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 - 20260371MN000000DA3B

क	फ़ाइल संख्या FILE NO.	S/49-71 to 103/CUS/KDL/FEB/2025-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	KDL-CUSTM-000-APP-143 to 175-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	17.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Bills of Entry as per Table-I
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	17.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Krishna Shipping & Allied Services, 53/54-A, Transport Nagar, Tankar Association Building, National Highway, Gandhidham - 370201

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 क़ी 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

	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

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 33 appeals in terms of Section 128 of the Customs Act, 1962, challenging the assessment of the Bills of Entries as per details in Table-I below:

Table-I

Sr.No	Appeal No.	BE/Order No./Date
1	S/49-71/CUS/KDL/FEB/2025-26	7021020 dated 21.01.2026
2	S/49-72/CUS/KDL/FEB/2025-26	6089901 dated 04.12.2025
3	S/49-73/CUS/KDL/FEB/2025-26	7003646 dated 20.01.2026
4	S/49-74/CUS/KDL/FEB/2025-26	7204881 dated 30.01.2026
5	S/49-75/CUS/KDL/FEB/2025-26	6524040 dated 25.12.2025
6	S/49-76/CUS/KDL/FEB/2025-26	6063313 dated 03.12.2025
7	S/49-77/CUS/KDL/FEB/2025-26	6957265 dated 17.01.2026
8	S/49-78/CUS/KDL/FEB/2025-26	6231514 dated 11.12.2025
9	S/49-79/CUS/KDL/FEB/2025-26	6872430 dated 13.01.2026
10	S/49-80/CUS/KDL/FEB/2025-26	7021022 dated 21.01.2026
11	S/49-81/CUS/KDL/FEB/2025-26	6621266 dated 30.12.2025
12	S/49-82/CUS/KDL/FEB/2025-26	6277610 dated 13.12.2025
13	S/49-83/CUS/KDL/FEB/2025-26	7003441 dated 20.01.2026
14	S/49-84/CUS/KDL/FEB/2025-26	7204875 dated 30.01.2026
15	S/49-85/CUS/KDL/FEB/2025-26	6277609 dated 13.12.2025
16	S/49-86/CUS/KDL/FEB/2025-26	6113922 dated 05.12.2025
17	S/49-87/CUS/KDL/FEB/2025-26	6872429 dated 13.01.2026
18	S/49-88/CUS/KDL/FEB/2025-26	6907250 dated 15.01.2026
19	S/49-89/CUS/KDL/FEB/2025-26	5977853 dated 28.11.2025
20	S/49-90/CUS/KDL/FEB/2025-26	5977852 dated 28.11.2025
21	S/49-91/CUS/KDL/FEB/2025-26	6037941 dated 02.12.2025
22	S/49-92/CUS/KDL/FEB/2025-26	5875904 dated 23.11.2025
23	S/49-93/CUS/KDL/FEB/2025-26	5875906 dated 23.11.2025
24	S/49-94/CUS/KDL/FEB/2025-26	5910637 dated 25.11.2025
25	S/49-95/CUS/KDL/FEB/2025-26	5876393 dated 23.11.2025
26	S/49-96/CUS/KDL/FEB/2025-26	5876394 dated 23.11.2025
27	S/49-97/CUS/KDL/FEB/2025-26	5876392 dated 23.11.2025
28	S/49-98/CUS/KDL/FEB/2025-26	5876395 dated 23.11.2025
29	S/49-99/CUS/KDL/FEB/2025-26	5875907 dated 23.11.2025
30	S/49-100/CUS/KDL/FEB/2025-26	5875900 dated 23.11.2025
31	S/49-101/CUS/KDL/FEB/2025-26	5875902 dated 23.11.2025
32	S/49-102/CUS/KDL/FEB/2025-26	5961844 dated 27.11.2025
33	S/49-103/CUS/KDL/FEB/2025-26	5841683 dated 21.11.2025

2. As the issue involved in all the 33 appeals is same, they are taken up together for disposal. Facts of the case, in brief, as detailed in the appeal memorandum are that the Appellant is engaged, *inter alia*, in the business of import of Dry Date covered under CTH 08041030. The appellant is having IEC

No. 24AADFK8760C2ZH and have imported consignments of Dry Dates from a UAE based supplier at negotiated price of USD 350 per MT (CIF). The appellant filed Bills of Entry as detailed in Table 1 above with Custom House, Kandla for clearance of the said imported consignment.

