



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 - 20260371MN0000888D7A

क	फ़ाइल संख्या FILE NO.	S/49-680/CUS/MUN/FEB/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)	MUN-CUSTM-000-APP-887-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	06.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Bill of Entry no. 7195002 dated 29.01.2026
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	06.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Shree Neem Karoli Imports, House No. 129, Aditonal Floor Port, Ashok Vihar1, Block-H, New Delhi-110052



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
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, 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 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

The present appeal has been filed by M/s. Shree Neem Karoli Imports, House No. 129, Additional Floor Port, Ashok Vihar1, Block-H, New Delhi-110052, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the assessment of Bill of Entry no. 7195002 dated 29.01.2026 files at Customs, Mundra port.

2. Facts of the case, in brief, as per the appeal memorandum are that the appellant is engaged in the business of import and trading in various types of goods including Left Over Stock Lot of PE Plastic Rolls in Variable Size and Thickness and has been importing the same from (ITALY). The Appellant in his usual course of business entered into an agreement with the supplier for purchase of the above said goods @EUR 0.140/KG. On arrival of the goods, the Appellant filed the Bill of Entry No. 7195002 dated 29.01.2026 for clearance of above said goods and submitted all the desired documents.

2.1 On examination, the goods were found as per declarations, however the Assessing Authority enhanced the assessable value to EUR 0.250/Kg including Left Over Stock Lot of PE Plastic Rolls in Variable Size and Thickness.

2.2 The Appellant submits that they had requested the Assessing Authority to pass the speaking order under Section 17(5) of the Customs Act, 1962 and informed that (LIVE APPEAL Goods yet not cleared from Customs) - Request for roll back rate enhanced has been E-Sanchit YET CUSTOM DUTY Neither Accepted Nor Paid in case Custom duty is being paid UNDER PROTEST just to avoid unnecessary loss on account of detention and ground rent charges.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the assessment of impugned Bill of Entry, the Appellant has filed the present appeal wherein they have submitted grounds which are as under:-



3.1 It is a well settled principle of law that burden of proving under-invoicing lies on the department. This burden cannot be shifted on the importer Further that this burden has to be dis-charged in a proper manner, in accordance with law.

3.2 Under the taxing statute, it is settled law that it is always the onus on the department to prove otherwise and assessee cannot be asked to discharged that burden initially unless the department first discharges its burden as held by the Hon'ble Supreme Court in the case of Union of India Versus Garware Nylons Ltd. reported in 1996 (87) ELT 12 (SC).

3.3 The arbitrarily value has been increased whereas no speaking order was issued as per Request made in under protest letter under section 17(5) of the Customs Act 1962 and Board Circular No 07/2018 -Cus (instruction) dtd 05.04.2018 not complied.

3.4 The Provision of rule 12(2) of the Customs Valuation (Determination of the Value of Imported good) rule 2007 was not followed as not informed about the ground of doubting the truth and accuracy of the declared value

3.5 The import was merely a transaction in the ordinary course of international trade and does not fall within any of the exception stipulated in Rule 3(3) of the Custom Valuation (Determination of the Price of Imported good) rule 2007 [CVR 2007) and hence the Invoice value merits acceptance under section 14(1) of the Custom Act 1962 read with 3(1) of CVR 2007 . Reliance is placed on the decision in the cases of Eicher Tractor Itd [2000 (122) ELT 321 (SC)], Sanjivani Non Ferrous Trading Pvt Limited [2019 (365) ELT 3 (SC)] Highland Liquors Pvt Limited [2018 (360) ELT 539 (Tri. Del), Abdhulham [2017 (348) ELT 492 (Tri. Kolkatta) and Ganpati Vs CESTAT [Civil (4735-4736 of 2009) dtd 06.10.2023].

