सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल **4th Floor,** हडको भवन **HUDCO Bhawan,** ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura,** अहमदाबाद **Ahmedabad – 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20260171MN0000613472

क	फ़ाइल संख्या FILE NO.	S/49-94/CUS/MUN/2023-24 S/49-102/CUS/MUN/2023-24
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP- 797 to 798 -25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	29.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	(1) MCH/DC/NJ/Gr. III/761/2016-17 dated 06.02.2017 (2) MCH/DC/SP/FA/Gr.III/254/2016-17 dated 19.07.2016,
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	29.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Niraj Silk Mills, 384-E, Dabholkar Wadi, 2nd Floor, Room No 21, Kalbadevi Road, Mumbai-400 002

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 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 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

<table>
<tr><td></td><td colspan="2">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/-.</td></tr>
<tr><td>4.</td><td colspan="2">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</td></tr>
<tr><td></td><td colspan="2">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 :</td></tr>
<tr><td></td><td>सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td><td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td></tr>
<tr><td></td><td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td><td>2nd Floor, Bahumali Bhavan,
Nr.Girdhar Nagar Bridge, Asarwa,
Ahmedabad-380 016</td></tr>
<tr><td>5.</td><td colspan="2">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-</td></tr>
<tr><td></td><td colspan="2">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 -</td></tr>
<tr><td>(क)</td><td colspan="2">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.</td></tr>
<tr><td>(a)</td><td colspan="2">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;</td></tr>
<tr><td>(ख)</td><td colspan="2">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</td></tr>
<tr><td>(b)</td><td colspan="2">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 ;</td></tr>
<tr><td>(ग)</td><td colspan="2">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.</td></tr>
<tr><td>(c)</td><td colspan="2">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</td></tr>
<tr><td>(घ)</td><td colspan="2">इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।</td></tr>
<tr><td>(d)</td><td colspan="2">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.</td></tr>
<tr><td>6.</td><td colspan="2">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.</td></tr>
<tr><td></td><td colspan="2">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.</td></tr>
</table>

ORDER-IN-APPEAL

Two appeals have been filed by M/s Niraj Silk Mills, 384-E, Dabholkar Wadi, 2nd Floor, Room No 21, Kalbadevi Road, Mumbai-400 002, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the (1) Order-in-Original no. MCH/DC/NJ/Gr. III/761/2016-17 dated 06.02.2017 and (2)MCH/DC/SP/FA/Gr.III/254/2016-17 dated 19.07.2016 & (hereinafter referred to as 'the impugned order') issued by the Deputy Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant presented the following Bill of Entry through their CHA M/s Bright Shiptrans Pvt. Ltd., Gandhidham, at Custom House, Mundra, seeking clearance of Mixed lot of 100% Polyester Knitted Fabrics in assorted colour & weight falling under CTH 60053200 of Custom Tariff Act, 1985, originating from China and declaring the unit price as mentioned in the below table:

S. No.	Bill of Entry No.	Date	Qty (Kgs)	Ex. Rate	Declared Unit Price Per Kg (USD)	Assessable Value	Duty Paid Total
1	2066877	7/29/2015	21193.8	64.1	1.9	2607005	704694
2	2127261	8/4/2015	21490.6	64.1	1.9	2643514	714563
3	2472939	9/3/2015	21000.9	65.75	1.8	2510311	678557
4	2499380	9/7/2015	20554.9	66.85	1.8	2498105	675258
5	7463956	15.11.2016	19041.3	67.60	1.4	1820089	491985
6	7234424	26.10.2016	19053.4	67.55	1.4	1819899	491933
7	7704743	05.12.2016	19159.2	69.40	1.9	2551595	689717
8	7638885	29.11.2016	19106.3	68.80	1.9	2522551	681866

2.1 The appellant claimed the benefit of Sr. No. A 181 of Notfn. 2No. 72/2005-Cus dt.22.07.2005 which is specifically admissible to the goods falling under CTH 60053200. Thus, in order to ascertain the admissibility of exemption notification and other parameters suitable examination orders were incorporated while assessing the Bills of Entry. It was also found that declared unit price is around Rs.118/Kg to 122/Kg & Rs.95/Kg to 131/Kg whereas the contemporaneous imports of this commodity is Rs.148/Kg & Rs.152/Kg during the relevant time.