2.1 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. The Assessing Officer 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. The 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, reassessment was done at USD 600 PMT. Rule 12 of the Customs Valuation Rules was not followed though legally transaction value can be rejected only under Rule 12 recording proper reasons and providing evidence. Enhancement solely based on NAC guideline is contrary to valuation law.

2.2 Since then, a considerable period more than the statutory period of 15 days has elapsed but the appellant has not received speaking order from the respondent.

SUBMISSIONS OF THE APPELLANT:

3. 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:

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 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 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.

- 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).
- 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 applies here and thus, enhancement of value on the basis of NAC is contrary to law.
- The present appeal is being filed against erroneous re-assessment of Bill 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

- Section 14 of the Act 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. It is humbly submitted that the Appellant had negotiated value with the overseas supplier and both the parties amicably agreed at the value of USD 350 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 of any other manner. The overseas buyer and the Appellant are 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.
- 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.

- 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. Seb-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 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 done by the respondent is arbitrary and contrary to law.

- It is humbly submitted that the declared value is the value negotiated with the overseas supplier considering quality and quantity. It is actual transaction value. There is no allegation of any payment by the Appellant over and above the declared value. Rejection of 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 has not been accepted by the Respondent. Hence, re-assessment is liable to be set aside and self-assessment is liable to be restored with consequential relief.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 12.03.2026, following the principles of natural justice, wherein Abhishek Darak, Chartered Accountant, appeared for the hearing, and he reiterated the submission made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned Bills of Entries, the defense put forth by the Appellant in their appeal, arguments advanced during the course of the personal hearing. Before going into the merits of the case, it is observed that 15 appeals out of 33 appeals have been filed within the time limit, i.e., within 60 days from the assessment of Bills of Entries. It is further observed that 17 out of 33 appeals have been filed within condonable period of 30 days beyond the stipulated 60 days and 01 out of 33 appeals have not been filed within condonable period of 30 days beyond the stipulated 60 days. As per Section 128(1) of the Customs Act, 1962, appeals before Commissioner (Appeals) can be filed within sixty days from the date of communication of decision or order. In the present cases, no speaking order has been passed. However, the appellant has filed appeals against the assessment of Bills of Entry wherein assessable value has been enhanced. Assessment of Bill of Entry can be treated as decision or order; and appeal against assessment (including self-assessment and re-assessment) can be filed by importers with appellate authority as held by 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 condonable period of further 30 days, from the date of communication of assessment as per Section 128(1).

5.1. Now it is to be ascertained on which dates the Assessment of the impugned Bills of Entry have been communicated to the appellant. Section 153 of the Customs Act, 1962, prescribes modes for services of notice, order etc. As per clause (ca) of Sub-Section (1) of Section 153, an order, decision, etc. may be served by making it available on the common portal. As per Section 2(7B) of the Customs Act, 1962, the term 'common portal' has been defined as Common Customs Electronic Portal referred to in Section 154C. Notification No. 33/2021-Cus (NT) dated 29.03.2021 has been issued under the provisions of Section 154C, through which the URL ***https://icegate.gov.in*** has been notified as 'common portal'. So, I am of the view that the Assessments of Bills of Entry done through Customs EDI System and made available in the common portal ICEGATE are to be treated as served to the appellant as per the provisions of Section 153(1)(ca) of the Customs Act, 1962, as amended by the Finance Act, 2021. So, the appellant was required to file appeals within the normal period of 60 days or within further condonable period of 30 days from the date the assessment.

5.2 In the Form C.A.-1, at Sr. No. 4, the appellant has mentioned the Date of Out of charge date as 'Date of communication of decision or order' and accordingly calculated the limitation period for filing appeal. However, I find no provision of law under which the date of out of charge can be taken as date of communication of order. Therefore, I am of the considered view that time-limit for filing appeal starts from the date of assessment of Bill of Entry, which has been served and communicated to the appellant through ICEGATE portal, as per the provisions of Section 153(1)(ca) of the Customs Act, 1962.