3.6.1 Refer to OIO issued from The Commissioner Appeal (Delhi) in similar under protest custom duty case of M/s Onkar Impex vide F NO. कमिश्नर/अपील/दिल्ली/सीमाशुल्क/ICD/PPG/SNP/835&18other/2019/34 29 दिनांक 18.08.2021 OIO No. सी.सी.ए./सी.शु /D-II/ICD/PPG/719-738/2021-22 dated 13.08.2021



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3.6.2 Refer to OIO issued from The Commissioner Appeal (Delhi) in Similar under protest custom duty case of M/s GRS Paper vide F. NO. कमिश्नर/अपील/दिल्ली/सीमाशुल्क/ICD/PPG/SNP/763&22 other/2019/3439 दिनांक 18.08.2021. OIO No. सी.सी.ए./सी.शु./D-II/ICD/PPG/679-701/2021-22 dated 13.08.2021

3.6.3 Refer to OIO issued from The Commissioner Appeal (Delhi) in Similar UNDER PROTEST CUSTOM DUTY case of M/s Arihant Traders vide F. NO. कमिश्नर/अपील/दिल्ली/सीमाशुल्क/ICD/PPG/8396+ 41 other/2019-20/1429 दिनांक 28.06.2021. OIO No. सी.सी.ए./सी.शु./D-II/ICD/PPG/281, 287 to 340/2021-22 dated 17.06.2021

3.7 The Hon'ble Supreme Court in the case of Union of India Vs. Mahindra and Mahindra Ltd. 1995 (76) ELT 481 (SC), considered the question relating to valuation of certain components of machinery where the main thrust of the argument of the learned Solicitor General before the Supreme Court was that the price for the sale was not the true price. In other words the price fixed or mentioned in the invoices was not the sole consideration for the sale. The Hon'ble Supreme Court held that:-

"Ordinarily the Court should proceed on the basis that the apparent tenor of the agreement reflects the real state of affairs..... The short question is whether the Revenue has succeeded in showing that the apparent is not the real and that the price shown in the invoices does not reflect the true sale prices and so Section 14(1) (b) of the Act was properly invoked"

In this background, it is pertinent to mention that there is no allegation in the impugned order that the appellant is related to the manufacturer or to the exporters of the goods. There is no evidence to show that the appellant and the sellers were not dealing at arm's length. There is nothing to show that any other considerations in any form, directly or indirectly, flowed from the supplier. There is no reason as to why the exporter/seller would agree to mis- declare the values. In other words, there is absolutely no basis for taking a view that the apparent states of affairs i.e. the declared invoice prices are not the true invoice values. The orders for the goods were placed in the normal course of business. Again, the prices were agreed upon in the normal course of business. No incriminating documents showing a different value or additional remittance has been alleged.

These factors clearly show that there is no reason to reject price/value declared at the time of import.

3.8 The Ld. Adjudicating Authority failed to appreciate that it is settled law that before rejecting the Transaction Value, the department has to prove that the same is not genuine. In the present matter, no such proof has been adduced by the Department. The Tribunal has held in *Indian Farmers Fertilizer Co-op. Ltd. Vs CCE, 2010 (252) ELT 523* that Rule 12 of the Customs Valuation Rules, 2007 does not empower proper officer to reject the Transaction Value without establishing the same as not genuine. There is nothing on record to show that the invoices were fake or fabricated and the transaction value shown was not actually paid. The Tribunal has further held that assessment under Rule 5 of the Customs Valuation Rules does not arise as the Transaction Value is determinable under Section 14 of the Customs Act read with Rule 3(1) of the Customs Valuation Rules, 2007

3.9 It is submitted that appellant has filed their importer documents and the same constitute the justification for their declared value. It is for the department to produce evidence to show that what was declared by the appellant as the assessable value is not correct value. In the present case no such evidence has been brought on record at the time of assessment and therefore, the impugned assessment is liable to be set aside.

3.10 The Ld. Adjudicating Authority failed to appreciate that the evidence to justify the declared value was already on record in the form of the invoice issued by the foreign supplier and any other evidence could have been asked only first rejecting the invoice submitted by the appellant based on cogent evidence, which has not been done in the present case and therefore, the impugned assessment is liable to be set aside.

3.11 The Hon'ble Supreme Court in the case of **Century Metal Recycling Pvt. Ltd vs UOI reported in 2019 (367) ELT 3 (SC)** relation to Rule 12 has held that the Proper Officer can reject the transaction value based on certain doubt but this doubt must be reasonable i.e. have a degree of objectivity and basis/foundation for the suspicion must be based on 'certain reasons'.



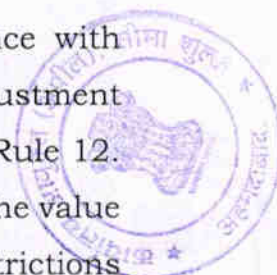
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3.12 The manner of assessment is arbitrary and illegal as the practice of not making the assessment on the declared value in terms of the mandate of Section 14 of the Customs Act, 1962 read with Rule 3 the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (herein after referred to as the CVR, 2007), is against the provisions of law.

