



## सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,  
चौथी मंज़िल 4th Floor, हड्डको भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20251171MN0000111D21

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| क | फ़ाइल संख्या FILE NO.  | S/49-270 to 366/CUS/AHD/Nov/25-26<br>(Total 97 Appeals)   |
| 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) : | AHD-CUSTM-000-APP-364 to 460-25-26  |
| ग | पारितकर्ता PASSED BY   | Shri Amit Gupta<br>Commissioner of Customs (Appeals), Ahmedabad   |
| घ | दिनांक DATE  | 27.11.2025  |
| ङ | उद्भूत अपील आदेश की सं. व दिनांक<br>ARISING OUT OF ORDER-IN-ORIGINAL NO.   | Total 97 OIOs from OIO No.: 15/MK/DC/Tumb/2025-26 to 112/MK/DC/Tumb/2025-26 ( Except OIO No.: 16) all passed by the Deputy Commissioner, Customs, ICD-Tumb, Valsad, Gujarat.  |
| च | अपील आदेश जारी करने की दिनांक<br>ORDER- IN-APPEAL ISSUED ON:   | 27.11.2025  |
| छ | अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:  | M/s. Metalloys Recycling Ltd., 12, Niraj Industrial Estate, Off Mahakali Caves Road, Andheri (East), Mumbai-400093, Maharashtra.<br><br><u>harish@metalloysrecycling.com/</u><br><u>info@metalloysrecycling.com</u> |

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| 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. | सीमा शुल्क 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 |

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|     | 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.   |
|     | <b>निम्नलिखित सम्बन्धित आदेश/Order relating to :</b>  |
| (क) | वैगेज 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 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 पते पर अपील कर सकते हैं  |



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|     | 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 मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016  | 2 <sup>nd</sup> Floor, Bahumali Bhavan,<br>Nr.Girdhar Nagar Bridge, Asarwa,<br>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 रुपए.   |  |
| (a) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;   |  |
| (ख) | (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; पाँच हजार रुपए  |  |
| (b) | (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) | (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.   |  |
| (c) | (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) | (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) | (d) An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.   |  |
| 6.  | उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए. |  |
|     | Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-  |  |
|     | (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or   |  |
|     | (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.  |  |



Order-In-Appeal

M/s. Metalloys Recycling Ltd., 12, Niraj Industrial Estate, Off Mahakali Caves Road, Andheri (East), Mumbai-400093, Maharashtra, (hereinafter referred to as "the Appellant") have filed 97 appeals challenging total 97 Order-In-Originals, details as per Table-I below, ( herein after referred to as "the impugned orders" ) passed by the Deputy Commissioner, Customs, ICD-Tumb, Valsad, Gujarat ( herein after referred to as "the adjudicating authority" ).

TABLE - I

| S.<br>No. | BOE NO  | BOE<br>DATE | OIO NO.               | OIO DATE   | Appeal File No.:           |
|-----------|---------|-------------|-----------------------|------------|----------------------------|
| 1         | 4489446 | 14/08/2019  | 15/MK/DC/TUMB/2025-26 | 14/10/2025 | S/49-270/CUS/AHD/NOV/25-26 |
| 2         | 4489667 | 14/08/2019  | 17/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-271/CUS/AHD/NOV/25-26 |
| 3         | 4571816 | 20/08/2019  | 18/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-272/CUS/AHD/NOV/25-26 |
| 4         | 4572066 | 20/08/2019  | 19/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-273/CUS/AHD/NOV/25-26 |
| 5         | 4572487 | 20/08/2019  | 20/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-274/CUS/AHD/NOV/25-26 |
| 6         | 4572831 | 20/08/2019  | 21/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-275/CUS/AHD/NOV/25-26 |
| 7         | 4587540 | 21/08/2019  | 22/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-276/CUS/AHD/NOV/25-26 |
| 8         | 4764814 | 04/09/2019  | 23/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-277/CUS/AHD/NOV/25-26 |
| 9         | 4764887 | 04/09/2019  | 24/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-278/CUS/AHD/NOV/25-26 |
| 10        | 4819886 | 09/09/2019  | 25/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-279/CUS/AHD/NOV/25-26 |
| 11        | 4843591 | 10/09/2019  | 26/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-280/CUS/AHD/NOV/25-26 |
| 12        | 4854994 | 11/09/2019  | 27/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-281/CUS/AHD/NOV/25-26 |
| 13        | 4856030 | 11/09/2019  | 28/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-282/CUS/AHD/NOV/25-26 |
| 14        | 4895420 | 13/09/2019  | 29/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-283/CUS/AHD/NOV/25-26 |
| 15        | 4942103 | 17/09/2019  | 30/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-284/CUS/AHD/NOV/25-26 |
| 16        | 4969583 | 19/09/2019  | 31/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-285/CUS/AHD/NOV/25-26 |
| 17        | 5025381 | 23/09/2019  | 32/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-286/CUS/AHD/NOV/25-26 |
| 18        | 5025431 | 23/09/2019  | 33/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-287/CUS/AHD/NOV/25-26 |
| 19        | 5067626 | 26/09/2019  | 34/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-288/CUS/AHD/NOV/25-26 |
| 20        | 5071535 | 26/09/2019  | 35/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-289/CUS/AHD/NOV/25-26 |
| 21        | 5071623 | 26/09/2019  | 36/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-290/CUS/AHD/NOV/25-26 |
| 22        | 5122120 | 30/09/2019  | 37/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-291/CUS/AHD/NOV/25-26 |
| 23        | 5122384 | 30/09/2019  | 38/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-292/CUS/AHD/NOV/25-26 |
| 24        | 5130692 | 01/10/2019  | 39/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-293/CUS/AHD/NOV/25-26 |
| 25        | 5131426 | 01/10/2019  | 40/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-294/CUS/AHD/NOV/25-26 |



