Invoice No. 31016 dated 27.11.2018. Thus, the goods under consideration have been supplied under the contract in the form of Proforma Invoice No. 31016 dated 27.11.2018 and were not part of the 'contractual machinery' of the JV Agreement.

- M/s Polser had certified that the goods under consideration were not a part of the 'contractual machinery' as appearing in the JV agreement dated 29.10.2018.
- The finding of the adjudicating authority to the effect that the acquisition value of the said machinery has been shown as Rs. 8,49,83,650.36 in the books of accounts of M/s Arvind Polymer Textiles which comes to USD 12,00,000 is factually incorrect in as much as the exchange rate is to be considered as on the date of filing the Bill of Entry in terms of the provisions of the 3rd proviso to Section 14 of the Customs Act. The exchange rate on 4.6.2019 i.e. the date of filing of BoE was Rs. 71.15 in terms of Notn. No. 37/2019-Cus(NT) dated 16.5.2019 and as such the conversion of an amount of Rs. 8,49,83,650.36 comes to USD 11,94,429.37.
- Sub-section (1A) of Section 18 of the Customs Act read with Regulation 5 of the Customs (Finalisation of Provisional Assessment) Regulations, 2018 makes provisions for completion of the final assessment within a prescribed time frame. The finalisation of the assessment ought to have been completed by January 2022 even after considering the permissible extension of time limit. However, the finalisation of provisional assessment has been done vide the impugned order dated 20.3.2025 which is well beyond the stipulated time frame.

5. Personal hearing in the matter was held on 07.08.2025 wherein Shri John Christian, Consultant and Shri Ashish Jain, Consultant appeared on behalf of the appellants and they reiterated their written submissions.

6. I have carefully gone through the impugned order, appeal memorandum filed by the appellants, submissions made by the appellants during course of hearing as well as the documents and evidences available on record.

7. The key issue for consideration is whether the technical know-how fees should be included in the assessable value of the goods imported under Bill of Entry No. 3520313 dated 4.6.2019. In this context, I note that the matter was referred to the SVB due to the relationship between the importer and the supplier.

Before delving into the merits of the case, it is crucial to highlight that the SVB report dated 5.8.2021 (F. No. S/9-88-SVB/2019-20 NCH MUM) does not mention

that the price is influenced by the relationship between the supplier and the importer. The inclusion of the value of technology transfer in the assessable value is being argued solely on the basis that it constitutes a condition of sale. This is evident from paragraph 13 of the investigation report, which is reproduced below for ease of reference:

In the present case, the delivery of contractual machinery is clearly made subject to the payment of USD \$0.50 million towards technology transfer by the buyer to the seller in advance in full, As such the payment towards technology transfer is clearly a condition for sale and as such shall be addable to the transaction value. Hence, it clearly appears that the technology transfer is a condition of sale and the said one-time technical know-how fee is addable to the transaction value under Section 10(1)(e) of the CVR, 2007.

The above clearly indicates that the technology transfer fee is includable only with respect to the 'contractual machinery,' i.e., the goods imported under the JV agreement. Conversely, such fees would not be applicable if the goods in question are not covered under the terms of the JV agreement.

8. It is the contention of the appellants that the goods covered under Bill of Entry No. 3520313 dated 04.06.2019 are not the goods covered under the JV agreement. I find force in the argument of the appellants in as much as the evidence available on record clearly indicate the same. I would discuss the evidences pointed out by the appellants as under.

The 'contractual machinery' was to be supplied in kind basis through transfer of ownership and delivery of the machinery by M/s Polser as a part of their initial capital commitment which is evident from para 12 of the JV Agreement which reads as under:

12. FUNDING PLAN & WORKING CAPITAL

Initial Capital of US\$ 1.75 Million shall be infused by the Shareholders in the ratio of 60:40 by Arvind and Polser respectively. The contribution from Polser in the initial capital will be in the form of supply of capital equipment required for the Company. Arvind shall fulfill its initial capital contribution within 2 (two) weeks after the opening of bank account in the name of the Company. This Bank Account shall be opened within 2 (two) weeks at the latest following the company incorporation. The shipment of the production line will be made only after the receipt of payment for the know-how transfer. Polser will issue a separate invoice for the know-how transfer to the JV Company. Parties agree that the know-how that is the subject of this agreement is limited to the production of the FRP/epoxy sheets listed under Article 10. Polser shall fulfill its capital contribution on capital in kind basis through transfer of ownership and delivery of the machinery, equipment and goods listed in Annex B. In order to avoid any conflict, the Parties jointly agree that these listed goods are fully offset and compensate initial capital commitment of Polser hereinafter. The Company and/or Arvind cannot ask or claim Polser any initial or additional capital contribution in cash for said initial capital.