3.13 Under the act, Customs duty is chargeable on goods and according to Section 14(1) of the Customs Act, the assessment of duty is to be made on the value of goods. The value according to Section 14(1) shall be 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 related and price is sole consideration for the sale subject to such other condition as provided under the Rules made in this behalf. A bare reading of the said provisions of Section 14(1) of the Customs act, 1962 clearly mandates on the proper officer to accept the transaction value that is to say the price actually paid or payable. The proper officer has not shown any evidence to say that what has been declared as the transaction value is not the price actually paid or payable and that the same are covered under any of the exception provided under Section 14(1) of the Customs Act, 1962 read with Rule 3 of CVR, 2007

3.14 Section 2(41) of the Customs Act states that the "value" in relation to any goods means the value thereof determined in accordance with the provision of Sub-Section (1) or Sub-Section (2) of Section 14.

3.15 Rule 3 of the CVR, 2007 provides that subject to Rules 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10. The transaction value is to be arrived after adjustment provided under rule 10 which has been subjected to the provisions of Rule 12. Further sub-Rule (2) of Rule 3 provides the conditions satisfying which the value under sub rule (i) shall be acceptable. These conditions relate to restrictions regarding disposition/used of the goods, sale/price being subject to some condition or consideration, part of the proceeds of any subsequent re-sale/disposal/use of the goods accruing directly or indirectly to the seller and buyer and seller being related. No such exceptions have been pointed out in the assessment order. Therefore, when none of the conditions stipulated under sub-Rule (2) of Rule 3 is alleged to have been violated, valuation under the provisions of sub-Rule (1) of Rule 3 is required to be accepted.



3.16 Rule 12 provides for the rejection of the declared value. The Appellant fulfills all the conditions for acceptance of the declared value and there is no other condition which could entitle the Department to reject the same.

3.17 In the case of Eicher Tractor reported in 2000 (122) ELT 321 (SC), the Hon'ble Supreme Court has held that unless the price actually paid for the particular transactions falls within the exceptions provided under Rule 4 (2) (now sub rule (2) of Rule 3) the Customs Authority are bound to assess the duty on the transaction value. Though the case of Eicher Tractors (Supra) was delivered in the light of erstwhile valuations Rule 1988 and provisions of Section 4 as it existed prior to its substitution with effect from 10.10.2007. However, the concept of transaction value did not undergo any essential change by enactment of new Section 14 of the Act and Valuation Rule 2007 Earlier transaction value within a reasonable range on either side of the contemporaneous price in the international trade was acceptable as assessable value. Then also no price arrived at by negotiations in the course of trade on commercial basis could be rejected as transaction value. This position continues even after 10.10.2007 after enactment of the Customs Valuations Rules, 2007. The shift from a deemed normal price in the international trade for valuation of imported goods in section 14 to the transaction value has not resulted in any change in practice. The circumstances statutorily particularized in the erstwhile Valuations Rule 4 (2) of the Valuations Rules, 1988 to reject the declared value still exists in the Valuations Rules, 2007 and therefore, the ratio of Eicher Tractors (supra) is still valid and relevant.

3.18 It is submitted that there is no allegation that the Appellant has paid any additional amount to foreign supplier and hence value cannot be enhanced only on the basis of NIDB data.

3.19 It is settled law by the following four decisions of the Hon'ble Supreme Court that unless there is a additional consideration involved or any of the exception of Rule 4 (2) of CVR 2007 is attracted transaction value cannot be rejected.

a. Eicher Tractors Limited., (2000 (122) ELT 321 (SC));

b. Bureau Verital., (2005 (181) ELT 3 (SC));

c. Tolin Rubbers (P) Ltd., [2004 (163) ELT 289 (SC)] and

d. Rabindra Chandra Paul [2007-TIOL-28-SC-Cus]

3.20 The Adjudicating Authority has erred in not appreciating the fact that Rule 5 of the Customs Valuation Rules lays down the criteria of "Similar Goods" for comparison of values. In the definition of "similar good" the emphasis is laid on like characterises and like component materials which enable them to perform the same function and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of the trademark. Rule 5 of the Customs Valuation Rules adds another condition. It provides that the goods in a sale for comparison must be at the same commercial level and in substantially the same quantity, and if it is not possible then adjustments are to be made on demonstrated evidence.