|    |         |            |                       |            |                            |
|----|---------|------------|-----------------------|------------|----------------------------|
| 26 | 5135173 | 01/10/2019 | 41/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-295/CUS/AHD/NOV/25-26 |
| 27 | 5153096 | 03/10/2019 | 42/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-296/CUS/AHD/NOV/25-26 |
| 28 | 5195557 | 07/10/2019 | 43/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-297/CUS/AHD/NOV/25-26 |
| 29 | 5203398 | 07/10/2019 | 44/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-298/CUS/AHD/NOV/25-26 |
| 30 | 5208196 | 07/10/2019 | 45/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-299/CUS/AHD/NOV/25-26 |
| 31 | 5228084 | 09/10/2019 | 46/MK/DC/TUMB/2025-26 | 15/10/2025 | S/49-300/CUS/AHD/NOV/25-26 |
| 32 | 5228206 | 09/10/2019 | 47/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-301/CUS/AHD/NOV/25-26 |
| 33 | 5260285 | 11/10/2019 | 48/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-302/CUS/AHD/NOV/25-26 |
| 34 | 5260312 | 11/10/2019 | 49/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-303/CUS/AHD/NOV/25-26 |
| 35 | 5262080 | 11/10/2019 | 50/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-304/CUS/AHD/NOV/25-26 |
| 36 | 5292909 | 14/10/2019 | 51/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-305/CUS/AHD/NOV/25-26 |
| 37 | 5302999 | 15/10/2019 | 52/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-306/CUS/AHD/NOV/25-26 |
| 38 | 5304013 | 15/10/2019 | 53/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-307/CUS/AHD/NOV/25-26 |
| 39 | 5304345 | 15/10/2019 | 54/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-308/CUS/AHD/NOV/25-26 |
| 40 | 5315107 | 16/10/2019 | 55/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-309/CUS/AHD/NOV/25-26 |
| 41 | 5371604 | 19/10/2019 | 56/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-310/CUS/AHD/NOV/25-26 |
| 42 | 5395400 | 22/10/2019 | 57/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-311/CUS/AHD/NOV/25-26 |
| 43 | 5395715 | 22/10/2019 | 58/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-312/CUS/AHD/NOV/25-26 |
| 44 | 5398346 | 22/10/2019 | 59/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-313/CUS/AHD/NOV/25-26 |
| 45 | 5399219 | 22/10/2019 | 60/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-314/CUS/AHD/NOV/25-26 |
| 46 | 5399344 | 22/10/2019 | 61/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-315/CUS/AHD/NOV/25-26 |
| 47 | 5400422 | 22/10/2019 | 62/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-316/CUS/AHD/NOV/25-26 |
| 48 | 5408578 | 23/10/2019 | 63/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-317/CUS/AHD/NOV/25-26 |
| 49 | 5411998 | 23/10/2019 | 64/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-318/CUS/AHD/NOV/25-26 |
| 50 | 5419844 | 24/10/2019 | 65/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-319/CUS/AHD/NOV/25-26 |
| 51 | 5420284 | 24/10/2019 | 66/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-320/CUS/AHD/NOV/25-26 |
| 52 | 5438034 | 25/10/2019 | 67/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-321/CUS/AHD/NOV/25-26 |
| 53 | 5450921 | 26/10/2019 | 68/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-322/CUS/AHD/NOV/25-26 |
| 54 | 5461208 | 28/10/2019 | 69/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-323/CUS/AHD/NOV/25-26 |
| 55 | 5478578 | 29/10/2019 | 70/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-324/CUS/AHD/NOV/25-26 |
| 56 | 5489427 | 30/10/2019 | 71/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-325/CUS/AHD/NOV/25-26 |
| 57 | 5526564 | 02/11/2019 | 72/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-326/CUS/AHD/NOV/25-26 |
| 58 | 5546312 | 04/11/2019 | 73/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-327/CUS/AHD/NOV/25-26 |
| 59 | 5607058 | 08/11/2019 | 74/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-328/CUS/AHD/NOV/25-26 |
| 60 | 5614349 | 09/11/2019 | 75/MK/DC/TUMB/2025-26 | 16/10/2025 | S/49-329/CUS/AHD/NOV/25-26 |



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|----|---------|------------|------------------------|------------|----------------------------|
| 61 | 5614419 | 09/11/2019 | 76/MK/DC/TUMB/2025-26  | 16/10/2025 | S/49-330/CUS/AHD/NOV/25-26 |
| 62 | 5622693 | 11/11/2019 | 77/MK/DC/TUMB/2025-26  | 16/10/2025 | S/49-331/CUS/AHD/NOV/25-26 |
| 63 | 5622869 | 11/11/2019 | 78/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-332/CUS/AHD/NOV/25-26 |
| 64 | 5622876 | 11/11/2019 | 79/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-333/CUS/AHD/NOV/25-26 |
| 65 | 5627044 | 11/11/2019 | 80/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-334/CUS/AHD/NOV/25-26 |
| 66 | 5627186 | 11/11/2019 | 81/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-335/CUS/AHD/NOV/25-26 |
| 67 | 5627990 | 11/11/2019 | 82/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-336/CUS/AHD/NOV/25-26 |
| 68 | 5640438 | 11/11/2019 | 83/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-337/CUS/AHD/NOV/25-26 |
| 69 | 5641618 | 11/11/2019 | 84/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-338/CUS/AHD/NOV/25-26 |
| 70 | 5659861 | 13/11/2019 | 85/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-339/CUS/AHD/NOV/25-26 |
| 71 | 5660040 | 13/11/2019 | 86/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-340/CUS/AHD/NOV/25-26 |
| 72 | 5662985 | 13/11/2019 | 87/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-341/CUS/AHD/NOV/25-26 |
| 73 | 5664890 | 13/11/2019 | 88/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-342/CUS/AHD/NOV/25-26 |
| 74 | 5669072 | 14/11/2019 | 89/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-343/CUS/AHD/NOV/25-26 |
| 75 | 5669557 | 14/11/2019 | 90/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-344/CUS/AHD/NOV/25-26 |
| 76 | 5692443 | 15/11/2019 | 91/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-345/CUS/AHD/NOV/25-26 |
| 77 | 5693422 | 15/11/2019 | 92/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-346/CUS/AHD/NOV/25-26 |
| 78 | 5700912 | 16/11/2019 | 93/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-347/CUS/AHD/NOV/25-26 |
| 79 | 5701795 | 16/11/2019 | 94/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-348/CUS/AHD/NOV/25-26 |
| 80 | 5756963 | 20/11/2019 | 95/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-349/CUS/AHD/NOV/25-26 |
| 81 | 5757183 | 20/11/2019 | 96/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-350/CUS/AHD/NOV/25-26 |
| 82 | 5762349 | 20/11/2019 | 97/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-351/CUS/AHD/NOV/25-26 |
| 83 | 5771536 | 21/11/2019 | 98/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-352/CUS/AHD/NOV/25-26 |
| 84 | 5771679 | 21/11/2019 | 99/MK/DC/TUMB/2025-26  | 17/10/2025 | S/49-353/CUS/AHD/NOV/25-26 |
| 85 | 5775656 | 21/11/2019 | 100/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-354/CUS/AHD/NOV/25-26 |
| 86 | 5778724 | 21/11/2019 | 101/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-355/CUS/AHD/NOV/25-26 |
| 87 | 5778809 | 21/11/2019 | 102/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-356/CUS/AHD/NOV/25-26 |
| 88 | 5821079 | 25/11/2019 | 103/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-357/CUS/AHD/NOV/25-26 |
| 89 | 5821592 | 25/11/2019 | 104/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-358/CUS/AHD/NOV/25-26 |
| 90 | 5825317 | 25/11/2019 | 105/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-359/CUS/AHD/NOV/25-26 |
| 91 | 5839645 | 26/11/2019 | 106/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-360/CUS/AHD/NOV/25-26 |
| 92 | 5839692 | 26/11/2019 | 107/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-361/CUS/AHD/NOV/25-26 |
| 93 | 5839713 | 26/11/2019 | 108/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-362/CUS/AHD/NOV/25-26 |
| 94 | 5839756 | 26/11/2019 | 109/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-363/CUS/AHD/NOV/25-26 |
| 95 | 5859409 | 28/11/2019 | 110/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-364/CUS/AHD/NOV/25-26 |




