



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  
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DIN - 20260271MN0000711265

क	फ़ाइल संख्या FILE NO.	S/49-125/CUS/MUN/2023-24
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-814-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	10.02.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. KOL/CUS/DC/PORT/GR1/443/2023 dtd. 16.08.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	10.02.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Jay Dattatray Trading co, 26, Krushna Mill Compound, Railway station Road, Unjha- 384170



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/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए 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 रुपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक 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 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 हजार रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) उक्त आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील :- अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.



**ORDER-IN-APPEAL**

Appeal has been filed by M/s Jay Dattatray Trading co, 26, Krushna Mill Compound, Railway station Road, Unjha- 384170, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. KOL/CUS/DC/PORT/GR1/443/2023 dated 16.08.2023 (hereinafter referred to as 'the impugned order') issued by the Deputy Commissioner, Custom, Faceless Assessment Group - IB, Kolkata Port Commissionerate.

2. Facts of the case, in brief, are that the appellant had imported a consignment of "Caraway Seeds from Poland under Bill of Lading (B/L) No. GDN0041461 dated 18.06.2023 and filed a Bill of Entry No. 7074500 dated 27.07.2023 classifying the impugned goods under Customs Tariff Item No. 09096139 for clearance for home consumption.

Sl. No	Bill of Entry Nom & Dt.	Name of Importer	Item Description	CTH	Qty (in kgs)	Assessable value (declared) in Rs.	Duty (Rs.)
1	7074500 dt. 27.07.2023	Jay Dattatray Trading Co (IEC 080200958 31)	Caraway Seeds	0909 6139	22000	1824900	723573

2.1 The aforesaid goods imported vide Bill of Entry No. 7074500 dated 27.07.2023 are covered under Invoice No. SDGT/EX/0547 dated 27.07.2023 of CIF value USD 22000 raised by the overseas supplier M/s Star Dreams General Trading LLC, Art Tower, Office No. 110, Al Mina Road, Dubai, United Arab Emirates. The declared assessable value of the goods is Rs. 18,24,900 (Rupees Eighteen Lakh Twenty Four Thousand Nine Hundred only). The appellant had self-assessed the duty as Rs. 7,23,573/- (Rupees Seven Lakh Twenty-Three Thousand Five Hundred and Seventy-Three only) which was paid through license. The declared Gross Weight and Net Weight of the goods are 22100 KGs and 22000 KGs respectively. The aforesaid Bill of Entry went for verification of self-assessment under Section 17(2) of the Customs Act, 1962 to



FAG (Faceless Assessment Group) I, Kolkata Port Commissionerate (INCCU1). The port of import of goods is Mundra (INMUN1). The unit price of Item Sl. No. 1 'Caraway Seeds (As per Invoice)' has been declared as USD 1000/MTS CIF. On perusal of the import documents, declaration made in the Bill of Entry, corresponding RMS instructions and contemporaneous import value of similar goods available in NIDB and ICES, the declared value appeared to be very low which in turn provided considerable reasons to doubt the truth and accuracy of the declared value of the imported goods.

2.2 Rule 12 of the Customs Valuation Determination of Value of Imported Goods) Rules, 2007 (in short, CVR, 2007) empowers the proper officer of Customs to ask the importer of any goods to furnish information including documents and other evidence when the proper officer has reason to doubt the truth and accuracy of the declared value based on grounds stipulated in explanation (1) (ii) of Rule 12 of the CVR, 2007 which inter-alia includes 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.