Reliance is placed on the following case laws in support of their contention :-

- (i) CC, Calcutta vs. South India Television Pvt. Ltd. [2007 (214) E.L. T. 3 (S.C.)]
- (ii) Topsia Estates Pvt. Ltd. Vs. Commr of Cus. (Import- Seaport), Chennai [2015 (330) E.L.T 799 (Tri. Chennai)]
- (iii) Commissioner of Customs, Chennai vs. Vintel Distributors P. Ltd. 2008 (229) E.L.T 162 (S.C.)
- (iv) Pankaj Gandhi v/s Commissioner OF Customs, New Delhi (2010 (249) E.L. T 121 (Tri - Del.))
- (v) Viva International v/s Commissioner of Customs, Delhi (2005 (183) E.L. T. 410 (Tri. -Del.))
- (vi) Sanjivani Non-Ferrous Trading Pvt. Ltd. versus C.C.E. & S.T. Noida reported in 2017(7)G.S.T.L. 82 (Tri.-All)
- (vii) Medi Herbs Vs. Commissioner of Customs, ICD, TKD, New Delhi- 2005 (186) ELT 484 (T).
- (viii) Varsha Plastic (P) Ltd Vs. Commissioner of Customs, Kandla-For SHRE (164) 428 (T)
- (ix) Radhev Shvam Ratan Lal Vs. Commissioner of Customs, Sheva Raigad 2005 (190) ELT 244 (T).



- (x) In Marga Industries Ltd Vs. Commissioner of Customs, New Delhi 2004 (171) ELT 334 (1)..
- (xi) Commissioner of Customs, Chennai Vs. Novelty Exports.
- (xii) Neha Inter Contentional (P) Ltd Vs. Commissioner of Customs, Goel 2006 (202) ELT 530 (1).
- (xiii) In Elite Packaging Industries Vs. Collector of Customs- 1992 (60) ELT 311 (T).
- (xiv) Keveevam Company Vs. Commissioner of Customs, Cochin - 2006 (194) ELT 447 (T).
- (xv) In Vision Trade Links Vs. Commissioner of Customs, Nagpur-20(H (169) ELT 151 (T)..
- (xvi) Commissioner of Customs & Central Excise Tiruchirapalli versus Hindustan Lever Ltd. report in 2015 (325) ELT 7 (SC)
- (xvii) PNP Polytex Pvt. Ltd. versus Commissioner of Customs Nhava Sheva reported in 2015 (318) ELT 649 (Tri)
- (xviii) Sigma Power Products Pvt. Ltd reported in [2017 (350) ELT 510 (Cal.)]

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 26.02.2026, following the principles of natural justice wherein Shri Chandra Shekhar, Authorised Representative appeared for the hearing virtual mode 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, and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that the following issues need to be addressed:

- (i) Whether the rejection of the declared transaction value and its re-determination by the assessing authority are legally sustainable under the Customs Act, 1962, and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007).



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5.2 The core of this appeal revolves around the rejection of the transaction value under Rule 3 read with Rule 12 of CVR, 2007. The assessing authority rejected the declared value and reassessed the same at the higher value. The Supreme Court in CENTURY METAL RECYCLING PVT. LTD. Versus UNION OF INDIA reported at 2019 (367) E.L.T. 3 (S.C.) extensively clarified the procedure for rejecting transaction value. Key principles laid down include:

- Reason to Doubt (Rule 12): The proper officer must have a "reason to doubt the truth or accuracy" of the declared value. This doubt must be "reasonable" and based on "certain reasons" (e.g., significantly higher value of identical/similar goods, abnormal discount). It cannot be based on mere suspicion or ipse dixit.
- Preliminary Enquiry: Before rejecting the value, the importer must be asked to furnish further information/documents to justify the declared value. It is only if the doubt persists after this preliminary enquiry that the value can be rejected.
- Communication of Grounds (Rule 12(2)): On the importer's request, the proper officer shall intimate in writing the grounds for doubting the truth or accuracy of the value and provide a reasonable opportunity of being heard. This is a mandatory requirement.
- Sequential Application of Rules: Once the transaction value is rejected, the valuation must proceed sequentially through Rules 4 to 9 of CVR, 2007.
- Contemporaneous Imports: The Supreme Court emphasized that transaction value should not be discarded unless there are "contrary details of contemporaneous imports or other corroborative evidence of import which would justify rejection of declared value and its enhancement." The contemporaneous imports must be of identical or similar goods and the comparison must be fair.