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|----|---------|------------|------------------------|------------|----------------------------|
| 96 | 5879850 | 29/11/2019 | 111/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-365/CUS/AHD/NOV/25-26 |
| 97 | 5898192 | 30/11/2019 | 112/MK/DC/TUMB/2025-26 | 17/10/2025 | S/49-366/CUS/AHD/NOV/25-26 |

2. As the issue involved is identical in all the 97 appeals, they are being taken up simultaneously for disposal. Facts of the case, in brief on the basis of impugned orders, are that the Appellant had imported various variety of Aluminium Scrap ( herein after referred to as "the impugned goods" ) and had filed Bills of Entry under self-assessment for clearance of goods for home consumption. However, all these Bills of Entry were re-assessed by the proper officer, who rejected the unit rate declared by the appellant and increased it value based on DGOV's valuation guidelines (F.No. VAL/TECH/10/2018, dated 15.11.2018) and using the LME reference value. The details of these re-assessments are provided in Table-I above.

2.1 The Appellant had filed the Bills of Entry along with necessary documents i.e. Invoice, Packing List, Bill of Lading, Certificate of Origin, Pre-shipment Inspection Certificate and Pollution Control Board Registration Certificate through e-Sanchit. The said Bills of entry were selected for examination and same were examined and found as declared. However, on scrutiny of the said Bills of Entry it was observed that the importer has declared less Unit Price of the impugned goods ranging between \$ 825/- to \$ 1460/- per MTS as compared to the price mentioned LME price.

2.2 The adjudicating authority, observed that under the self-assessment procedure, the importer is responsible for submitting accurate documentation and adhering to the applicable legal provisions. In the case at hand, the adjudicating authority, after considering the London Metal Exchange (LME) prices, determined that the declared value of the goods was lower than prevailing international market rates. While the LME specifically pertains to primary metals, it remains a widely recognized global benchmark. Therefore, it can be utilized as a reference point to assess whether the declared value is consistent with market realities, particularly in cases where there are concerns about potential undervaluation.

 The adjudicating authority, observed that the declared value of the impugned goods was very low, and the Assessing Officer, in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as "the Rules"), had reason to doubt the truth and accuracy of the transaction value, accordingly rejected the declared value under Rule 12 of the Rules, read with Rule 3 of the Rules. The Assessing Officer then re-determined the assessable value by applying provision of Rule 9 of the Rules.

2.4 The adjudicating authority, based on the guidelines in DGOV's valuation letter F.No. VAL/TECH/10/2018 dated 15.11.2018 and referencing the LME prices around

the Bill of Lading (B/L) date, determined that the adjusted value of the goods, after applying a discount for scrap, comes to range between \$1,251 and \$1,644 per metric ton (MTS). The significant deviation from this range indicated that the declared transaction value did not reflect the true market value of the goods. As a result, the value was re-determined under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Therefore, the adjudicating authority rejected the appellant's declared value and increased the unit price of the goods based on the LME prices.

3. Being aggrieved with the impugned orders passed by the Adjudicating Authority, the Appellant have filed the present 97 appeals. The Appellant, *inter-alia*, have raised various contentions and filed detailed submissions as given below in support of their claims:

- That the Assessing officer has reassessed all 97 Bills of Entry, covering imports of different grades of Aluminum Scrap by arbitrarily enhancing the values & without following principles of natural justice. The assessing officer has re-assessed the Bills of Entry in total disregard to the provisions of law and without affording opportunity to rebut the evidences based on which he has enhanced the declared transaction values.
- That the impugned Order does not rely on any proper enquiry required to be made by Proper Officer. The record of the case would indicate a clear bias on the part of the Proper Officers assessing the BoEs by enhancing the value without applying the settled law. Not only the conduct is exhibiting a gross dereliction of duties cast on a quasi-judicial officer performing the assessment but is also in violation of Natural Justice and the re-assessment by enhancing the value cannot stand up to Scrutiny and is required to be annulled.
- That the transaction values as declared by the appellant in all the bills of entry under self-assessment basis should be considered correct, in terms of section 14 of Customs Act, 1962 read with Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- That the Assessing officer ought to have observed that in terms of Rule 3 (1) of the Customs Valuation Rules, 2007 subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with the provisions of Rule 10 and it is only when the import is covered under categories prescribed under proviso to Rule 3 (2) of the said Rules, the value can be rejected.
- That the Assessing officer was first required to discard the transaction values under Rule 12 of Customs Valuation Rules, 2007 by giving cogent reasons and adequate evidence but neither any query was raised nor any contemporaneous details was provided.
- That the Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with sections 17(2), 17(3), and 17(4) of the Customs Act, 1962, provides the mechanism and circumstances for rejecting the declared value. Rule 12 of the CVR 2007 provides the mechanism and circumstances for rejecting