2.3 Therefore, a query dated 27.07.2022 was raised to the importer in the ICES which reads as below,

*"THE DECLARED VALUE APPEARS TO BE LOW. PLEASE JUSTIFY THE SAME AND FURNISH EVIDENCES LIKE EXPORT SHIPPING BILL, INSURANCE CERTIFICATE, PAST GROUP ASSESSED BE OOC COPY OF THE SAME SUPPLIER AND SAME GRADE, SIZE/COUNT, COUNTRY OF ORIGIN AND BANK REMITTANCE IN ITS SUPPORT."*

The importer replied to the aforesaid query on 28.07.2022 stating as below –

*"Respected sir, We have attached previously cleared BOE vide IRN (2023072800041146). Also attached PI & bank remittance for the shipment vide IRN (2023072800041147). COO is attached vide IRN (2023072400075226). Requesting to kindly asses our BOE & oblige."*

2.4 The reply was found to be not satisfactory and therefore a second query was raised on 30.07.2023 reading –

*"AS PER INVOICE DETAILS, THE ITEM IS FOR CONSUMPTION PURPOSE WHICH MEANS IT IS NOT OF SEED QUALITY OR RAW. AS PER NIDB DATA*



THE MINIMUM ASSESSED VALUE OF CARWAY SEEDS (NOT OF SEED QUALITY) IS RS. 335.94/KG WHICH IS MUCH HIGHER THAN THE UNIT PRICE DECLARED. PLEASE STATE WHETHER YOU AGREE TO ENHANCE THE VALUE ACCORDINGLY. ALSO, PLEASE STATE IF YOU NEED PH AND/OR AO IN THIS REGARD."

The importer submitted the following vide their reply dated 31.07.2023 –

"Respected Sir, we have attached Sales Contract Number# 202305-13 dtd 05-May-2023 duly signed by buyer & seller. we have also attached bank remittance of HDFC bank is also attached for complete payment done to our supplier. the declared value is our correct purchase price which is evident from bank remittance made to supplier. there are many different varieties of Caraway seeds being traded at different prices. this variety of fennel imported by us is for making powder & paste. Commodity market is very volatile also. we are a TWO STAR export house accredited by DGFT & member of recognized organization like FIEO, SHELLAC, SPICES BOARD OF INDIA. we are also end user of this product & not a trader. we have already attached our UDHYOG AADHAR with BE. membership certificates have been uploaded vide IRN-2023073100145538 Humble request to please assess & oblige."

2.5 The reply of the importer was again found to be not satisfactory as the import item was found to be other than "Raw Caraway Seed"/ "Caraway Seed of Seed Quality" as declared in invoice and therefore as per the data sourced from NIDB the unit price of the goods found to be low and therefore a third query was raised on 31.07.2023 reading –

"THE QUALITY OF THE CARAWAY SEED IS NOT MENTIONED IN THE ITEM DESCRIPTION. IT IS ONLY FOUND THAT THE ITEM IS FOR CONSUMPTION PURPOSE. IT IS NOT DECLARED ANYWHERE THAT IT WILL BE PROCESSED FURTHER. ALSO AS PER NIDB DATA THE DESCRIPTION OF THE ITEMS ARE SAME AS "CARAWAY SEED NOT OF SEED QUALITY" WHICH APPEARS TO BE FOR CONSUMPTION PURPOSE. THEREFORE AS PER CVR, 2007, THE UNIT VALUE DECLARED FOR CARAWAY SEEDS FOR CONSUMPTION PURPOSE SHALL NOT BE AS LOW AS DECLARED COMPARED TO NIDB DATA. THEREFORE PLEASE STATE CLEARLY WHETHER YOU AGREE TO ENHANCE THE UNIT PRICE AS PER



*(Handwritten signature)*

*SECOND QUERY OR WANT PH AND/OR AO IN THIS REGARD."*

The importer replied on 02.08.2023 stating that –

*"Respected Sir, We have already submitted contract of this shipment + we also submitted bank remittance copies of payment done towards this shipment. we also submitted proof of our being Manufacturer. there are many different varieties of Fennel seed having different prices. this variety of fennel imported by us is for making powder & paste. Commodity market is very volatile also. We are now also attaching our previously cleared 3 BEs (IRN - 2023080200117999) for same product of same cargo cleared at same rate. declared price is our correct purchase price. Please assess BE at our declared price & oblige."*

