सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS),अहमदाबाद AHMEDABAD,

चौथी मंज़िल 4th Floor, हडकोभवनHUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN – 20261071MN0000D4256A

क	फ़ाइलसंख्या **FILE NO.**	**S/49-69 to 80/CUS/KDL/OCT/26-27**
ख	अपीलआदेशसंख्या **ORDER-IN-APPEAL NO.** (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) **(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):**	**KDL-CUS-000-APP-61 to 72-2026-27**
ग	पारितकर्ता **PASSED BY**	**Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad**
घ	दिनांक **DATE**	**27. 10.2026**
ङ	उदभूतअपीलआदेशकीसं. वदिनांक **ARISING OUT OF Bills of Entry NO.**	**3512413 dated 02.09.0206, 3583494 dated 05.09.2026, 3583495 dated 05.09.2026, 3583496 dated 05.09.2026, 3583499 dated 05.09.2026, 3583503 dated 05.09.2026, 3583504 dated 05.09.2026, 3586373 dated 10.09.2026, 3980167 dated 24.09.2026, 3980170 dated 24.09.2026, 3980171 dated 24.09.2026, 3980177 dated 24.09.2026**
च	अपीलआदेशजारीकरनेकीदिनांक **ORDER- IN-APPEAL ISSUED ON:**	**27.10.2026**
छ	अपीलकर्ताकानामवपता **NAME AND ADDRESS OF THE APPELLANT AND RESPONDENT :**	**M/s Krishna Shipping & Allied Services, 53/54-A, Transport Nagar, Tankar Association Building, National Highway, Gandhidham - Kutch**

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

	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क(	बैगेज़ के रूप में आयातित कोई माल .
(a)	**any goods imported**
(ख(	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो .
(b)	**any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.**
(ग (	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी .
(c)	**Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.**
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं 6.अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए .
(a)	**4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.**
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	**4 copies of the Order-in-Original, in addition to relevant documents, if any**
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	**4 copies of the Application for Revision.**
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम,) 1962 यथा संशोधित (में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु)-/200 .रूपए दो सौ मात्र(या रु)-/1000.रूपए एक हज़ार मात्र(, जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर 6.की दो प्रतियां .यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु -/200.और यदि एक लाख से अधिक हो तो फीस के रूप में रु-/1000.
(d)	**The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.**
4.	मद सं 2 .के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1)के अधीन फॉर्म सी.ए 3-.में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं

	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	**2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016**
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए) 6 (के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए .	
(a)	**where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;**	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए	
(b)	**where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;**	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.	
(c)	**where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees**	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।	
(d)	**An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.**	
6.	उक्त अधिनियम की धारा 129 (ए (के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र -)क (रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील :अथवा) ख (अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- **(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or** **(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.**	

ORDER-IN-APPEAL

1. M/s Krishna Shipping & Allied Services, 53/54-A, Transport Nagar, Tankar Association Building, National Highway, Gandhidham - 370201 (hereinafter referred to as the 'Appellant') has filed 12 appeals in terms of Section 128 of the Customs Act, 1962, challenging the assessment of the following Bills of Entry mentioned in Table-I below:

Table –I

Sr No	Bill of Entry No	Bill of Entry Date	Appeal No
1	3512413	02.09.2026	S/49-69/CUS/KDL/OCT/26-27
2	3583494	05.09.2026	S/49-70/CUS/KDL/OCT/26-27
3	3583495	05.09.2026	S/49-71/CUS/KDL/OCT/26-27
4	3583496	05.09.2026	S/49-72/CUS/KDL/OCT/26-27
5	3583499	05.09.2026	S/49-73/CUS/KDL/OCT/26-27
6	3583503	05.09.2026	S/49-74/CUS/KDL/OCT/26-27
7	3583504	05.09.2026	S/49-75/CUS/KDL/OCT/26-27
8	3686373	10.09.2026	S/49-76/CUS/KDL/OCT/26-27
9	3980167	24.09.2026	S/49-77/CUS/KDL/OCT/26-27
10	3980170	24.09.2026	S/49-78/CUS/KDL/OCT/26-27
11	3980171	24.09.2026	S/49-79/CUS/KDL/OCT/26-27
12	3980177	24.09.2026	S/49-80/CUS/KDL/OCT/26-27

2. As the issue involved in all the twelve appeals is common, they are taken up together for disposal. The facts of the case, in brief, as detailed in the appeal memoranda, are that the Appellant is engaged, inter alia, in the business of import of Dates covered under CTH 0804.

3. The Appellant is having IEC No. 24AADFK8760C2ZH and has imported consignments of Dry Dates / Cut Dates from a UAE-based supplier at a negotiated price of USD 400 per MT (CIF). The Appellant filed the Bills of Entry as detailed in Table-I above with Custom House, Kandla, for clearance of the said imported consignments. It is clarified that out of the said twelve Bills of Entry, eleven Bills of Entry pertain to the import of Dry Dates falling under CTH 08041030 (attracting BCD @ 20% and IGST @ 5%), whereas the remaining Bill of Entry No. 3583504 dated 05.09.2026 pertains to the import of both Dry Dates (108.900 MTs) as well as Cut Dates (30 MTs) falling under CTH 08041090 (attracting BCD @ 30% and IGST @ 5%), the facts relating to which are set out separately in subsequent paras.