the declared value. Hence without following these principles as laid down in the said provisions of customs, the declared value shall not be rejected. There are various parameters for comparison such as the source of material, origin country, vendor, contract, nature of material, etc. Without a detailed analysis, the department cannot arbitrarily raise doubt on the accuracy of the declared value. The said rule prescribes that, when proper officer has reason to doubt about the truth or accuracy of the declared value of the imported goods, he may ask the importer to furnish further or other evidence and after receiving such further information, or in the absence of any response from the importer if the proper officer still has reasonable doubt about the truth or accuracy of the declared value, then he may reject the declared value and then proceed sequentially from Rule 4 to 9 of the Customs Valuation Rules, 2007.

- That the Assessing officer totally lost sight of the provisions contained in the Customs Act, as well as the valuation rules. The assessing officer ought to have observed that Section 14(1) clearly prescribes that the value of imported goods shall be the transaction value of such goods that is to say, the price actually paid or payable for the goods when goods are sold for export to India for delivery at the time and place of importation, where the buyer and seller of the goods are not related and price is the sole consideration as all the transactions were conducted at arm's length.
- That the Appellants further submit that the Assessing Officer rejected all transaction values as listed in Annex and in each case it is observed that he has followed valuation on the basis of some general criteria based on LME/DGOV Alert which is not permissible in law. DGOV Alert Circulars cannot override the provisions of Valuation Rules as per the decision of this Tribunal in the case of Commissioner of Customs v. FSP (India) Pvt. Ltd. 2009 (234) E.L.T. 268 (Tri.-Mum.) and the Hon'ble Apex Court in the case of Eicher Tractors Ltd. v. Commissioner of Central Excise 2000 (122) E.L.T. 321 (S.C.), but the assessing officer has straightaway adopted the value given in the DGOV Circular based on the LME prices of prime metal minus discounts. The assessing authority has to examine each and every case on merits for deciding its validity and he cannot form a view to reject all transaction values on the basis of some general criteria based on DGOV Circular. Hon'ble Apex Court in the case of M/s. Century Metal Recycling Pvt. Ltd. vs UNION OF INDIA on 17.05.2019 & Mumbai Tribunal in the case of Commissioner of Customs v. FSP (India) Pvt. Ltd. (cited supra) held that uniform loading based on general criteria is not permissible.
- That in the matter of COMMISSIONER OF CUSTOMS, NEW DELHI Versus PRABHU DAYAL PREM CHAND Reported in 2010 (253) E.L.T. 353 (S.C.) rejected the Department's Appeal for taking LME as the basis for valuation, and upheld the order passed by the Tribunal setting aside the additional demand created against the defendants.
- That the CESTAT, Ahmedabad upheld the Appeal in the matter of Pushpak Metal



Corpn Versus Commissioner Of Customs, Kandla As reported in 2014 (312) E.L.T. 381 (Tri. - Ahmd.) where Revenue's reliance on LME prices of aluminum prime metal for valuation of Aluminum Scrap was not accepted by Tribunal on the ground that "LME prices do not pertain to metal scrap which is merely indicative of the prime quality metals".

- That the Appellants further submit that the Assessing officer had not sought to furnish further evidences in support of the transaction value. In the absence of any data regarding the values of contemporaneous imports of either identical or similar goods the lower authority ought not to have enhanced the declared values in arbitrary and illegal manner. In this regard the Appellants rely upon the following judgments:
  - a. 2017 (357) ELT 904 (Tri-Chennai) - Haji Sattar& Sons Vs. CC, Chennai reported in.
  - b. 2013 (289) ELT 305 (Tri. Del.) - CC, New Delhi vs. Nath International.
  - C. 2015 (330) ELT 799 (Tri. Chennai) - Topsia Estates Pvt. Limited vs. CC (Import- Seaport), Chennai
  - d. 2013 (287) ELT. ( Tri. – Mumbai) –C.C. (Import), Nhava Sheva V/s Bharathi Rubber Lining & Allied Services P Ltd.
- There are plethora of judgments ruling that the value cannot be enhanced arbitrarily without following the law laid down in the Act and Rules governing the issue. The Appellants rely upon the following judgments:
  - a. 2007 (214) ELT 3 (SC) - CC, Calcutta Vs. South India Television.
  - b. 2009 (238) ELT 135 (Tri-Chennai) - Pushpanjali Silk Pvt. Ltd. Vs. C.C., Chennai.
  - c. 2015(318) ELT 649 (Tri-Mum) - PNP Polytex Pvt. Ltd. Vs. Commissioner Of Customs, NhavaSheva.
- That the Appellants further submit that enhancement of declared value deserves to be set aside in the absence of passing speaking order within 15 days of summary assessment as held by Hon'ble Tribunal in the case of C.C. (Export), Nhava Sheva Vs. Mittal Processors P. Ltd. reported in 2013 (293) ELT 384 (Tri- Mumbai) and Hon'ble Calcutta High Court in the case of Kothari Metals Ltd. Vs. UOI reported in 2011 (274) ELT 488 (Cal.), as well as in the case of Sigma Power Products Pvt. Ltd. VS. Commissioner of Customs (Port) reported in 2017 (350) ELT510 (Cal).
- That further, mere payment of duty does not absolve the Assessing officer from passing speaking order unless the reassessment has been accepted by the importer in writing. In this regard Appellants rely upon judgment of Hon'ble Calcutta High Court in the case of Gateway and Commodities Pvt. Ltd. Vs. Union of India reported in 2016 (333)ELT 263 (Cal).