2.2 To follow the principles of natural justice, an opportunity of Personal Hearing granted to the Appellant for BEs mentioned at S.No. 1 to 4, on 31.12.2015, 11.01.2016 & 21.01.2016. In reply to above, appellant, vide their letter dated 20.01.2016 received on 21.01.2016, informed that they requested next date of PH in the month of February, but till the passing of the order no submission made on their behalf or nobody turned up for personal hearing before the Adjudicating Authority on due date and time. Further, for BEs mentioned at S.No. 5 to 8, the appellant vide various letters sought for waiver of SCN/Personal Hearing in the cases and requested to issue speaking order and they have paid duty under protest.

2.3 Consequently, the Adjudicating Authority passed the order as under:

For BEs mentioned at S.No. 1 to 4 -

(a) He rejected the value declared by the importer under the provisions of Rule 12 of CVR, 2007 and re-determine the value as USD 2.2 per Kg CIF under Rule 5 of CVR, 2007 and Bills of Entry referred above were assessed finally.

(b) On finalisation of Bills of Entry mentioned above, he ordered for recovery of differential duty as stated above under Section 28 (1) read with Section 18 (2) of Customs Act, 1962.

(c) He also order fored recovery of interest at the appropriate rate under Section 28AA read with Section 18(3) of the Customs Act, 1962

For BEs mentioned at S.No. 5 to 8 -

(a) He rejected the value declared by the importer under the provisions of Rule 12 of CVR, 2007 and re-determine the value at Rs.151/Kg USD/Kg as per Rule 3(4) read with Rule 5 of the CVR, 2007 and Bills of Entry were assessed accordingly;

(b) He rejected the protest letters submitted by the appellant and appropriate the duty paid under protest.

2.4 Aggrieved by the order of the Adjudicating Authority, the appellant filed appeal before the Appellate Authority. However, the Appellate Authority, vide OIA No. MUN-CUSTM-000-APP-079 TO 094-17-18 dated 30.06.2017, rejected the appeal on the grounds that the Appeal Memorandum was not filed by the competent person in terms of Rule 3 of the Custom Appeals Rules, 1982. Further, being aggrieved with said OIA, the Appellant filed further appeal before the Hon'ble CESTAT and Hon'ble CESTAT vide Order A/11161-11168/2023 dated 30.05.2023 has remanded back to the Commissioner (Appeals) to provide an opportunity to the appellant to correct this defect. The appellant has thereafter filed both the rectified appeals on 01.08.2023.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Deputy Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the Adjudicating Authority failed to follow the statutory procedure prescribed under Rule 12 of the Customs Valuation Rules (CVR) 2007. They argue that a declared transaction value can only be rejected if there is a "reasonable doubt" based on specific criteria, such as fraudulent documents or misdeclaration, none of which were established in this case. The authority allegedly bypassed the mandatory requirement to first formally reject the transaction value and record written reasons before attempting to re-determine the value using contemporaneous data.

3.2 The appeal highlights a gross violation of the principles of natural justice, noting that the department failed to provide the importer with the specific details of the contemporaneous imports (such as Bill of Entry numbers, quality, and origin) used as a basis for enhancement. Citing Supreme Court precedents like M/s Gira Enterprises, the appellant argues that importers must be given a reasonable opportunity to demonstrate that such transactions are not comparable. Furthermore, they claim the proper officer never asked for additional information or documents to resolve doubts before making assumptions based on NIDB data, which is legally insufficient for rejecting an invoice price.

3.3 The appellant argues that the recourse to Rule 5 of CVR 2007 (valuation based on similar goods) was legally and factually flawed. They point out that for textile products like Polyester Knitted Fabric, factors such as color, size, design, and chemical composition significantly influence price, making it nearly impossible to find "similar goods" that are truly commercially interchangeable. The Adjudicating Authority admitted the goods were not "identical" but failed to provide evidence that the compared goods possessed like characteristics or reputation.

3.4 A major point of contention is the Adjudicating Authority's use of an "average/approximate price" of $2.20 per Kg to re-determine the value. The appellant asserts that there is no provision under Section 14 of the Customs Act or the CVR 2007 to use average values for assessment. Statutory rules (specifically Rule 4 and 5) mandate that if multiple transaction values are found, the lowest value must be used, whereas the authority in this case arbitrarily used an average of higher-priced imports.