4. The Appellant self-assessed duty in the said Bills of Entry on the basis of the negotiated value mentioned in the invoice by the overseas supplier. The same is reflected in the check-list of the Bills of Entry. The value declared by the Appellant was actual transaction value as per Section 14 of the Customs Act, 1962. However, the assessing officer re-assessed Bills of Entry by way of enhancing the declared value. The Assessing Officer first raised a query regarding the declared value because there is a practice of re-assessment by enhancing value in accordance with guidelines issued by NAC or on the basis of the import data.

Vishwajeetsing

5. In 8 cases, the Appellant had consented to the enhancement of the assessable value, considering the perishable nature of the imported goods, the mounting demurrage, detention and rent charges, and the delay in clearance, which could potentially result in the cancellation of subsequent sale orders from prospective buyers. In 1 case, the Appellant had requested first-check examination of the imported cargo. In the remaining 3 cases, the FAG had directly enhanced the assessable value without raising any query or seeking the Appellant's consent for such enhancement. The details of these cases are tabulated hereinbelow:

Table -2

SN	Bill of Entry No	Bill of Entry Date	Appeal No	Description	CTH	Consented for value load	1st Check based loading	Direct Loading of value without query or consent
1	3512413	02.09.2026	49-69	Dry Dates	8041030	Yes		
2	3583494	05.09.2026	49-70	Dry Dates	8041030	Yes		
3	3583503	05.09.2026	49-74	Dry Dates	8041030	Yes		
4	*3583504*	*05.09.2026*	49-75	Dry Dates	*8041030*	Yes		
				Cut dates	*8041090*	Yes		
5	3980167	24.09.2026	49-77	Dry Dates	8041030	Yes		
6	3980170	24.09.2026	49-78	Dry Dates	8041030	Yes		
7	3980171	24.09.2026	49-79	Dry Dates	8041030	Yes		
8	3980177	24.09.2026	49-80	Dry Dates	8041030	Yes		
9	3583496	05.09.2026	49-72	Dry Dates	8041030		Yes	
10	3583495	05.09.2026	49-71	Dry Dates	8041030			Yes
11	3583499	05.09.2026	49-73	Dry Dates	8041030			Yes
12	3686373	10.09.2026	49-76	Dry Dates	8041030			Yes

a. In respect of the 8 cases in which the re-assessment had been done with the consent of the importer appellant as prescribed under Section 17 of the Customs Act, 1962: On being asked about the valuation as per SOP, like based on the NAC resolution or as per the data available for contemporaneous imports or another basis, the importer appellant in reply requested the assessing officer to proceed with the assessment of the Bill of Entry (BOE) at the value of USD 600 per metric ton, as agitating at that stage was not practical for the appellant because of increasing demurrage/detention/rent charges and delay in clearance which might cause cancellation of subsequent sale orders to prospective buyers. Therefore, the Appellant consented and paid the enhanced duty and got the imported goods cleared from Customs. Based solely on NAC guidelines/ Import Data, reassessment was done at USD 600 per MT for Dry Dates (CTH 08041030) as well as for Cut Dates (CTH 08041090). Rule 12 of the Customs Valuation Rules was not followed, though legally the transaction value can be rejected only under Rule 12, recording proper reasons and providing evidence. Enhancement solely based on the NAC guideline is contrary to valuation law.

Vishwajeet Singh

b. In the case of Bill of Entry No. 3583496 dated 05.09.2026, the Appellant had requested first-check examination of the imported goods. The examination report recorded the following remarks:

"Inspect lot. Check marks and nos. Open & examine 100%. Look for concealment and mis-declaration of quantity, value and import. Check that the goods are as declared. Check description, quantity. Vfy marked weight. Vfy the goods are of the country of origin. Follow RMS instructions. Vfy PGA NOC. Vfy compliance of RE-44, if applicable.".

Merely based on the aforesaid examination report, the FAG had directly reassessed the value of the imported dry dates (CTH 08041030) at USD 600 per MT. Neither had the Appellant's consent been obtained for the enhancement of value nor had a speaking order been issued within the prescribed period, as required under Section 17 of the Customs Act, 1962. Accordingly, the Appellant contended that the reassessment, having been carried out in violation of the provisions of Section 17 of the Customs Act, 1962, was legally unsustainable and liable to be set aside.

c. In the cases of the aforesaid three Bills of Entry, the FAG had enhanced the assessable value of the imported goods on its own, without raising any query regarding the declared transaction value, communicating any specific grounds for doubting the truth or accuracy of the declared value, or seeking the Appellant's consent to the proposed enhancement. The reassessment was thus undertaken without following the prescribed procedure for questioning and rejecting the declared transaction value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with the applicable provisions of Section 14 of the Customs Act, 1962. Further, the reassessment was contrary to the Appellant's self-assessment, and the Appellant had not confirmed its acceptance in writing. Consequently, in terms of Section 17(5) of the Customs Act, 1962, the proper officer was required to pass a speaking order within fifteen days from the date of reassessment. However, no such speaking order was passed within the prescribed period, setting out the reasons for rejecting the declared value and the legal and factual basis for adopting the enhanced value. The Appellant, therefore, contended that the unilateral enhancement, without adherence to the prescribed valuation procedure and the statutory requirement of a speaking order, was procedurally unsustainable and liable to be set aside.