4. Personal hearing in the matter was held on 26.11.2025 through physical mode. Shri Harishankar Pandey, Legal Manager, appeared for personal hearing on behalf of the Appellant. He had reiterated the submissions made at the time of filing of appeal. He also filed additional submissions relying on the following orders:

- (1) *CC(Import) , Nhava Sheva, V/s Bharathi Rubberking Lining & Allied Services P. Ltd. 2013(287) ELT 124 (Tri-Mumbai),*
- (2) *Commissioner of Customs, New Delhi V/s Prabhudayal Premchand. 2010(253) ELT 353 (S.C)*
- (3) *Pushpak Metal Corp. V/s Commissioner of Customs, Kandla. 2014 (312) ELT 381 (Tri- Ahmd.).*
- (4) *Boards letter F.No.: 387/W/9/2013-JC dt. 25.06.2013 issued by Judicial Cell, CBEC, New delhi .*
- (5) *Century Metal Recycling Pvt. Ltd. V/s Union of India. 2019 (367) E.L.T. 3 (S.C.),*
- (6) *OIA No.: AHD-CUSTM-000-APP-294-24-25 dt. 10.02.2025 of M/s Metalloys Recycling Ltd.*
- (7) *OIA No.: AHD-CUSTM-000-APP-164-25-26 dt. 07.08.2025 & OIA No.: AHD-CUSTM-000-APP-163-25-26 dt. 07.08.2025 in the matter of M/s NICCO Extrusion Ltd., Silvasa, Gujarat.*

5. Before going into the merits of the case, I find that as per appeal memorandum, all 97 appeals as per Table-I above, have been filed within statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. Further, with requirement of payment of Pre-deposit, the appellant has submitted that they have paid entire duty, therefore requirement of payment of pre deposit under section 129 of the Customs Act, 1962, is fulfilled. As the appeal has been filed within the stipulated time-limit and pre-deposit requirement has been fulfilled, it has been admitted and being taken up for disposal on merits.

6. It is observed that the appellant imported different grades of aluminium scrap and filed Bills of Entry under self-assessment, details as mentioned in Table-I above, along with the prescribed documents for clearance of goods for home consumption. However, during the verification of the self-assessed Bills of Entry, the Assessing Officer noticed that the price declared by the appellant for the imported aluminium scrap was significantly lower than the contemporary price as reflected in the LME and as per DGOV's circular/letter F.No. VAL/TECH/10/2018 dated 15.11.2018. Since the declared value was considered very low, the Assessing Officer rejected the declared value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and re-determined the assessable value under the provisions of Rule 9 of 'the Rules'. The adjudicating authority, in the respective impugned

orders, upheld the assessable value enhancement carried out by the Assessing Officer.

7. I have carefully gone through the impugned orders, the appeal memorandums filed by the Appellant, the submissions made by the Appellant during the course of the hearing, as well as the documents and evidence available on record. The main issue to be decided in the present appeal is whether the impugned orders passed by the adjudicating authority upholding the assessment of the Bills of Entry in question on enhanced assessable value as assessed by the Appraising Officer, in the facts and circumstances of the case, is legal and proper or otherwise?

7.1 I find from the impugned orders that the adjudicating authority has not made any discussion and given any findings on whether the re-assessment of the Bills of Entry has been accepted by the Appellant or otherwise. However, on perusal of the impugned orders, it is observed that the adjudicating authority has recorded that "*Considering LME Price , it is observed that the declared value \$ 1090/- per MTS appears significantly lower when compared to prevailing international market indicators, although LME pertains to primary metals, it still serves as a globally recognised benchmark and can be used as a reference point to assess whether declared values are consistent with commercial realities, especially in cases where undervaluation is suspected.*"

7.1.1 The adjudicating authority further in impugned orders recorded that- *As per DGOV's valuation guidelines (F.No.: VAL/Tech/10/2018 dated 15.11.2018) and taking reference from LME prices applicable around the B/L date, the adjusted value after applying an appropriate discounts for scrap reasonably comes to \$ 1324/- Per MTS.* Therefore, it is apparent that value of the impugned goods have been enhanced in respect of 97 Bills of Entry given in Table – I above without raising any query.

7.2 As the value in respect of 97 Bills of Entry as mentioned in Table – I above have been enhanced without raising any query, it is relevant to refer to Rule 12 of the Customs Valuations Rules, 2007 and Explanation thereof. The same is reproduced below for ease of reference:

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

**(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a**



reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

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

*(i) & (ii) .....*

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

- (a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;*
- (b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;*
- (c) the sale involves special discounts limited to exclusive agents;*
- (d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;*
- (e) the non declaration of parameters such as brand, grade, specifications that have relevance to value;*
- (f) the fraudulent or manipulated documents.*

*(emphasis supplied)*

7.3 On perusal of the legal provisions under Rule 12 of the Customs Valuation Rules, 2007 above, it is apparent that the proper officer has powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include 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.

7.4 It is also relevant to consider the observations of the Larger Bench of Hon'ble Supreme Court in case of Century Metal Recycling Pvt. Ltd. [2019 (367) E.L.T. 3 (S.C.)], wherein, it is held that Rule 12 of the Valuation Rules enjoys primacy and pivotal position and applies where the proper officer has reason to doubt the truth or accuracy of the value declared for the imported goods. It is also held that Clause (iii) of Explanation to Rule 12 states that the proper officer can on 'certain reasons' raise doubts about the truth or accuracy of declared value. 'Certain reasons' would include conditions specified in clauses (a) to (f). Further, it was held that Clause (i) to the Explanation states that Rule 12 does not provide a method of determination of value but provides the procedure or mechanism in cases where declared value can be rejected when there is a reasonable doubt that the declared transaction value does not represent the actual transaction value.