5.3 In view of the above discussion, the 33 appeals covered in the present order have been divided in two parts for the purpose of considering limitation period as under as per Table-II and Table-III respectively as under:-

[A] <u>Appeals filed within 60 days or within condonable period of 60 + 30 days from the date of assessment</u>

Table-II

Sr. No.	Appeal File No.	Bill of Entry (BOE) No.& date	Date of assessment	Date of Communication as per CA-1	Date of filling appeal	delay beyond 60 days from date of asseessment
1	S/49-71/CUS/KDL/FEB/2025-26	7021020 dated 21.01.2026	22/01/2026	27/01/2026	09/02/2026	-
2	S/49-72/CUS/KDL/FEB/2025-26	6089901 dated 04.12.2025	06/12/2025	10/12/2025	09/02/2026	05 days

3	S/49-73/CUS/KDL/FEB/2025-26	7003646 dated 20.01.2026	22/01/2026	27/01/2026	09/02/2026	-
4	S/49-74/CUS/KDL/FEB/2025-26	7204881 dated 30.01.2026	30/01/2026	02/02/2026	09/02/2026	-
5	S/49-75/CUS/KDL/FEB/2025-26	6524040 dated 25.12.2025	25/12/2025	27/12/2025	09/02/2026	-
6	S/49-76/CUS/KDL/FEB/2025-26	6063313 dated 03.12.2025	06/12/2025	09/12/2025	09/02/2026	05 days
7	S/49-77/CUS/KDL/FEB/2025-26	6957265 dated 17.01.2026	17/01/2026	17/01/2026	09/02/2026	-
8	S/49-78/CUS/KDL/FEB/2025-26	6231514 dated 11.12.2025	12/12/2025	15/12/2025	09/02/2026	-
9	S/49-79/CUS/KDL/FEB/2025-26	6872430 dated 13.01.2026	14/01/2026	17/01/2026	09/02/2026	-
10	S/49-80/CUS/KDL/FEB/2025-26	7021022 dated 21.01.2026	22/01/2026	27/01/2026	09/02/2026	-
11	S/49-81/CUS/KDL/FEB/2025-26	6621266 dated 30.12.2025	30/12/2025	30/01/2026	09/02/2026	-
12	S/49-82/CUS/KDL/FEB/2025-26	6277610 dated 13.12.2025	17/12/2025	20/12/2025	09/02/2026	-
13	S/49-83/CUS/KDL/FEB/2025-26	7003441 dated 20.01.2026	22/01/2026	27/01/2026	09/02/2026	-
14	S/49-84/CUS/KDL/FEB/2025-26	7204875 dated 30.01.2026	30/01/2026	02/02/2026	09/02/2026	-
15	S/49-85/CUS/KDL/FEB/2025-26	6277609 dated 13.12.2025	17/12/2025	20/12/2025	09/02/2026	-
16	S/49-86/CUS/KDL/FEB/2025-26	6113922 dated 05.12.2025	06/12/2025	10/12/2025	09/02/2026	05 days
17	S/49-87/CUS/KDL/FEB/2025-26	6872429 dated 13.01.2026	14/01/2026	14/01/2026	09/02/2026	-
18	S/49-88/CUS/KDL/FEB/2025-26	6907250 dated 15.01.2026	16/01/2026	19/01/2026	09/02/2026	-
19	S/49-89/CUS/KDL/FEB/2025-26	5977853 dated 28.11.2025	02/12/2025	08/12/2025	24/02/2026	24 days
20	S/49-90/CUS/KDL/FEB/2025-26	5977852 dated 28.11.2025	02/12/2025	06/12/2025	24/02/2026	24 days
21	S/49-91/CUS/KDL/FEB/2025-26	6037941 dated 02.12.2025	02/12/2025	05/12/2025	24/02/2026	24 days
22	S/49-92/CUS/KDL/FEB/2025-26	5875904 dated 23.11.2025	27/11/2025	05/12/2025	24/02/2026	29 days