SUBMISSIONS OF THE APPELLANT:

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

6.1 It is humbly submitted that consent does not validate illegal assessment. As per Section 17(5) of the Customs Act, 1962, the only consequence of consent is that the Speaking Order may not be issued. It does not take away right to challenge the Assessment in appeal. The consent was under business compulsion to avoid delay in clearance and demurrage. We did not relinquish our rights to appeal. It was not a waiver of statutory rights and cannot cure an illegal reassessment. It is settled law that there is no estoppel against statute which means a person cannot rely on consent, conduct, mistake, or agreement to prevent the operation of a law and if something is contrary to a statute, it remains illegal even if a party agreed to it. Courts and tribunals have consistently held that

Vishwajeet Sing

enhancement accepted to avoid demurrage does not bar appeal if valuation rules were not followed. It is a settled principle of law that there is no estoppel against statute. A statutory mandate cannot be defeated by consent, acquiescence, or conduct of a party. The reassessment in the present case, being contrary to Section 14 of the Customs Act, 1962 read with the Customs Valuation Rules, cannot be validated merely because the appellant consented to enhancement to avoid delay and demurrage. Such consent, given under commercial compulsion, does not amount to waiver of the appellant's statutory right to challenge an illegal assessment.

6.2 The appellant further submitted that the Hon'ble Supreme Court in the case of Dunlop India Limited v. UOI reported in 1983 (13) E.L.T. 1566 (SC) has laid down that even assuming that there is an acceptance it does not preclude the assessee from challenging by way of appeal as there cannot be an estoppel against law. Similar view was taken in [2015 (329) E.L.T. 307 (T)] and 2016 (343) E.L.T. 963(T).

6.3 The appellant further submitted that in the matter of Commissioner of Customs, Delhi Versus Maruti Fabric Impex, reported at 2016 (343) E.L.T. 963 (Tri. - Del.), it has been held by the Hon'ble CESTAT that in case of clearance of goods by the importer on the enhanced value so as to avoid detention and demurrage charges, the subsequent challenge of enhancement before the higher appellate forum amounts to the effect that such enhanced value was not accepted by the assessee and they cannot be stopped from contesting the same. Further, in the present case, there are guidelines of NAC and in the said matter there was alert of DRI and the Hon'ble Tribunal held that it is settled law that DRI Alerts cannot be adopted as a reason for enhancing the value and the same aspect applied here and thus, enhancement; of value on the basis of NAC is contrary to law.

6.4 The present appeal is being filed against erroneous re-assessment of Bills of Entry. The present appeal is being filed against assessment under Section 17 of the Customs Act, 1962. It is settled law that assessment on Bill of Entry is an appealable order and thus appeal against the same can be filed by any aggrieved party. In the present: matter, the appellant is aggrieved party due to re-assessment by the respondent by way of enhancement of declared transaction value. The appellant relies on the following judicial pronouncements:

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

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

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

6.5 Section 14 of the Act governs the valuation aspect. It provides that the value of the imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale, subject to such other conditions as may be specified in the rules made in this behalf. It is humbly

submitted that the Appellant had negotiated the value with the overseas supplier and both the parties amicably agreed at the value of USD 400 per MT. Accordingly, the overseas supplier is mentioning this negotiated value in the invoices and the Appellant is making payment of that amount only. There is no other consideration in monetary or any other manner. The overseas buyer and the Appellant are not related parties. Thus, this value is clearly the transaction value of the import by the Appellant from this overseas supplier. Thus, the reassessment by way of enhancement of value is totally arbitrary and illegal and is liable to be set aside with consequential relief.

6.6 Under the said Section 14, the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 have been framed. Rule 3 of the said Rules provide for determination of the method of valuation. It states that subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10. The Rule 10 provides *for inclusion of certain factors which is not the case in the present matter. Further, sub-Rule (2) of the said Rules provides conditions for acceptance of value of imported goods viz. there are no restrictions as to the disposition or use of the goods by the buyer, the sale or price is not subject to some condition or consideration for which a value cannot be determined, no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller and the buyer and seller are not related. It is humbly submitted that in the present matter there is no restriction as to the disposition or use of impugned goods. Further, the sale/ price is not subject to any condition/ consideration for which a value cannot: be determined. Further, sale proceed of impugned goods in local market belongs to the Appellant only and no part of it is accrue to the overseas supplier. The Appellant and the overseas supplier are totally independent parties and are not related in any manner. Further, as per Rule 12, declared value can be rejected in certain specific circumstances but the same are absent in this case. No reasons as stipulated in the said Rule 12 have been communicated to the Appellant. Thus, the re-assessment by way of enhancement of value is totally arbitrary and illegal and is liable to be set aside with consequential relief.