In such cases, the transaction value is to be sequentially determined in accordance with Rules 4 to 9 of the 2007 Rules. Relevant paras of the Judgment are reproduced below:

**"14. Rule 12, which as noticed above enjoys primacy and pivotal position, applies where the proper officer has reason to doubt the truth or accuracy of the value declared for the imported goods. ....**



15. The requirements of Rule 12, therefore, can be summarised as under :

- (a) The proper officer should have reasonable doubt as to the transactional value on account of truth or accuracy of the value declared in relation to the imported goods.
- (b) Proper officer must ask the importer of such goods further information which may include documents or evidence;
- (c) On receiving such information or in the absence of response from the importer, the proper officer has to apply his mind and decide whether or not reasonable doubt as to the truth or accuracy of the value so declared persists.
- (d) When the proper officer does not have reasonable doubt, the goods are cleared on the declared value.
- (e) When the doubt persists, sub-rule (1) to Rule 3 is not applicable and transaction value is determined in terms of Rules 4 to 9 of the 2007 Rules.
- (f) The proper officer can raise doubts as to the truth or accuracy of the declared value on 'certain reasons' which could include the grounds specified in clauses (a) to (f) in clause (iii) of the Explanation.
- (g) The proper officer, on a request made by the importer, has to furnish and intimate to the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to the imported goods. Thus, the proper officer has to record reasons in writing which have to be communicated when requested.
- (h) The importer has to be given opportunity of hearing before the proper officer finally decides the transactional value in terms of Rules 4 to 9 of the 2007 Rules

(emphasis supplied)

7.4.1 The Larger Bench of Hon'ble Supreme Court, while analyzing the expression "reason to doubt", held that the 'Proof beyond reasonable doubt' is not the requirement under valuation rules in following terms :

17. The choice of words deployed in Rule 12 of the 2007 Rules are significant and of much consequence. The Legislature, we must agree, has not used the expression "reason to believe" or "satisfaction" or such other positive terms as a pre-condition on the part of the proper officer. The expression "reason to believe" which would have required the proper officer to refer to facts and figures to show existence of positive belief on the undervaluation or lower declaration of the transaction value. The expression "reason to doubt" as a sequitur would require a different threshold and examination. It cannot be equated with the requirements of positive reasons to believe, for the word 'doubt' refers to un-certainty and irresolution reflecting suspicion and apprehension. However, this doubt must be reasonable i.e. have a degree of objectivity and basis/foundation for the suspicion must be based on 'certain reasons'.

18. The expression 'proof beyond reasonable doubt' in criminal law requires .....



*.....Proof beyond 'reasonable doubt' is certainly not the requirement under proviso to Section 14 of the Act and Rule 12 of the 2007 Rules, albeit the above quote draws a distinction between a simple doubt and a doubt which is reasonable. ...."*

(emphasis supplied)

7.4.2 I also find that the Hon'ble Supreme Court in above referred case, after considering the peculiar facts of the case filed by Century Metal Recycling Pvt. Ltd., which includes findings and observations of the Adjudicating Authority in OIO, held in favour of the appellant, clarifying that the Hon'ble Supreme Court has not issued any general or omnibus direction that the transaction value declared in the bill of entries should invariably be accepted in all cases and/or that in all cases where imports of aluminium scrap are involved, as follows :

**"26. We would also like to clarify that we have not issued any general or omnibus direction that the transaction value declared in the bill of entries should invariably be accepted in all cases and/or that in all cases where imports of aluminium scrap are involved. The matter has to be examined on a case to case basis, the evidence before the authorities, the material placed on record and the enquiries conducted by the adjudicating authorities, etc."**

(emphasis supplied)

7.5 Further, the Hon'ble Supreme Court in case of Varsha Plastics Pvt. Ltd. [2009 (235) E.L.T. 193 (S.C.)], held that once transaction value is rejected, the Customs authority has to proceed to determine the value of goods by following Customs Valuation Rules. It is further held that that contemporaneous import of the same goods obviously provides the best guide for determination of value of the import of goods but in the absence of evidence of contemporaneous import, reference to foreign journal for finding out correct international price of imported goods may not be irrelevant because ultimately the Assessing Authority has to determine value of the imported goods. The relevant para is reproduced below:

**"21. In so far as the reference to PLATT's Price Report or other reputed financial journals which are indicators of international prices for the value of imported goods for the purpose of Section 14(1) is concerned, suffice it to observe that once transaction value is rejected on valid grounds, the Customs Authority has to proceed to determine the value of goods by following Customs Valuation Rules and on the basis of contemporaneous import. However, in the absence of any evidence with regard to contemporaneous import, reference to foreign journals that may indicate the correct international price for the purposes of Section 14 may not be irrelevant and relying upon such journal cannot be said to be altogether unreasonable. As to whether in a given case such foreign journal or for that matter PLATT's Price Report indicate correct international price of the concerned goods for the purpose of Section 14(1) would depend on facts of each case and that would be for the department to establish. The valuation of the imported goods where the transaction value in the opinion of Assessing Authority is liable to be rejected because of invoice**

*manipulation or under-invoicing or un-realistic price or misdeclaration in respect of valuation of goods or description or where transaction value of the goods declared is ridiculously low, which of course the Assessing Authority has to justify, he must proceed to determine valuation of goods by following Customs Valuation Rules. The availability of evidence of contemporaneous import of the same goods obviously provides the best guide for determination of value of the import of goods but in the absence of evidence of contemporaneous import, reference to foreign journal for finding out correct international price of imported goods may not be irrelevant because ultimately the Assessing Authority has to determine value of the imported goods, at which such goods are sold or offered for sale in the course of international trade at the time of importation."*

(emphasis supplied)

7.6 It is observed, in light of the above judgments of the Hon'ble Supreme Court of India, that the proper officer has power to raise doubts on the truth or accuracy of the declared value based on certain reasons, which may include 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, have been assessed. It is further held that the proper officer can, therefore, reject the declared transactional value based on 'certain reasons' to doubt the truth or accuracy of the declared value in which event the proper officer is entitled to make assessment as per Rules 4 to 9 of the 2007 Rules. However, opportunity of hearing before finally deciding the transactional value is to be given to the appellant, which is apparent from the legal provisions under Rule 12 of the Valuation Rules, 2007.

7.7 In view of the above legal provisions, it emerges that the proper officer, at the request of an importer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision. However, on perusal of the impugned orders, it is observed that the adjudicating authority has not followed the Customs Valuation Rules whereby, he was initially required to raise query before rejecting the declared value in respect of 97 Bills of Entry as mentioned in Table – I of the impugned order and subsequently required to apply the rules sequentially and thereafter enhance the declared value. I find from the impugned orders, as mentioned in the Table-I above, that no any queries were raised by the assessing officer with respect to the low value of the impugned goods. It is observed that no such exercise was carried out while rejecting the assessable value in the said 97 Bills of Entry. Therefore, the observation of the adjudicating authority in respect of rejecting 97 Bills of Entry are not supported by any legal provisions / principles and the findings arrived at are vague and cryptic. Therefore, I am of the considered view that the impugned order to the extent of rejecting the declared value in respect of 97 Bills of Entry, as mentioned in Table – I above suffers from legal infirmity and legally not sustainable and is required to be set aside on this ground alone.