23	S/49-93/CUS/KDL/FEB/2025-26	5875906 dated 23.11.2025	27/11/2025	05/12/2025	24/02/2026	29 days
24	S/49-94/CUS/KDL/FEB/2025-26	5910637 dated 25.11.2025	27/11/2025	05/12/2025	24/02/2026	29 days
25	S/49-95/CUS/KDL/FEB/2025-26	5876393 dated 23.11.2025	01/12/2025	08/12/2025	24/02/2026	25 days
26	S/49-96/CUS/KDL/FEB/2025-26	5876394 dated 23.11.2025	01/12/2025	04/12/2025	24/02/2026	25 days
27	S/49-97/CUS/KDL/FEB/2025-26	5876392 dated 23.11.2025	04/12/2025	04/12/2025	24/02/2026	22 days
28	S/49-98/CUS/KDL/FEB/2025-26	5876395 dated 23.11.2025	04/12/2025	08/12/2025	24/02/2026	22 days
29	S/49-99/CUS/KDL/FEB/2025-26	5875907 dated 23.11.2025	03/12/2025	08/12/2025	24/02/2026	23 days
30	S/49-100/CUS/KDL/FEB/2025-26	5875900 dated 23.11.2025	02/12/2025	05/12/2025	24/02/2026	24 days
31	S/49-101/CUS/KDL/FEB/2025-26	5875902 dated 23.11.2025	27/11/2025	05/12/2025	24/02/2026	29 days
32	S/49-102/CUS/KDL/FEB/2025-26	5961844 dated 27.11.2025	01/12/2025	05/12/2025	24/02/2026	25 days

Appeals mentioned at Sr. Nos. 2, 6, 16, & 19 to 32 of Table-II have been filed beyond normal period of 60 days, but within condonable period of further 30 days, i.e. total 90 days from the date of assessment, as stipulated under Proviso to Section 128(1) of the Customs Act, 1962.

In respect of the appeals filed beyond 60 days but within condonable period of further 30 days, the Appellant has in the request for condonation of delay submitted that the delay has been caused due to unavoidable foreign trip of acting partner of the Appellant. Since the subject work was attended by that partner, the foreign trip has caused communication gap with the Chartered Accountant. The delay in filing the present Appeal may kindly be condoned.

In this regard, I refer the Judgment of Hon'ble Supreme Court in the case of Collector, Land Acquisition Anantnag and Another vs. Mst. Katiji and Others reported in 1987 (28) ELT 185 (SC) wherein it has been held that a justifiable liberal approach should be adopted in cases of condonation of delay. In view of the above position, I condone the delay up to 30 days in filing Appeals as per the first proviso to Section 128(1) of the Customs Act, 1962, and admit the 17 appeals, as mentioned at Sr. Nos. 2, 6, 16 & 19 to 32 of Table-II above.

[B] Appeals filed beyond the condonable period of 60 + 30 days from date of assessment

Table-III

Sr. No.	Appeal File No.	Bill of Entry (BOE) No.& date	Date of assessment	Date of Communication as per CA-1	Date of filling appeal	delay beyond 60 days from date of assecessment
1	S/49-103/CUS/KDL/FEB/2025-26	5841683 dated 21.11.2025	24/11/2025	01.12.2025	24/02/2026	32 days

(i) As per the proviso to Section 128(1) of Customs Act, 1962, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. Thus, the Commissioner (Appeal) has no statutory power to condone the delay beyond the period of 30 days.

(ii) In this regard, I rely upon the Judgment of the Hon'ble Supreme Court in case of ***Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur*** [2008 (221) E.L.T. 163 (S.C.)], wherein the Hon'ble Apex Court while interpreting the Section 35 of the Central Excise Act, 1944, which is *pari materia* to Section 128 of the Customs Act, 1962, held that the appeal has to be filed within 60 days, but in terms of the proviso, further time of 30 days can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The relevant para of the said Judgment is reproduced below (underline supplied):

> **"8.** *The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of Statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the Statute. The period upto which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Indian Limitation Act, 1963 (in short, the 'Limitation Act') can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the*

appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only upto 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days period."