5.3 The application of the above judicial pronouncement to the Present Case is as:

- Insufficient Basis for Doubt: The Supreme Court in Century Metal

Recycling specifically cautioned against relying on general market data or foreign journals without conducting proper enquiries and ascertaining details with reference to the specific goods imported which are identical or similar.

- Lack of Cogent Reasons for Rejection: The adjudicating authority did not provide cogent reasons for rejecting the transaction value despite the Appellant providing supporting documents .
- No Provisional Assessment: The Supreme Court in Century Metal Recycling also highlighted that in valuation disputes, Customs authorities should resort to provisional assessment under Section 18 of the Customs Act, 1962, for expeditious clearance, rather than compelling importers to accept re-valuation. The Appellant's letters clearly indicate they were under pressure to clear goods due to "heavy detention and ground rent."

Therefore, the rejection of the declared transaction value and its re-determination by the assessing authority are not legally sustainable as they appear to be contrary to the principles laid down by the Supreme Court in Century Metal Recycling Pvt. Ltd. and other Tribunal judgments.

5.4 The Appellant contends that no "speaking order" was passed and no opportunity of hearing was provided before the re-assessment, violating Board's Instruction No. 07/2018-Customs dated 05.04.2018 which mandates passing of speaking order within fifteen days from the date of re-assessment of the Bill of Entry if they are not satisfied with the self-assessment. In the present case, despite the Appellant's repeated submissions and requests for assessment based on their declared value and past imports, the assessing officer enhanced the value without issuing a formal speaking order explaining the rejection of the Appellant's submissions and the basis for the new value.

5.5 The Hon'ble Apex court in case of C.C.E. & S.T., NOIDA Versus SANJIVANI NON-FERROUS TRADING PVT. LTD. reported at 2019 (365) E.L.T. 3 (S.C.) made the following observations:

" 10. The law, thus, is clear. As per Sections 14(1) and 14(1A), the value of any goods chargeable to ad valorem duty is deemed to be the price as referred

to in that provision. Section 14(1) is a deeming provision as it talks of 'deemed value' of such goods. Therefore, normally, the Assessing Officer is supposed to act on the basis of price which is actually paid and treat the same as assessable value/transaction value of the goods. This, ordinarily, is the course of action which needs to be followed by the Assessing Officer. This principle of arriving at transaction value to be the assessable value applies. That is also the effect of Rule 3(1) and Rule 4(1) of the Customs Valuation Rules, namely, the adjudicating authority is bound to accept price actually paid or payable for goods as the transaction value. Exceptions are, however, carved out and enumerated in Rule 4(2). As per that provision, the transaction value mentioned in the Bills of Entry can be discarded in case it is found that there are any imports of identical goods or similar goods at a higher price at around the same time or if the buyers and sellers are related to each other. In order to invoke such a provision it is incumbent upon the Assessing Officer to give reasons as to why the transaction value declared in the Bills of Entry was being rejected; to establish that the price is not the sole consideration; and to give the reasons supported by material on the basis of which the Assessing Officer arrives at his own assessable value."

This precedent is directly applicable here as no reasons have been given by the assessing officer in this case. Therefore, I am of the considered view that the principles of natural justice were violated during the re-assessment process due to the absence of a speaking order.

5.6 In view of the detailed discussions and findings above, this appellate authority concludes that the appeal filed by the appellant is sustainable on merits. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- (i) The re-assessment of Bill of Entry no. 7195002 dated 29.01.2026, enhancing the declared value of " Leftover stock of PE Plastic Rolls in variable size and thickness " from EUR 0.140/Kg to EUR 0.250/KG, is hereby set aside.
- (ii) The Assessing Authority is directed to re-assess the Bill of Entry no. 7195002 dated 29.01.2026 by accepting the transaction value as declared by the Appellant, in accordance with Section 14 of the



Customs Act, 1962, and Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

6. The appeal filed by M/s. Shree Neem Karoli Imports is hereby allowed with consequential relief, if any, in accordance with law.



(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-680/CUS/MUN/FEB/2025-26

Date: 06.03.2026

By Speed post /E-Mail

To,
M/s. Shree Neem Karoli Imports,
House No. 129, Additional Floor Port,
Ashok Vihar1, Block-H,
New Delhi-110052.
(Email:-cargocareappeal@gmail.com)



Copy to:

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