However, in the instant case, the appellants have made the payment towards the machinery under consideration and the document evidencing such payment has been submitted by the appellant which is reproduced as under:



DATE : 03-JUN-2019

PAGE : 1

HDFC Bank Ltd.,
Trade Finance Department ..
2nd Floor, Tej Enclave,
Above Emerald Honda Showroom,
Opp. Gandhigram Railway Station,
Off Ashram Road, Ahmedabad - 380009,
Phone No: 079-61561009
Fax No: 079-61561076
Email: tfsul.nhmedabad@hdfcbank.com
Swift Code : HDFCINBBAHM

DEBIT ADVICE CUM INVOICE
IMPORT COLLECTION BILL

ARVIND POLSER ENGINEERED COMPOSITE PANEL
C/O ARVIND POLSER ENGINEERED COMPOS
SURVEY NO 12 FINAL PLOT NO 10
ARVIND LIMITED PREMISES NARODA ROAD
AHMEDABAD 380025

OUR BILL REFERENCE NO. : 006BC05191410013
USER REFERENCE NO. : 0006DC0519001190
CORR BANK REF NO. : 9826119000C001
DRAWER NAME : POLSER SEFFAF CATI ORTULERI SANAYI
BILL AMOUNT : USD 700,000.00
BILL AMT LIQUIDATED : USD 700,000.00
FX RATE (USD / INR) : @ 69.482

DESCRIPTION	CCY	AMOUNT	DR/CR
BILL AMT (LESS EEEC LIQD	INR	48,637,400.00	Dr.
BT17 Commission	INR	2,500.00	Dr.
CGST ON BILL COMMISSION AT LIQD	INR	5,052.37	Dr.
Swift Charges	INR	500.00	Dr.
SGST ON COMM AT LIQD	INR	5,052.37	Dr.

DETAILS :

TOTAL AMOUNT DEBITED INR 48,650,504.74 Dr.

(RUPEES FORTY EIGHT MILLION SIX HUNDRED FIFTY THOUSAND FIVE HUNDRED FOUR PAISE SEVENTY FOUR ONLY)

VALUE DATE : 03-JUN-2019

WE HAVE DEBITED YOUR ACCOUNT NO. 57500000317241

REGISTERED OFFICE ADDRESS: HDFC BANK HOUSE, SENAPATI BAPAT MARG,
LOWER PAREL, MUMBAI-400 018
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OF ALL NON-PHYSICAL IMPORTS INTO INDIA SUCH AS SOFTWARE
OR DATA THROUGH INTERNET/DATACOM CHANNELS/DRAWINGS/DESIGNS RECEIVE THROUGH
E-MAIL/FAX ETC.. TO CUSTOMER AUTHORITIES.

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Corporate Identity No. L65920MH1994PLC080618

The above clearly establishes that the appellants made a payment of USD 7,00,000 to M/s Polser for the goods imported under the impugned Bill of Entry. In other words, the goods in question were not supplied by M/s Polser as a contribution to their capital investment, but were instead supplied in exchange for the specified payment.

8.2 The impugned goods were supplied by M/s Polser under Commercial Invoice No. PHR2019000000035 dated 29.4.2019, which was submitted to the department at the time of import and forms part of the import documentation. A



careful review of this invoice reveals that the goods were supplied in accordance with Proforma Invoice No. 31016 dated 27.11.2018. If the impugned goods were part of the 'contractual machinery' under the JV agreement, there would have been no necessity to issue a Proforma Invoice with associated terms and conditions. These facts suggest that the goods in question were supplied under a separate contract, as outlined in Proforma Invoice No. 31016 dated 27.11.2018, and are not part of the 'contractual machinery' of the JV Agreement. It is important to note that each contract must be assessed independently, and the terms of one contract cannot be applied to another. In this case, the contract under the JV agreement is separate from the contract under Proforma Invoice No. 31016 dated 27.11.2018, meaning the terms of the JV agreement do not apply to this distinct transaction.

8.3 The supplier of the goods, M/s Polser, has certified that the goods in question are not part of the 'contractual machinery' as defined in the JV agreement dated 29.10.2018. This certification further supports the conclusions drawn from the documents available on record.

8.4 In view of the above documentary evidence, it is evident that the machinery under consideration is covered under a distinct contract and the condition for sale as agreed upon under the JV agreement would not be applicable to the said machinery.

9. Turning to the findings of the adjudicating authority, one of the reasons for not considering the appellants' submissions is the fact that the cost of the machinery is USD 7,00,000, which represents 40% of the capital amounting to USD 1.75 million, as specified in the JV agreement. However, I find that the value of the machinery cannot be treated as definitive evidence to establish the contract under which it was procured. This is particularly relevant given that the price of standard goods is typically fixed, even if sold under different contracts. For illustration, the price of a specific model of a mobile phone is the same for all customers, with multiple invoices for the same price being issued to different buyers. Moreover, the price of the machinery has also been quoted at USD 7,00,000 in Proforma Invoice No. 31016 dated 27.11.2018. In these circumstances, it cannot be concluded, based solely on price, which contract the machinery pertains to. Furthermore, the documents submitted along with the Bill of Entry clearly indicate that the goods in question are covered under Proforma Invoice No. 31016 dated 27.11.2018, as discussed earlier. Therefore, I find that price alone cannot be the determining factor in concluding that the impugned goods constitute the 'contractual machinery' specified in the JV agreement.