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

Vishwajeetsingh

under Section 17(2). Further, the Appellant was not asked to produce any document/ information for the purposes of verification as provided under Section 17(3). Further, it is not known as to what kind of verification has led the respondent to the conclusion that self-assessment is not correct as provided under Section 17(4) of the Act. Therefore, it is humbly submitted that the re-assessment by the respondent is arbitrary and contrary to the law

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

Personal Hearing:

7. A personal hearing in the matter was held on 15.10.2026 in virtual mode, following the principles of natural justice. Shri Abhishek Darak, Chartered Accountant and Authorised Representative of the Appellant, appeared for the personal hearing via virtual mode. He reiterated the submissions made at the time of filing of the appeals. He further stated that this office had already favoured the Appellant by setting aside identical cases of value enhancement on the same grounds vide following appeal orders:

a) Order-in-Appeal No. KDL-CUSTM-000-APP-143-175-25-26 dated 17.03.2026;

b) Order-in-Appeal No. KDL-CUSTM-000-APP-77-89-25-26 dated 30.03.2026;

c) Order-in-Appeal No. KDL-CUSTM-000-APP-09-12-25-26 dated 30.06.2026;

d) Order-in-Appeal No. KDL-CUSTM-000-APP-23-45-2026-27 dated 17.08.2026;

e) Order-in-Appeal No. KDL-CUSTM-000-APP-47-55-2026-27 dated 30.09.2026.

passed by this office itself, and prayed that all the present appeals to be allowed.

DISCUSSION AND FINDINGS:

8. I have carefully gone through the case records, the impugned Bills of Entry, the defence put forth by the Appellant in their appeals, and the arguments advanced during the course of the personal hearing. Before going into the merits of the case, it is observed that all 12 appeals have been filed within the statutory period of 60 days prescribed under Section 128(1) of the Customs Act, 1962. The dates of assessment of the Bills of Entry are as follows.

S.N	Bill of Entry No	Bill of Entry Date	Appeal No	Date of Assessment
1	3512413	02.09.2026	S/49-69/CUS/KDL/OCT/26-27	10.09.2026
2	3583494	05.09.2026	S/49-70/CUS/KDL/OCT/26-27	11.09.2026
3	3583495	05.09.2026	S/49-71/CUS/KDL/OCT/26-27	10.09.2026
4	3583496	05.09.2026	S/49-72/CUS/KDL/OCT/26-27	11.09.2026
5	3583499	05.09.2026	S/49-73/CUS/KDL/OCT/26-27	10.09.2026
6	3583503	05.09.2026	S/49-74/CUS/KDL/OCT/26-27	10.09.2026
7	3583504	05.09.2026	S/49-75/CUS/KDL/OCT/26-27	11.09.2026
8	3686373	10.09.2026	S/49-76/CUS/KDL/OCT/26-27	16.09.2026
9	3980167	24.09.2026	S/49-77/CUS/KDL/OCT/26-27	28.09.2026
10	3980170	24.09.2026	S/49-78/CUS/KDL/OCT/26-27	29.09.2026
11	3980171	24.09.2026	S/49-79/CUS/KDL/OCT/26-27	28.09.2026
12	3980177	24.09.2026	S/49-80/CUS/KDL/OCT/26-27	29.09.2026

Vishwajeet Singh

9. In all these cases, no speaking order has been passed. However, the appellant has filed appeals against the assessment of the Bills of Entry wherein the assessable value has been enhanced. Assessment of a Bill of Entry can be treated as a decision or order, and an appeal against assessment (including self-assessment and re-assessment) can be filed by importers before the appellate authority, as held by the Hon'ble Supreme Court in the case of ITC Ltd. Vs. Commissioner of Central Excise, Kolkata-IV [2019 (368) E.L.T. 216 (S.C.)]. So, the appeal against assessment is required to be filed within 60 days, or within the further condonable period of 30 days, from the date of communication of the assessment as per Section 128(1).

10. Before going into the merits, I find that the present appeals have been filed within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. The appeals are accordingly admitted and are being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

11. I find that no speaking order has been passed in any of these re-assessments. From the record it is seen that, in the eight cases where the Appellant gave its consent (Sr. No. 1-8 of Table-2), the FAG raised a query that the declared value was low as compared to contemporaneous imports and the SOP/NAC guidelines, and called upon the Appellant either to justify the declared value or to accept loading of the value, failing which the Bill of Entry would be assessed under Section 17 of the Customs Act, 1962; the Appellant, while maintaining that the declared value was the actual transaction value, consented to enhancement to USD 600 per MT only to avoid delay in clearance and the consequent demurrage, detention and ground rent, the goods being perishable, and expressly reserved its right to appeal. In the case of Bill of Entry No. 3583496, the Appellant sought first-check examination and the value was loaded on the basis of the examination report. In the remaining three cases (Bills of Entry No. 3583495, 3583499 and 3686373), the ICEGATE portal recorded that no query was pending, and the value was enhanced without any query being raised or any consent being obtained.

12. Now coming to the merits of the case, I find that the issue to be decided in the present appeals is whether the reassessment done in the Bills of Entry, enhancing the value on the basis of the NAC guideline or mere mention of other imports or on the basis of the examination report, but without obtaining the consent of the importer and without rejecting the declared transaction value in accordance with law, is legal and proper or otherwise in the facts and circumstances of the case.