2.6 The appellant was given three opportunities to explain and justify with documentary evidence regarding the apparent massive difference (to the tune of more than 4 times) in unit import value of goods imported vide subject Bill of Entry No. 7074500 dated 27.07.2023 i.e. USD 1000 MTS (CIF) and that of the goods imported vide Bill of Entry No. 6513088 dated 21.06 2023 viz. USD 4049.91/MTS (CIF), where the item of import is "CARAWAY SEEDS KAJAK (NOT OF SEED QUALITY)". The item description, though, exactly not matching with the description of the declared goods, but the items in both cases appeared to be same as they both will be used for human consumption without further processing, As per the commercial invoice, uploaded in E-sanchit by the importer, the item is Caraway Seeds/ The seeds are for consumption purpose and it is nowhere mentioned as claimed by the importer against reply to the 3rd Query that "this variety of fennel imported by us is for making powder & paste" No reasonable and specific explanation/justification regarding the particular issue was offered by them and instead it was requested by them to assess the subject Bill of Entry with the declared unit price.

2.7 Therefore, it appeared that the goods at item Sl. No. 1, declared as 'Caraway Seeds (As per Invoice)', classified under Customs Tariff Item 09096139 with declared unit import value of USD 1000/MTS (Exchange Rate - 1 USD = Rs.82.95), of the subject Bill of Entry No. 7074500 dated 27 07.2023 has been massively undervalued. In view of the same, the declared value did not appear to be the true transaction value of the goods under provisions of the Section 14 of the Customs Act, 1962 read with those of Sub-Rule (1) of Rule 3



of the CVR, 2007 and accordingly it appeared liable to be rejected under Rule 12 of CVR, 2007 and the same required to be re-determined under Sub-Rule (4) of Rule 3 the CVR, 2007 by proceeding sequentially through Rule 4 to 9. Accordingly, unit assessable value of goods was loaded to 4.04991 USD/KG (CIF) and necessary remarks dated 03.08.2023 were duly entered in the Departmental Comments Section reading as follows - "QUERIES RAISED AND REPLY OF THE SAME MAY KINDLY BE SEEN. AS PER INVOICE DETAILS THE ITEM IS CARAWAY SEEDS FOR CONSUMPTION WHICH APPEAR TO BE NOT OF SEED QUALITY OR RAW. THE SAME ITEM HAS BEEN ASSESSED AT MINIMUM OF INR 335940/MTS IN THE BE NO. 6513088 DATED 21.06.2023 IMPORTED FROM A DIFFERENT COUNTRY THAN THE SUBJECT BE. AS THERE IS NO AVAILABLE DATA FOR THE SAME DESCRIPTION FROM THE SAME COUNTRY, UNIT PRICE HAS BEEN ENHANCED IN ACCORDANCE WITH THE SAME AS IN THE BE NO. 6513088 DATED 21.06.2023 WHERE IN THE ITEM DESCRIPTION IS CARAWAY SEEDS KAJAK (NOT OF SEED QUALITY). THE UNIT PRICE HAS BEEN ENHANCED TO USD 4049.91/ MTS FROM USD 1000/MTS. AS THE LICENSE CANNOT BE DEBITED BECAUSE OF THE APPLICABLE DUTY IS HIGHER THAN THE LICENSE BALANCE, THE SAME HAS BEEN REMOVED."

2.8 Consequently, the adjudicating authority passed the following order with regard to Appellant:

i. He rejected the declared unit assessable value and total assessable value of goods, imported vide Bill of Entry No. 7074500 dated 27.07.2023, as USD 1000/MTS and Rs. 18,24,900/- (Rupees Eighteen Lakh Twenty Four Thousands Nine Hundreds only) CIF respectively under provisions of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined the same as 335.94/KG (viz. USD 4049.91/MTS CIF) and Rs. 73,90,681/- (Rupees Seventy Three Lakhs Ninety Thousand and Six Hundred and Eighty One only) respectively in terms of Sub-Rule (2) of Rule 5 *ibid.*

ii. He rejected the declared total duty leviable on the goods imported vide Bill of Entry No. 7074500 dated 27.07.2023 of Rs. 7,23,573/- (Rupees Seven Lakhs Twenty Three Thousands Five Hundred and Seventy Three only) and determine the same as Rs. 29,30,404/- (Rupees Twenty Nine Lakhs Thirty Thousands Four Hundreds and Four only). Further, he ordered for payment of differential duty amount of Rs. 22,06,831/- (Rupees Twenty Two Lakhs Six



Thousands Eight Hundreds and Thirty One only) with applicable interest thereon.

iii. He ordered for re-assessment of the subject Bill of Entry No. 7074500 dated 27.07.2023 under Section 17(4) of the Customs Act, 1962 as ordered above.