3.5 Finally, the appellant maintains that their declared prices ($1.40 and $1.90 USD per Kg) represent the true transaction value as defined under Section 14 of the Customs Act 1962. They state that the price was the sole consideration, the buyer and seller were not related, and all supporting documents (Contracts, LCs, Invoices) confirm the actual payment. Since the price difference between the declared and assessed values was within a normal 20% range and not "significantly higher," they argue there was no justification to discard the invoice price.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 03.12.2024,03.01.2025,03.03.2025, 25.03.2025 and 28.10.2025 following the principles of natural justice however, neither the appellant nor their representative has appeared for the PH nor given any submission in this regard.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Deputy Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal. I find that ample opportunities for personal hearing have been given to the Appellant in the matter but they have failed to

appear for the same. Both the appeals against the OIOs detailed above are pertaining to similar issue and are hence being taken up for disposal through common order.

5.1 The Impugned Order dated 19.07.2016 & 06.02.2017 are found to be grossly inadequate, both in terms of legal reasoning and factual verification. It is a settled principle of customs law that the Transaction Value declared by the importer under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007) is the primary basis for assessment. This principle was unequivocally established by the Hon'ble Supreme Court in the case of Eicher Tractors Ltd. vs. Commissioner of Customs 2000 (122) E.L.T. 321 (S.C.), wherein it was held that the transaction value must be accepted unless there is evidence of a special relationship between the buyer and seller, or evidence of price manipulation through extra-commercial considerations. In the instant case, the Adjudicating Authority has bypassed the mandate of Rule 12 of CVR, 2007. Rule 12 provides the mechanism for rejecting the declared value. It stipulates a two-step mandatory process.

5.2 The Proper Officer must have a "reasonable doubt" regarding the truth or accuracy of the declared value. The grounds for such doubt must be communicated to the importer, and the importer must be given an opportunity to provide further information or evidence. The Impugned Order merely makes a passing reference to "NIDB data" and "market intelligence." There is no evidence on record to show that the Adjudicating Authority shared the specific details of the NIDB data (such as Bill of Entry numbers, port of origin, or quality parameters of the compared goods) with the Appellant. The Hon'ble Supreme Court in Century Metal Recycling Pvt. Ltd. vs. Union of India 2019 (367) E.L.T. 3 (S.C.) clarified that NIDB data is essentially a "lookup tool" to trigger an inquiry; it cannot be treated as a "valuation substitute" that automatically overrides the transaction value. The Court emphasized that "reasonable doubt" cannot be based on a mere mathematical comparison with other imports but must be supported by tangible evidence of misdeclaration.

5.3 A primary pillar of the Principles of Natural Justice is that "the evidence intended to be used against a party must be disclosed to them." In the instant case, the Adjudicating Authority enhanced the value solely on the basis of NIDB data. However, the Impugned Order fails to provide the specific Bill of Entry (BE) numbers, dates of import, quantity, or the detailed description of the goods used for comparison. By withholding this information, the Adjudicating Authority has "blindfolded" the Appellant. Without the BE details, the Appellant is unable to verify if the compared goods were indeed "identical" or "similar" in terms of GSM, composition, or brand. This lack of transparency constitutes a fatal procedural infirmity that renders the assessment arbitrary.

5.4 The Hon'ble Supreme Court and various High Courts have repeatedly held that if the Department relies on contemporaneous data, such data must be shared with the importer. In Varsha Plastics Pvt. Ltd. vs. Commissioner of Customs [2009 (235) E.L.T. 193 (S.C.)], it was observed that the importer must be given a fair opportunity to explain why the contemporaneous prices are not applicable to their specific consignment.

5.5 Furthermore, "Polyester Knitted Fabric" is not a generic commodity with a uniform price. The value of such fabric depends on a multitude of technical factors, including:

- GSM (Grams per Square Meter): Higher GSM fabrics typically command higher prices due to the density of material.
- Denier and Yarn Type: Whether the yarn is spun, filament, or textured significantly affects the cost.
- Finish and Treatment: Whether the fabric is dyed, printed, coated, or has specialized finishes (anti-microbial, moisture-wicking).
- Quantity Discount: The transaction value reflects the commercial reality of bulk purchases.

5.6 The Adjudicating Authority has failed to conduct a "like-to-like" comparison. Comparing a high-end specialized knitted fabric from NIDB with the Appellant's import without verifying the GSM or quality is scientifically and legally flawed. The order is silent on whether the samples were drawn and sent to the Textile Committee for testing to determine these parameters before loading the value. The failure to pass a proper Speaking Order under Section 17(5) and not providing opportunity to the Appellant to defend themselves is the most significant infirmity. By issuing such an order, the Adjudicating Authority has effectively shielded its reasoning from judicial scrutiny.