13. It is observed that the appellant had imported various consignments of 'Dry Dates' (*CTH 08041030*) and 'Cut Dates' (*CTH 08041090*) from a UAE based supplier at negotiated price of USD 400 per MT (CIF), The appellant filed respective Bills of Entry with Custom House, Kandla seeking clearance of the said imported consignment for home consumption. The appellant self-assessed duty in the said Bills of Entry at the negotiated value mentioned in the invoice by the overseas supplier. The same is reflected in the check-list of the Bills of Entry. The value declared by the Appellant was actual transaction value as per Section 14 of the Customs Act, 1962. However, the assessing officer re-assessed Bills of Entry by way of enhancing the declared value solely based on NAC guidelines, other import data or examination reports,

Vishwajeet Sing

of suo-moto {without raising any query or availing any consent for loading of value} reassessment was done at USD 600 per MT for Dry Date as well as Cut dates, ignoring the transaction value which was USD 400 per MT. The enhancement of the value resulted into enhancement of duty as tabulated herein below:

S N	Appeal Number	Bill of Entry No	Goods Imported / CTH	Quantity	Price per MT declared in USD	Re-assessed Price Per MT	Declared Value	Total Declared Duty	Re-assessed Value	Re-assessed Duties	Diff Duty
1	49-69	3512413/ 02.09.2026	Dry Dates / 08041030	221.622	400	600	8650849	2430889	12976273	3646334	1215445
2	49-70	3583494/ 05.09.2026	Dry Dates / 08041030	251.35	400	600	9684170	2721251	14526255	4081878	1360627
3	49-71	3583495/ 05.09.2026	Dry Dates / 08041030	250.2	400	600	9639862	2708801	14459793	4063202	1354401
4	49-72	3583496/ 05.09.2026	Dry Dates / 08041030	195.5	400	600	7532346	2116589	11298519	3174884	1058295
5	49-73	3583499/ 05.09.2026	Dry Dates / 08041030	279.5	400	600	10768751	3026019	16153126	4539029	1513010
6	49-74	3583503/ 05.09.2026	Dry Dates / 08041030	193.925	400	600	7471664	2099538	11207495	3149306	1049768
7	49-75	3583504/ 05.09.2026	Dry Dates / 08041030	108.9	400	600	4195767	1179010	6293651	1768516	589506
			Cut Dates /008041090	30	400	600	1155859	458299	1733788	687447	229148
8	49-76	3686373/ 10.09.2026	Dry Dates / 08041030	167.206	400	600	6442217	1810262	9663326	2715395	905133
9	49-77	3980167/ 24.09.2026	Dry Dates / 08041030	167.7	400	600	6566394	1845157	9849591	2767735	922578
10	49-78	3980170/ 24.09.2026	Dry Dates / 08041030	279.95	400	600	10961610	3080212	16442415	4620318	1540106
11	49-79	3980171/ 24.09.2026	Dry Dates / 08041030	167.5	400	600	6558563	1842956	9837845	2764435	921479
12	49-80	3980177/ 24.09.2026	Dry Dates / 08041030	56	400	600	2192714	616153	3289070	924228	308075

14. As regards the eight appeals where the Appellant had given its consent to the enhancement (Sr. No. 1-8 of Table-2), I find that the reply of the Appellant itself records that the declared value is the actual transaction value and that the consent was being given only because contestation would delay clearance and cause demurrage, detention and ground rent, the goods being perishable. The Appellant has also lodged a protest and has filed the appeals within the statutory period. Section 17(5) of the Customs Act, 1962 only dispenses with the passing of a speaking order where the importer accepts the re-assessment in writing; it does not take away the statutory right of appeal under Section 128. It has been consistently held that clearance of goods on payment of duty on the enhanced value to avoid detention and demurrage does not preclude the importer from challenging the enhancement in appeal [Maruti Fabric Impex, 2016 (343) E.L.T. 963 (Tri.-Del.); Marque Enterprises, 2015 (329) E.L.T. 307 (Tri.-Del.); Digitech Photocopier, 2009 (233) E.L.T. 425 (Tri.-Del.)], and there can be no estoppel against law [Dunlop India Ltd., 1983 (13) E.L.T. 1566 (S.C.)]. I am conscious that the Hon'ble Supreme Court in Sanjivani Non-Ferrous Trading Pvt. Ltd. v. Commissioner of Customs (Imports), Mumbai [2019 (365) E.L.T. 3 (S.C.)] has held that where the importer has accepted the enhanced value, the Department is not required to establish the enhancement by evidence of contemporaneous imports. That decision, however, was rendered in the context of an unqualified acceptance. In the present case, the so-called consent is expressly qualified by the assertion that the declared value is the actual transaction value and is attributed to commercial compulsion, and it was followed by a protest and a timely appeal. Such a conditional consent cannot be equated with a voluntary and unqualified acceptance of the enhanced value. These eight appeals are, therefore, required to be decided on the merits of valuation.

15. In respect of the appeal against Bill of Entry No. 3583496 dated 05.09.2026, for which 1st Check had been opted for, it is observed that the FAG had sought re-assessment merely on the basis of the examination report of the Port officer. The Adjudicating Authority had not obtained the necessary consent from the importer appellant and had also failed to issue a speaking order as required under Section 17 of the Customs Act, 1962. The appellant had contended that the non-fulfillment of the provision of Section 17 of the Customs Act, 1962 rendered the assessment unsustainable. I find that the contention of the appellant has substantial force. Section 17(4) of the Customs Act, 1962 empowers the proper officer to re-assess the duty leviable on the imported goods where, upon verification, examination or testing of the goods or otherwise, the self-assessment is found to be incorrect. However, such power of re-assessment is subject to the statutory requirement prescribed under Section 17(5) of the Customs Act, 1962. Where the re-assessment is contrary to the self-assessment made by the importer and the importer does not confirm acceptance of such re-assessment in writing, the proper officer is required to pass a speaking order on the Bill of Entry within the prescribed period.