8. Further, from the impugned orders, it is observed that the adjudicating authority, in impugned orders as given under Table-I above, have enhanced the value of the impugned goods on the basis of DGoV / LME / contemporaneous imports. However, the adjudicating authority have not made any discussion, mention and quote any data pertaining to LME prices / contemporaneous imports . The adjudicating authority has failed to provide any evidence/ proof with the details of any LME prices / contemporaneous imports . In this regard, I am of the considered view that in absence of any LME Prices / contemporary import data, rejection of declared value and subsequent enhancement of the assessable value in the impugned order is legally not sustainable without any documentary evidences / LME Prices / contemporary import data. Accordingly, the impugned order suffers from legal infirmity on this count and is required to be set aside.

The above observations are supported by the judgment of Hon'ble Supreme Court of India in case of Prabhu Dayal Premchand [2010 (253) E.L.T. 353 (S.C.)], wherein the departmental appeal was rejected where the value was enhanced relying upon the LME price. The relevant para of the order are reproduced below:-

*"In this appeal under Section 130-E of the Customs Act, 1962 (for short, "the Act"), the following question of law has been framed by the Revenue for adjudication*

*"Whether to accept the Transaction value as declared by the importer or the price of imported goods be determined on the basis of LME Prices."*

4. Aggrieved, the assessee carried the matter in further appeal to the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi, (for short "the Tribunal") as it then existed. By the impugned order, the Tribunal has allowed the appeal and quashed the additional amount of duty demanded from the respondent. While accepting the plea of the assessee that they were not confronted with any contemporaneous material relied upon by the revenue for enhancing the price declared by them in the bills of entry, the Tribunal has observed thus :

*"In the present case as mentioned above, even though there is a reference to contemporaneous import in the order passed by the Deputy commissioner no material regarding such import has been placed before us or made available by the appellant at any point of time. Therefore, assessment in this case has to be taken as having been made purely on the basis of LME Bulletin without any corroborative evidence of imports at or near that price which is not permissible under law. We, therefore, set aside the impugned order and allowed the appeal."*

5. Not being satisfied with the said order, the revenue is before us in this appeal.



6. We have heard Mr. Biswajit Bhattacharya, learned Additional Solicitor General on behalf of the revenue. The assessee remains unrepresented.

7. Learned counsel submits that since the LME bulletin is a true indicator of current international prices of metals, the adjudicating authority was justified in adopting the price of the said two metals as notified by the LME, and therefore, the Tribunal was not justified in quashing the additional customs duty determined to be payable on the imports in question.

8. We are unable to persuade ourselves to agree with the learned counsel. It is manifest from the afore-extracted order of the Tribunal that no details of any contemporaneous imports or any other material indicating the price notified by the LME had either been referred to by the adjudicating Officer in the adjudication order or such material was placed before the Tribunal at the time of hearing of the appeal. Learned counsel for the Revenue has not been able to controvert the said observations by the Tribunal. In that view of the matter no fault can be found with the order passed by the Tribunal setting aside the additional demand created against the assessee.

9. Consequently, the appeal being devoid of any merit, is dismissed with no order as to costs."

(emphasis supplied)

8.1 It is pertinent to mention that the observations of the Hon'ble Tribunal, as recorded in Para 4 of the above judgment above, are squarely applicable in the present case that even though there is reference to LME Price / contemporaneous import in the impugned orders passed by the adjudicating authority, no material regarding such import have been placed on record / recorded in the impugned orders. Therefore, rejection of assessable value and consequent re-assessment on enhanced value without any corroborative evidence of imports at or near that price is not permissible under law. In view thereof, I am of the considered view that the impugned order suffers from legal infirmity and legally not sustainable and is required to be set aside on this ground also.

8.2 Therefore, in light of the fact that neither the assessing officer nor the adjudicating authority has recorded any details of LME prices or contemporary imports of the impugned goods, which were imported around the same time at higher values, the observations of the adjudicating authority are also not supported by documentary evidence in the form of contemporary import data. Consequently, the findings reached are legally unsustainable. In my considered view, in the absence of any contemporary import data, the rejection of the declared value and the subsequent enhancement of the assessable value with respect to the 97 Bills of Entry listed in Table – I above, is legally unsustainable."

9. Further, it is observed that the adjudicating authority, in the impugned orders as detailed in Table-I above, has made the following findings:



"3. The said Bill of Entry was selected for examination and same was examined and found as declared. However, on scrutiny of the Bill of Entry, it is observed that the importer has declared the Unit price of the said goods \$ 1090/- Per MTS. The price of the goods was on lower side in comparison to the LME price"

"4. Considering LME Price, it is observed that the declared value \$ 1090/- Per MTS appears significantly lower when compared to prevailing international market indicators, although LME pertains to primary metals, it still serves as a globally recognised benchmark and can be used as a reference point to assess whether declared values are consistent with commercial realities, especially in cases where undervaluation is suspected."

"8. As per DGOV's valuation guidelines (F.No.: VAL/Tech/10/2018 dated 15.11.2018) and taking reference from LME prices applicable around the B/L date, the adjusted value after applying an appropriate discounts for scrap reasonably comes to \$ 1324/- Per MTS.

9.1 In this regard, it is pertinent to mention that it is settled law that value of imported goods cannot be enhanced in absence of contemporaneous import data, solely on the basis of LME price or DGoV Guidelines as held in the judgment of the Hon'ble Supreme Court of India in the case of Prabhu Dayal Premchand reported at 2010 (253) E.L.T. 353 (S.C.). It is further observed that the Hon'ble CESTAT, Ahmedabad has consistently held that the value enhancement solely relying upon DGoV alerts is not legally sustainable. The Hon'ble CESTAT, Ahmedabad, in case of M/s. Sunland Alloys [Final Order No. A/11030-11080/2020, dated 01.06.2020 held that:

"4. We have heard both the sides and perused the records. We find that the Assessing Authority reassessed the Bill of Entries by enhancing the value not on the basis of any material evidence which show that the appellant have misdeclared the value even no Contemporaneous Import Data was relied upon. The sole reason for enhancement of the value is on the basis of DGOV Guideline vide letter dated 15.11.2018. Therefore, the Adjudicating Authority has not followed the principle laid down under the Custom Valuation Rules and without application of mind straightway enhanced the value only on the basis of DGOV guideline. We make it clear that DGOV guideline is not above the statute, the adjudicating authority has not followed the Customs Valuation Rules whereby, he was supposed to first reject the declared value and subsequently he was supposed to apply rules sequentially and only thereafter, the value can be enhanced that too on the basis of evidence.