5.7 The Adjudicating Authority has completely ignored the fundamental "Rule of Hierarchy" embedded in the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The architecture of these Rules is designed to move from the specific to the general, ensuring that the most accurate market-linked price is used for taxation. Under Rule 3(1), the transaction value must be accepted. Rule 12 is the only gateway to exit Rule 3. To do so, the Proper Officer must not just have a "hunch" but a "documented doubt" supported by contemporaneous evidence of identical or similar goods. In the present case, by failing to provide the specific grounds for rejecting the invoice price of USD 1.60/kg, the authority has failed to legally cross the threshold of Rule 3. Once Rule 3 is discarded, the Adjudicating Authority is legally bound to follow a sequential path. The authority must first look for imports of the exact same fabric (brand, quality, manufacturer, country) at or about the same time. If identical goods are not found, the authority must look for goods that perform the same function and are commercially interchangeable. This is the "Best Judgment" rule. It can only be invoked after Rules 4, 5, 7 (Deductive Value), and 8 (Computed Value) are found inapplicable in that specific order.

5.8 By jumping directly to NIDB data without recording why Rules 4 through 8 were inapplicable, the Adjudicating Authority has acted in an arbitrary manner. This "leap-frogging" of the valuation hierarchy was condemned by the Hon'ble Supreme Court in **Commissioner of Customs vs. South India Television 2007 (214) E.L.T. 3 (S.C.),** where the Court held that the department cannot bypass the sequential rules at its whim. The use of NIDB as a primary valuation method instead of a comparative tool is a subversion of the statutory scheme. The initial burden is on the importer to declare the value. Once declared and supported by an invoice, the burden shifts to the Department to prove, with evidence, that the value is incorrect. Mere suspicion based on higher values found in NIDB is not "evidence" in the eyes of the law. The Adjudicating Authority has shifted the burden back to the importer without first discharging its own statutory obligation to find "contemporaneous imports" that match the specific technical parameters (GSM, quality, etc.) of the Appellant's goods.

5.9 Where the original authority has completely failed to exercise its quasi-judicial function—by failing to share contemporary data, and failing to pass a reasoned order—the only legally sound remedy is a remand for de novo adjudication. As observed by the Hon'ble Supreme Court in Union of India vs. **G.S. Chatha Rice Mills [2020 (374) E.L.T. 289 (S.C.)],** the administrative process must follow the statutory route, and any shortcut that bypasses the "reasons" part of an order vitiates the entire proceeding. The law provides for a two-tier system of justice in customs matters—original and appellate. If this office were to decide the valuation for the first time without a base order from the lower authority, the Appellant would be deprived of one full level of statutory remedy. A remand ensures that the Appellant gets to contest the NIDB data before the Proper Officer and, if aggrieved, approach this forum again with a well-defined record of findings.

5.10 The cumulative findings lead to the conclusion that the assessment was completed in haste, relying on NIDB data without specifics and not providing the details to the Appellant. The matter requires a remand for the reasons that the Appellant was never provided the full details of the contemporaneous B/Es to allow them to challenge the same. The Adjudicating Authority merely makes a passing reference to NIDB data without independently evaluating the transaction.

5.11 In light of the detailed discussions above, I find that the impugned order suffers from procedural infirmities and a lack of substantive analysis regarding the characteristics of the imported fabrics. The enhancement of value based on NIDB data without providing the Appellant the means to rebut the contemporaneous data is contrary to the established principles of Customs Law. Without these documents, the Appellant is unable to provide a meaningful defense. Therefore, to meet the ends of justice, the impugned order needs to be set aside, and the matter needs to be remanded to the Adjudicating Authority for fresh adjudication after giving opportunity to the appellant to represent in respect of NIDB data as well as contemporaneous B/Es.

6. In view of the above discussions and findings I pass the following order:

a. Both the Order-in-Original Nos. MCH/DC/SP/FA/Gr.III/254/2016-17 dated 19.07.2016, MCH/DC/NJ/Gr. III/761/2016-17 dated 06.02.2017 are hereby set aside.

b. The appeals are allowed by way of remand to the Adjudicating Authority.

7. Both the appeals stand disposed of accordingly.

सत्यापित/ATTESTED
अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

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

F. No. S/49-94/CUS/MUN/2023-24
F.No. S/49-102/CUS/MUN/2023-24 5696

Date: 29.01.2026

By Speed post /E-Mail

To,
M/s Niraj Silk Mills,
384-E, Dabholkar Wadi, 2nd Floor,
Room No21, Kalbadevi Road,
Mumbai-400 002

आयुक्त (अपील), सीमा शुल्क कार्यालय, अहमदाबाद

Copy to:
1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House ,Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.