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Deputy Commissioner, Custom, Faceless Assessment Group - IB, Kolkata Port Commissionerate.

3.1 The appellant argues that the Deputy Commissioner fundamentally erred by rejecting the declared transaction value and re-determining the assessable value under Rule 5 of the Customs Valuation Rules, 2007. The core of this challenge is that Rule 5 requires a comparison with "similar goods" produced in the same country as the goods being valued. While the appellant's imported goods originated from Poland (Europe), the valuation was based on contemporaneous data for goods originating from Afghanistan. The appellant contends that comparing goods from two different countries (and continents) is legally impermissible under the specific definitions of "similar goods" in the Rules.

3.2 Furthermore, the appellant maintains that the declared unit price of USD 1000/MTS represents the actual purchase price. They supported this claim by providing documentation, including the sales contract, bank remittance for the full payment to the supplier, and evidence of being a Two Star Export House and end-user of the product. The appellant also noted that the commodity market for Caraway Seeds is volatile and that they had previously cleared three Bills of Entry for the same product at the same declared rate.

3.3 Finally, the appeal challenges the Department's finding that the goods were undervalued based on NIDB data that showed significantly higher prices for "Caraway Seeds Kajak". The appellant asserts that the impugned order was passed without authority of law and beyond jurisdiction because Rule 5



cannot be applied when country-of-origin data for the same source is unavailable. Consequently, the appellant seeks to have the order, which enhanced the unit value to USD 4049.91/MTS and demanded a differential duty of Rs. 22,06,831, quashed and set aside.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 15.10.2025 following the principles of natural justice wherein Shri Vikas Mehta, Consultant, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

**DISCUSSION AND FINDINGS:**

5. I have carefully gone through the case records, impugned order passed by the Deputy Commissioner, Custom, Faceless Assessment Group - IB, Kolkata Port Commissionerate and the defense put forth by the Appellant in their appeal.

5.1 The foremost issue to be decided is whether the Adjudicating Authority was legally justified in discarding the price declared by the Appellant. The bedrock of Indian Customs valuation is Section 14(1) of the Customs Act, 1962, which mandates that the value of imported goods shall be the "transaction value," defined as the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation. Rule 3(1) of the CVR 2007 further reinforces this by stating that the value of imported goods shall be the transaction value. This is not a discretionary preference but a statutory mandate. The legislative intent is clear: the actual price of the commercial transaction between a willing buyer and a willing seller must be the basis for assessment unless specific disqualifying conditions (such as the buyer and seller being related, or the existence of a price-influencing condition/restriction) are met.

5.2 In the present case, I find that the Appellant has provided an exhaustive trail of documents that validate the declared transaction value:

- a. Sales Contract No. 202305-13 dated 05.05.2023: This document establishes the agreement to purchase 44 MT of Polish Caraway Seeds at USD 1,000/MT (CIF).

- b. Commercial Invoice No. SDGT/EX/0547 dated 02.06.2023: This confirms the shipment of 22 MT at the agreed contract price.
- c. Bank Remittance Advice: Crucially, the Appellant submitted proof from HDFC Bank showing the actual outward remittance of the invoice amount. When the actual flow of money through recognized banking channels matches the declared invoice value, the burden of proof shifts heavily to the Revenue to prove that "extra" money was sent through illegal channels. The Adjudicating Authority has not produced a shred of evidence to suggest any such "back-door" payment.