16. In the present case, the appellant had declared the value of the imported Dry Dates at USD 400 per MT, whereas the value was enhanced/re-assessed by the proper officer at USD 600 per MT. Thus, the re-assessment was admittedly contrary to the self-assessment made by the appellant. I further find from the records that the appellant had not furnished any written acceptance of the enhanced/re-assessed value of USD 600 per MT. The examination report merely contains a direction to upload the value acceptance letter from the importer. Such direction, by itself, cannot be construed as written acceptance of the re-assessment by the importer. I further find that no speaking order under Section 17(5) of the Customs Act, 1962 has been passed by the proper officer within 15 days of the re-assessment. The statutory requirement is not merely procedural or directory in nature. Where the re-assessment differs from the self-assessment and the importer has not accepted such re-assessment in writing, the law casts a specific obligation upon the proper officer to issue a reasoned speaking order. The requirement assumes particular significance where the declared transaction value is enhanced, since the importer is entitled to know the reasons and legal basis for rejection of its declared value and determination of the enhanced value.

17. In respect of Bills of Entry No. 3583495, 3583499 and 3686373, I find that the FAG enhanced the declared value without raising any query with the Appellant, without communicating any ground for doubting the declared transaction value, without giving the Appellant any opportunity to explain or substantiate the declared price, and without obtaining the Appellant's consent. No speaking order was passed recording the reasons for rejecting the declared value, the material relied upon, or the valuation method adopted. The enhancement was thus arbitrary and unilateral, made without following the procedure under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the principles of natural justice. I accordingly hold that the enhancement in respect of these three Bills of Entry is unsustainable and is liable to be set aside.

18. I find that the Hon'ble Supreme Court in *Commissioner of Customs, Nhava Sheva-III v. Jeen Bhavani International*, 2023 (385) E.L.T. 338 (S.C.), dismissed the Revenue's appeals against the decision of the Hon'ble CESTAT concerning the statutory requirement under Section 17(5). The said decision reinforces the requirement that where re-assessment is contrary to the self-assessment of the importer and the importer has not accepted such re-assessment in writing, the statutory mechanism under Section 17(5) is required to be followed.

Vishwajeet Singh

19. I further find that the above statutory requirement is also reinforced by CBIC Instruction No. 07/2018-Cus dated 05.04.2018, issued in the context of re-assessment under Section 17 of the Customs Act, 1962. The said Instruction specifically directs that where the importer does not accept the re-assessment in writing, the proper officer is required to pass a speaking order within 15 days from the date of re-assessment. The Instruction thus emphasizes that re-assessment contrary to the self-assessment of the importer cannot attain finality merely by making an enhancement in the Bill of Entry, without following the prescribed procedure and recording the reasons for such re-assessment. In the present case, admittedly, no written acceptance of the enhanced value of USD 600 per MT has been produced on record and no speaking order has been passed within the prescribed period. The action of the proper officer is, therefore, not only contrary to the statutory mandate contained in Section 17(5) of the Customs Act, 1962 but also contrary to the specific administrative instructions issued by the Board for implementation of the said statutory provision.

20. In the instant cases, the record does not establish that the appellant had voluntarily and expressly accepted in writing the enhanced value of USD 600 per MT. On the contrary, the very fact that the appellant has challenged the reassessment before the appellate authority demonstrates that the enhanced value was not accepted by the appellant. Further, no speaking order giving reasons for rejection of the declared value of USD 400 per MT and for adoption of USD 600 per MT has been brought on record. I also find that the examination report merely records that the value has been loaded to USD 600 per MT "as per contemporaneous import price and SOP". Such an observation cannot substitute the speaking order contemplated under Section 17(5). In particular, the proper officer was required to record the reasons for rejection of the declared transaction value and the legal basis/method adopted for determining the enhanced value. A mere reference to contemporaneous import price or SOP, without a reasoned determination communicated through the statutory speaking order, does not satisfy the requirement of Section 17(5).

21. I therefore hold that, once the declared value was re-assessed from USD 400 per MT to USD 600 per MT contrary to the self-assessment made by the appellant, and there being no written acceptance of such re-assessment by the importer, the proper officer was statutorily required to pass a speaking order in terms of Section 17(5) of the Customs Act, 1962 within the prescribed period. Failure to comply with the said mandatory requirement renders the impugned re-assessment unsustainable in law. The Hon'ble Supreme Court had also dismissed the Departmental appeal and ruled that re-assessment could not be considered as complete or final when no speaking order was passed and goods were allowed to be cleared on payment of duty without disputing the self-assessment. Following the ruling of the Hon'ble Supreme Court, I have no hesitation to hold that the re-assessment of the Bills of Entry from USD 400 per MT to USD 600 per MT was made without following the mandatory statutory procedure prescribed under Section 17(5) of the Customs Act, 1962. Accordingly, the impugned re-assessment cannot be sustained and the consequential enhancement of assessable value and differential duty arising solely therefrom is liable to be set aside, and the goods should be re-assessed on the value declared by the appellant.