4.1 In the present case, no such exercise was carried out, Obviously for the reason that the enhancement of value on the basis of the DGOV guideline. In Absolutely identical case of the appellant themselves this tribunal has allowed the appeal vide Final Order No. A/1187111874/2019 dated 01.10.2019. In the said case also the value was enhanced on the basis of same DGOV guideline and the tribunal has categorically rejected such methodology of the valuation and allowed

the appeals filed by the appellant by passing detailed order. The said order is reproduced below:-

4. Heard both the sides and proposed .....

4.2 In view of the above order it can be seen that the issue of method of enhancement of the valuation is as per the DGOV Circular which has been rejected by this tribunal....."

(emphasis supplied)

9.1.1 The Hon'ble CESTAT, Ahmedabad in case of Guru Rajendra Metalloys India Pvt. Ltd. reported at [2020 (374) E.L.T. 617 (Tri - Ahmed.)] held that:

**"4.10** We find that both the lower authorities, they have not accepted that the prices are based on DGOV circular. However, the calculations shown by the Learned Consultant, it is clear that the enhancement of the value is not on the basis of contemporaneous imports data but clearly on the basis of DGOV circular. This Tribunal dealing with identical case in the case of Bharathi Rubber Lining & Allied Services P. Ltd. clearly held that DGOV circular cannot override the provisions of Valuation Rules. Invoice price is not sacrosanct but before rejecting the invoice price the department has to give cogent reasons for such rejection. Assessing Authority has to examine each and every case on merit for deciding its validity. He could not form the view to reject all transactions only on the basis of same general criteria based on DGOV circular. It was, however, held that if contemporaneous import were not noticed, Rules 5 and 6 of Customs Valuation Rules, 1988 could not be applied, the question of rejecting the transaction value under the Rule 10A does not arise at all."

9.2 I am of the considered view that these judicial pronouncement of Hon'ble Supreme Court and the jurisdictional Hon'ble CESTAT, Ahmedabad are binding upon the lower quasi-judicial authorities including the Commissioner (Appeals), Customs, Ahmedabad and I am bound to follow the precedence judgment of Hon'ble Supreme Court of India and Hon'ble CESTAT, Ahmedabad, in light of the law laid by the judgment of Hon'ble Supreme Court of India in case of Kamalakshi Finance Corporation Ltd. [1991 (55) E.L.T. 433 (SC)] and judgment of Hon'ble High Court of Gujarat in case of Lubi Industries LLP [2018 (337) E.L.T. 179 (Guj.)]

10. In view of the above discussion, I am of the considered view that rejection of the declared value under Rule 12 of the Valuation Rules, in absence of any contemporary import data, solely relying upon the LME price or DGoV guidelines, is legally not sustainable. Consequently, the re-assessment of 97 Bills of Entry and impugned orders, as detailed in Table – I above, on the enhanced value suffers from legal infirmity and is required to be set aside.

11. Upon careful consideration, I note that during the personal hearing, the



appellant has submitted that the previous Commissioner (Appeals), Customs, Ahmedabad, in Order-in-Appeal No. AHD-CUSTM-000-APP-294-24-25 dated 10.02.2025, allowed the appeals of the same appellant, M/s Metalloys Recycling Ltd., Mumbai, on the identical issue of the enhancement of the value of goods. The enhancement was based on the prevailing LME (London Metal Exchange) prices and the relevant provisions under the DGOV (Directorate General of Valuation) Circular.

The appellant further pointed out that the facts and circumstances underlying the said Order-in-Appeal (OIA) and the present case—comprising the 97 Bills of Entry and the impugned orders—are substantially identical and rest on the same factual and legal footing. It has also been brought to my attention that the Order-in-Appeal in question has been reviewed and accepted by the reviewing authority, thereby affirming the correctness and applicability of the findings made therein.

In view of the foregoing, it is evident that the legal and factual context in both cases remains unchanged. The principle of consistency in judicial and quasi-judicial decisions dictates that in the absence of any new or distinguishing facts, the findings of the earlier Order-in-Appeal should be applied to the present case. Accordingly, by adopting and applying the findings and discussions contained in the aforementioned Order-in-Appeal, and in accordance with the principles of fairness, consistency, and judicial discipline, the present appeals are hereby allowed.

12. In view of the discussion made above, the assessment on enhanced assessable value made in the 97 Bills of Entry, on the basis of LME price or DGoV guidelines and the impugned Orders, as tabulated in Table – I above, are set aside and the appeals are allowed with consequential relief.



  
(Amit Gupta)  
Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-270 to 366/CUS/AHD/Nov/2025-26

Date :27.11.2025

By Speed Post.

To,

M/s. Metalloys Recycling Ltd.,  
12, Niraj Industrial Estate, Off Mahakali  
Caves Road, Andheri (East),  
Mumbai-400093, Maharashtra.  
[harish@metalloysrecycling.com](mailto:harish@metalloysrecycling.com) / [info@metalloysrecycling.com](mailto:info@metalloysrecycling.com)

Copy to:

1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad.  
(email: [ccoaahm-guj@nic.in](mailto:ccoaahm-guj@nic.in) )
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.  
(email: [cus-ahmd-guj@nic.in](mailto:cus-ahmd-guj@nic.in)   [rra-customsahd@gov.in](mailto:rra-customsahd@gov.in) )
3. The Deputy Commissioner of Customs, ICD- TUMB, Dist.-Valsad-396150.  
([cusicd-tumb@gov.in](mailto:cusicd-tumb@gov.in))
4. Guard File.