5.3 The Hon'ble Supreme Court in the landmark case of **Eicher Tractors Ltd. vs. Commissioner of Customs [2000 (122) E.L.T. 321 (S.C.)]** held that the Department must accept the transaction value unless it can prove that the price does not represent the "sole consideration" for the sale. Furthermore, in **Basant Industries vs. Commissioner of Customs [1996 (81) E.L.T. 195 (S.C.)]**, the Apex Court emphasized that a mere suspicion that the price is low is not enough to discard the transaction value. There is no such thing as a "standard market price" in international trade; prices vary based on commercial factors such as the volume of purchase, long-standing relationships between buyer and seller, market fluctuations, and the specific quality of the goods.

5.4 The Adjudicating Authority failed to identify any "special circumstances" under Rule 3(2) of CVR 2007 that would invalidate the transaction. Instead, the authority summarily rejected the value based on a "reason to doubt" derived from NIDB data. However, as clarified by the Supreme Court in **Century Metal Recycling Pvt. Ltd. vs. Union of India [2019 (367) E.L.T. 3 (S.C.)]**, Rule 12 (Power to doubt the truth or accuracy of declared value) is a procedural tool and not a substantive rule for valuation. It only allows the Officer to initiate an inquiry. If the importer provides reasonable justification—as the Appellant has done with bank proofs and contracts—the declared value must be accepted unless the Revenue proves the documents are forged or the price is sham.

5.5 In view of the above, I find that the transaction value declared by the Appellant satisfies all the requirements of Section 14 of the Customs Act, 1962. The Adjudicating Authority's attempt to substitute a factual transaction price with a hypothetical "NIDB price" is a violation of the statutory hierarchy of valuation.



5.6 Rule 12 of the CVR 2007 is often misinterpreted as a substantive rule for re-valuation. On the contrary, it is an enabling provision that grants the Proper Officer the authority to question the truth or accuracy of a declaration only when there are specific, objective grounds to do so. In the impugned order, the Adjudicating Authority has converted a "doubt" into a "conclusion" without completing the necessary legal bridge. The Hon'ble Supreme Court in Century Metal Recycling Pvt. Ltd. vs. Union of India [2019 (367) E.L.T. 3 (S.C.)] provided a detailed exposition of Rule 12. The Court held that the 'reason to doubt' must be based on certain objective indications and it is not the subjective satisfaction of the proper officer. The proper officer must indicate the grounds for doubting the truth or accuracy of the value and only then can the transaction value be ignored and the sequential rules be applied.

5.7 In the present case, the Adjudicating Authority's "reason to doubt" was founded solely on a comparison with NIDB data of Afghan-origin seeds. I find this "reason" to be legally fragile for the following reasons:

- a. Procedural Non-Compliance: Rule 12(1) requires the officer to provide the importer with the grounds for doubt in writing and allow them to furnish further information. While queries were raised, the Adjudicating Authority failed to weigh the evidence provided by the Appellant. The Appellant submitted bank remittance proofs—the highest form of evidence for a financial transaction. By ignoring these and persisting with a value derived from a different country's data, the officer acted arbitrarily.
- b. Failure to Prove Mis-declaration: The Revenue carries the burden to prove that the transaction value does not reflect the price actually paid. "Doubt" is the starting point, but "evidence" is the required destination. The Adjudicating Authority reached a conclusion of undervaluation without any evidence of side-payments, inflated invoices, or relationship-influenced pricing.
- c. Misapplication of Valuation Hierarchy: Once a doubt is raised under Rule 12, the officer cannot jump directly to a higher price. They must sequentially exhaust Rule 4 (Identical Goods) and then Rule 5 (Similar Goods). As discussed above, the Adjudicating Authority failed to find identical or similar goods (as defined by origin) and instead "forced" a comparison with Afghan goods. This is a perversion of the Rule 12 process.