Vishwajeet Singh

22. Further It is observed that the appellant has contended that Section 14 of the Customs Act, 1962 governs valuation aspect. It provides that the value of the imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf. The appellant further contended that he had negotiated value with the overseas supplier and both the parties amicably agreed at. the value of USD 400 per MT. Accordingly, the overseas supplier is mentioning this negotiated value i.e. USD 400 PMT, in the invoices and the appellant, is making payment of that amount only. There is no other consideration in any other manner. The overseas buyer and the Appellant arc not related parties. Thus, this value is clearly transaction value of the import by the Appellant from this overseas supplier. Thus, the re-assessment by way of enhancement of value is totally arbitrary and illegal and is liable to be set aside with consequential relief.

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

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

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

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

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

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

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

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

Vishwajeet Singh

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

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

Rule 12: Rejection of declared value

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

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

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

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

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

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

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

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

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

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

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

(f) the fraudulent or manipulated documents.

24. Thus, the Rule 12 provides that when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may call further information from importer including documents or other evidence and in case, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of rule 3(1), Explanation (iii) to rule 12 provides that the proper officer shall have the power to raise doubts on the truth or accuracy of the declared value based on certain reasons, which may include any of the six reasons contained therein. In the present case no such reason was there to doubt the truth or accuracy of the value declared. It is evident, from the query raised by the assessing officer that *"THE VALUE HAD TO BE LOADED AS NAC GUIDELINE/ DATA OF OTHER IMPORT/ EXAMINATION REPORT. Thus, from the wording of the query raised by the assessing officer, it is clear that none of the six reasons was present in the present case to doubt the truth or accuracy of the value declared.*

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

"8. *As regards valuation, we find from the above reproduced para from the Commissioner (Appeals) order that the Revenue has solely relied upon the NIDB data for the purpose of enhancement of value of the imported goods. Tribunal in the case of CC, New Delhi v. Virasat Electronics reported in 2015 (317) E.L.T. 295 (Tri.-Del.) as also in the case of CC, New Delhi v. Marble Art reported in 2013 (289) E.L.T. 346 (Tri.-Del.) has held that for adopting any other method for enhancement of the value of the imported goods, first of all transaction value is required to be rejected as incorrect/false on the basis of some evidences. It is only thereafter that the other method of deciding value has to be adopted. In any case, the Tribunal has observed that NIDB data cannot be held to be the proper basis for enhancement of the value.*

9. *When we apply the ratio of the above decisions to the facts of the present case, we find that Revenue has not made any efforts to reject the transaction value. There is virtually no*

Vishwajeet Singh

evidence on record to indicate that the value agreed upon between the importer and the exporter is not correct or any consideration of the goods has flown back to the exporter from appellant. If that be so, we agree with the learned Advocate that transaction value would reflect the correct assessable value of the impoted items. Otherwise also, we find that the reliance by the lower Authorities on the NIDB data is not correct. Apart from above two referred decisions, the is catena of decisions holding so. As such, we are of the view that the impugned orders are not proper and justified. The same are accordingly set aside and appeal is allowed with the consequential relief to the appellant.

Further I also rely upon the decision in the ease of SANJIVANI N0N-FERROUS TRADING PVT. LTD. Versus C.C.E. & S.T., NOIDA [2017 (7) G S T L S3 (Tri-all.) wherein the Hon'ble Tribunal has held that as provided by section 14 of the Customs Act 1962 the assessable value had to be arrived at on the basis of the price actually paid and in case the price is not the sole consideration, or if the buyer and seller are related person then after establishing that the price is not sole consideration, the transaction value can be rejected and taking the other evidences into consideration, the assessable value can be arrived at. The Tribunal observed that the such exercise had not been done in the present case in hand. Therefore, the tribunal rejected the enhancement of assessable value in respect of Bill of Entry under appeal. The relevant para reads as under:

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

8. In result, we set aside all the impugned Orders-in-Appeal and allow all the appeals. The appellant shall be entitled for consequential relief, if any, in accordance with law.

26. In view of the foregoing discussion, it is observed that in the present case there is no material or evidence on record to indicate that the price paid by the appellant does not represent the actual transaction value of the imported goods. There is also nothing on record to suggest that the buyer and seller are related or that the price declared is influenced by any consideration other than the sale of the goods. In terms of Section 14 of the Customs Act, 1962, the transaction value, being the price actually paid or payable for the goods when sold for export to India, is required to be accepted as the basis for determination of the assessable value, provided the prescribed conditions are satisfied. The declared transaction value can be rejected only

Vishwajeet Singh

in situations where there are reasonable grounds supported by evidence to doubt the truth or accuracy of the declared value, or where the circumstances specified under the Customs Valuation Rules warrant such rejection. In the present case, no such grounds or evidence have been brought on record to justify rejection of the declared transaction value. In the absence of any cogent material to establish that the declared value does not reflect the actual price in the course of international trade, the transaction value declared by the appellant ought to be accepted for the purpose of assessment. Accordingly, the assessable value of the goods is required to be determined on the basis of the transaction value declared by the appellant. The enhancement of value carried out by the assessing officer, without first rejecting the declared transaction value in accordance with the provisions of Section 14 of the Customs Act, 1962 read with the Customs Valuation Rules, is not sustainable in law and therefore cannot be upheld.