9.1 The adjudicating authority has come to the conclusion that the goods under consideration are 'contractual machinery' on the ground that the acquisition value of the said machinery has been shown as Rs. 8,49,83,650.36 which comes to USD 12,00,000. At the first instance, the reliance on the acquisition value cannot be taken as a base for the very fact that the same is as per the books of accounts of M/s Arvind Polymer Textiles Ltd. which is evident from the document relied upon as evident from para 6.13 of the impugned order which is also reproduced under for ease of reference:

Asset Explorer

Asset: 2400-242011001/0000
Company Code: 2400
Arvind Polymer Textiles
Asset: 242011001
CONTINUOUS LAMINATION MACHINE

Depreciation Areas: IAS 13-AS
01 Book depreciation
02 2nd Rev+Imp+Add
03 Legacy Data - S
04 Original Cost
05 3rd Rev+Imp+Add
06 4th Rev+Imp+Add
07 As per Co's Act
15 Depreciation as

Fiscal year: 2022

Planned values Posted values Comparisons Parameters

Posted dep. values Book depreciation as per IND-AS

Value	Fiscal year start	Change	Posted values
APC transaction	04,983,650.36	04,983,650.36	INR
Investment support			INR
Revaluation APC			INR
Acquisition value	04,983,650.36	04,983,650.36	INR
Ordinary depreci.	1,345,574.46	1,345,574.46	INR

Depreciation posted/planned

Status	Status	Per Ord. deprec.	Imp. dep.	Reserves	Reval. val.	Reval. dep.
Posted	Posted	11	672,787.23	0.00	0.00	0.00 INR
Posted	Posted	12	672,787.23	0.00	0.00	0.00 INR
			1,345,574.46	0.00	0.00	0.00 INR

ATP (1) 300 | accb0103 | GVR | 11:30 27-08-2023

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ENG IN 04/05 11:30 27-08-2023

The transaction in question is between M/s Arvind Polser Engineered Composite Panel Pvt. Ltd. and M/s Polser. The acquisition value has been derived from the books of accounts of M/s Arvind Polymer Textiles Ltd., and such value cannot be used as a basis to determine the transaction value between M/s Arvind Polser Engineered Composite Panel Pvt. Ltd. and M/s Polser. Furthermore, as discussed earlier, the value of the machinery is not a relevant factor in establishing whether the goods in question constitute 'contractual machinery.' Additionally, the value in USD terms amounts to 11,94,429.37, based on the exchange rate of Rs. 71.15 at the relevant time, as per Notification No. 37/2019-Cus(NT) dated 16.5.2019.

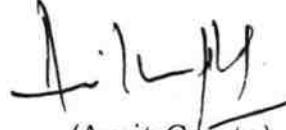
Therefore, even on this count, the finding is insufficient to establish that the machinery is the 'contractual machinery' as defined in the JV agreement.

10. In light of the above, I find that there is no evidence on record to establish that the machinery covered under Bill of Entry No. 3520313 dated 4.6.2019 qualifies as the 'contractual machinery' under the JV agreement. Conversely, the documentary evidence submitted by the appellants, as discussed above, strongly indicates that the goods in question are not covered under the JV agreement. In these circumstances, the SVB report cannot be applied to the goods under consideration. Consequently, the inclusion of the technology transfer charges is not justified, as the condition of sale under the JV agreement does not apply to the purchase under the independent Proforma Invoice No. 31016 dated 27.11.2018. Therefore, I set aside the impugned order, with any consequential relief as applicable.

Therefore, the impugned order, which includes the one-time technical know-how fee in the assessable value of the goods imported under Bill of Entry No. 3520313 dated 4.6.2019, is not sustainable and accordingly set aside.

11. Accordingly, I set aside the impugned order with consequential relief if any.




 (Amit Gupta)
 सत्यापिता/APPEALED
 अधीक्षक/SUPERINTENDENT
 सीमा शुल्क (अपील), अहमदाबाद 01.09.2025
 CUSTOMS (APPEALS), AHMEDABAD.

F.No.: S/49-68/CUS/AHD/2025-26

By Registered Post A.D. 3189
 To,

M/s Arvind Polser Engineered Composite Panel Pvt. Ltd.
 (now merged with M/s Arvind Advanced Materials Limited)
 situated at Survey No. 12, Final Plot No. 10,
 Arvind Mills Premises, Naroda Road,
 Ahmedabad 380025

Copy to :

1. The Chief Commissioner of Customs, Ahmedabad zone, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Customs House, Ahmedabad.
3. The Dy/Assistant Commissioner of Customs, ICD Sanand, Ahmedabad.
4. Guard File.