5.8 In Commissioner of Customs vs. **South India Television Pvt. Ltd. [2007 (214) E.L.T. 3 (S.C.)]**, the Apex Court held that the Revenue must have evidence of a "contemporaneous import" of the same goods at a higher price to discard the transaction value. A mere database entry from a different geographical region (Afghanistan vs. Poland) does not constitute such evidence. Therefore, I hold that the invocation of Rule 12 in this case was procedurally flawed and substantively unsupported. The Adjudicating Authority's doubt was not "cogent" within the meaning of the law, and thus, the transition from Rule 3 to Rule 5 was illegal.

5.9 The Adjudicating Authority re-determined the value under Rule 5 (Transaction Value of Similar Goods). Rule 2(f) of CVR 2007 defines "similar goods" as those which:

- a. Are like the goods being valued in characteristics and component materials;
- b. Are commercially interchangeable; and
- c. Produced in the country in which the goods being valued were produced.

The Adjudicating Authority explicitly admitted in the OIO that the NIDB data used for comparison (Afghan origin seeds) came from a "different country" than the subject goods (Polish origin). This is a fatal legal error. By the very definition in Rule 2(f)(ii), goods from Afghanistan cannot be "similar goods" to goods from Poland. Market dynamics, agricultural costs, freight, and trade agreements (like the SAFTA benefits often applied to Afghan goods) vary significantly between Europe and South Asia. Therefore, comparing European seeds to Afghan seeds is like comparing apples to oranges. The enhancement of value based on Rule 5 using goods from a different country is ultra vires the Valuation Rules.

The Adjudicating Authority treated NIDB data as a "floor price." Various judicial forums have repeatedly held that NIDB data is only a guideline to trigger an inquiry; it is not evidence to replace a transaction value. In **CCE & ST vs. Sanjivani Non-Ferrous Trading Pvt. Ltd. [2019 (365) E.L.T. 3 (S.C.)]**, the Supreme Court held that the department cannot reject the transaction value solely because other importers cleared similar goods at a higher price. The Court emphasized that there is no "market price" in international trade; price is a matter of contract between two parties. The Appellant explained that Caraway Seeds are a volatile commodity. They are a "Two Star Export House" and an end-



*[Handwritten signature]*

user, not a trader. They utilize the seeds for making powder and paste, which might command a different commercial price compared to seeds sold for "seed quality." The Adjudicating Authority dismissed these logical commercial explanations without providing any counter-evidence.

5.11 The Adjudicating Authority claimed that since "data from the same country of origin is not available," they were forced to use Afghan data. This reasoning is flawed. If Rule 5 (Similar Goods) cannot be applied because the country of origin differs, the officer must move sequentially to Rule 7 (Deductive Value) or Rule 8 (Computed Value). One cannot simply "bend" the definition of Rule 2(f) to fit available data. Furthermore, the Adjudicating Authority ignored the Appellant's submission of three previously cleared Bills of Entry at the same rate. This shows consistency in the Appellant's pricing.

5.12 The enhancement of the assessable value from USD 1,000/MT to USD 4,049.91/MT is based on a legally unsustainable comparison. The reliance on Afghan seeds to value Polish seeds violates Rule 2(f) and Rule 5 of the CVR 2007. The rejection of the transaction value was done without any evidence of contemporaneous imports of similar goods or any proof that the invoice was fraudulent. The Appellant's evidence (Bank Remittance, Sales Contract, COO) remains unchallenged. Following the principles laid down by the Supreme Court in Eicher Tractors, Century Metal, and Sanjivani Non-Ferrous, the transaction value must be accepted.

6. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

The Order-in-Original No. KOL/CUS/DC/PORT/GR.1/443/2023 dated 16.08.2023 is set aside. The appeal filed by M/s. Jay Dattatray Trading Co. is allowed with consequential relief to the Appellant.



  
(AMIT GUPTA)

Commissioner (Appeals),  
Customs, Ahmedabad

By Speed post /E-Mail

To,  
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Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Mundra.
3. The Deputy/Assistant Commissioner of Customs, Custom, Mundra.
4. Deputy Commissioner of Customs, FAG- IB, Custom House, 15/1, Strand Road, Kolkata-700001
5. Guard File.