27. Further, the Rules mandate that the declared value can be rejected only on the basis of reasonable and cogent evidence, and the respondent Department has failed to discharge that burden. In the present cases, there is nothing on record to prove that the invoice value did not represent the true transaction value of the imported goods in the international transaction. Moreover, in the present cases, the Department has also not alleged any additional consideration or any of the exceptions under Rule 3(2) of the Valuation Rules. In such a situation, I find that when the Department has nowhere proved that it is either a case of misdeclaration of value or that there is a flow of additional consideration from the appellant, the transaction value so declared by the appellant in the import documents cannot be rejected arbitrarily. I find that there are a catena of decisions wherein it is held that the transaction value has to be arrived at on the basis of the price that is actually paid, as provided by Section 14 of the Customs Act, and the declared price can be rejected only by giving cogent reasons; but no such exercise was undertaken by the assessing officer to reject the value declared in the Bills of Entry.

28. My aforesaid views find support from the decision of the CESTAT principal Bench, Delhi, in Maruti Fabric Impex **[2016 (343) ELT 963 (Tri.-Del.)]. The Hon'ble tribunal had observed as under:**

> *2. As per facts on record, the respondents imported fabrics and filed bills of entries declaring the transaction value as the assessable value in terms of the provisions of Section 14 of Customs Act. The bills of entries were assessed by the proper officer by enhancing the declared assessable value. The respondents cleared the goods on payment of duty on the enhancement.*
>
> *3. The Appellate Authority took into consideration various facts including the issue as to whether an assessee can file an appeal against assessment made in the bills of entries, once he pays duty on the same and clears the goods, observed that acceptance of enhanced value proposed by the Department by an assessee does not preclude him from challenging the enhancement by way of appeal.*
>
> *As regards enhancement of assessable value, he observed that no reasons stand given by the Revenue for such an enhancement. There is no rejection of the transaction value and in such a scenario, the transaction value has to be adopted as the assessable value. He also observed that though no reasons stand reflected in the Revenue's assessment but the same seems to have been done on the basis of a DRI*

Vishwajeet Singh

Alert dated 9-5-2011. He observed that such Alerts or Circulars or Standing orders issued by the DRI or by Directorate of Valuation can work only as a guideline, but cannot be applied mechanically. As such, by relying upon the Tribunal decision in the case of CCE, New Delhi v. Artex Textile Pvt. Ltd. reported as 2014 (303) E.L.T. 572 (Tri.-Del.), he set aside the enhancement. Hence, the present appeals by the Revenue.

.....

.....

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

29. The present impugned assessment falls squarely within the ambit of Section 128A(3)(a) of the Customs Act, 1962, which empowers me to pass such order as I deem just and proper, including confirming, modifying, annulling or remanding the decision or order appealed against. Having regard to the fact that the impugned enhancement of value in respect of all the said Bills of Entry has been carried out without passing any speaking order and without following the mechanism prescribed under Rule 12 of the Customs Valuation Rules, 2007, I am of the considered view that the ends of justice would be met by setting aside the impugned re-assessment and order for re-assessment of imported goods at the declared price itself.

30. Further I find that in identical issues raised in previous imports by the Appellant, the matter has been decided by this office vide following appeal orders:

a) Order-in-Appeal No. KDL-CUSTM-000-APP-143-175-25-26 dated 17.03.2026;

b) Order-in-Appeal No. KDL-CUSTM-000-APP-77-89-25-26 dated 30.03.2026;

c) Order-in-Appeal No. KDL-CUSTM-000-APP-09-12-25-26 dated 30.06.2026;

d) Order-in-Appeal No. KDL-CUSTM-000-APP-23-45-2026-27 dated 17.08.2026;

e) Order-in-Appeal No. KDL-CUSTM-000-APP-47-55-2026-27 dated 30.09.2026.

where the various appeals by the appellant is allowed in their earlier import of identical goods and identical matter of enhancement of value.

31. Therefore, respectfully following the law laid down by the Hon'ble Supreme Court in the matter of M/s South India Televisions (P) Ltd., 2007 (214) ELT 3 (SC) that the onus to prove that the invoice value is

Vishweject Singh

incorrect lies on the Department and without adducing any evidence of contemporaneous Import of identical/ similar goods at higher price, rejection of transaction value, cannot be countenanced, I hereby set aside rejection of the declared transaction value and re-assessment of the impugned bills of entries as being arbitrary and contrary to stipulations of Valuation Rules discussed hereinabove.

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

33. Having observed so, I conclude that since in the present case the enhancement of value in respect of all the concerned Bills of Entry has been made by the assessing officer in an arbitrary manner, without any cogent reasons, without rejecting the declared transaction value in accordance with law, and without passing any speaking order, the said enhancement cannot be sustained. In view of the foregoing discussion and findings, I hereby order as follows:

ORDER:

I. I hereby set aside the value enhancement in respect of all 12 Bills of Entry and order for re-assessment of the same at the value declared by the appellant,

II. All these 12 appeals are allowed with consequential relief, if any, as per law.

Vishwajeet Singh
27.10.2026

(Vishwajeet Singh)
Commissioner of Customs
(Appeals), Ahmedabad.

F. No. S/49-69 to 80/CUS/KDL/OCT/2026-27
Date: 27.10.2026

By Registered post A.D

To,

1. M/s Krishna Shipping & Allied Services,
   53/54-A, Transport Nagar,

Tankar Association Building,
National Highway, Gandhidham - Kutch

2. CA Abhishek Darak,
Authorised Representative,
Duplex No 5, Plot No 261, Ward 10A,
Near Gurukul, Gandhidham Kutch

Copy to:

1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad.
2. The Commissioner of Customs, Custom House, Kandla.
3. Guard File.