(iii) The above view was reiterated by the Hon'ble Supreme Court in the case of *Amchong Tea Estate [2010 (257) E.L.T. 3 (S.C.)]*. Further, the Hon'ble High Court of Gujarat in case of *Ramesh Vasantbhai Bhojani [2017 (357) E.L.T. 63 (Guj.)]* and the Hon'ble Tribunal, Bangalore in the case of *Shri Abdul Gafoor Vs Commissioner of Customs (Appeals) [2024-TIOL-565-CESTAT-BANG]* took a similar view while dealing with Section 128 of the Customs Act, 1962.

(iv) In terms of legal provisions under Section 128 of the Customs Act, 1962 and in light of the judicial pronouncements by Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Tribunal, it is settled proposition of law that the appeals before first appellate authority under the provisions of Customs Act, 1962, are required to be filed within 90 days, including the condonable period of 30 days, as provided in the statute; and the Commissioner of Customs (Appeals) is not empowered to condone any delay beyond 30 days.

(v) In light of the above observation, I am of the view that the appeals, which have been filed after **delay of more than 30** days, beyond the statutory time-limit of 60 days, are time-barred in terms of Section 128(1) of the Customs Act, 1962. Thus, the appeal mentioned at **Table-III** above is liable to be rejected on the grounds of limitation without going into merits.

5.4 Now coming to the merits of the case involved in 32 appeals i.e Sr. No. 1 to 32 in Table-I & II above, I find that the issue to be decided in the present appeals is whether the reassessment done in Bills of Entry enhancing the assessable value on the basis of NAC guidelines without rejecting the transaction value in the facts and circumstances is legal and proper or otherwise.

5.5 It is observed that the appellant have imported consignments of Dry Dates from a UAE based supplier at negotiated price of USD 350 per MT (CIF). The appellant filed Bills of Entry with Custom House, Kandla for clearance of the said imported consignment. 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, reassessment was done at USD 600 PMT ignoring the transaction value which was USD 350 PMT.

5.6 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 350 per MT. Accordingly, the overseas supplier is mentioning this negotiated value i.e. USD 350 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 are 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.

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

"SECTION [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, or 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 :]

Provided *also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill 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 Section 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 under:

"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."

5.8 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 querry raised by the assessing officer that "*THERE IS CLEAR DIRECTION FROM NAC GR-1A IN THE NAC MEETING DATED 24.09.2025 THAT THE PRICE OF DRY DATES*

CANNOT BE BELOW $0.75/KG+-20%". Thus from the wording of the querry 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.

5.9 Here, it is pertinent to note that Customs Valuation Rules in sub-rule 2 of Rule 9 prescribe that no value shall be determined under the provisions of Valuation Rules on the basis of "(vii) arbitrary or fictitious values".

5.10 Further as in the present case when there is 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 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. If that be so, we agree with the learned Advocate that the transaction value would reflect the correct assessable value of the imported 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, there 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."*

5.11 Further I also rely upon the decision in the case of SANJIVANI NON-FERROUS TRADING PVT. LTD. Versus C.C.E. & S.T., NOIDA [2017 (7) G.S.T.L. 82 (Tri. - All.)] wherein the Hon'ble Tribunal has held that 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. The Hon'ble Tribunal further observed that such exercise has not been done in these cases on hand. Therefore, rejected the enhancement of assessable value in respect of the Bills of Entry under appeal. The relevant paras are 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."*

5.12 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 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.

5.13 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 the burden. However, 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 additional consideration or any of the exceptions of Rule 4(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 there is a flow of additional consideration from the appellant, transaction value so declared by the appellant in the import documents cannot be rejected arbitrarily. I find that there are catena of decisions wherein it is held that "the transaction value has to be arrived at on the basis of 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.

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 observed in the following para no. 2, 3 & 6 of its order 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.

.....

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 seter 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 interfere in the impugned order. Accordingly, the appeals filed by Revenue are rejected."

5.14 The present impugned assessments fall squarely within the ambit of Section 128A(3)(a) of the Customs Act, 1962, which empowers me to pass such an order as deemed "just and proper," including "confirming, modifying or annulling the decision or order appealed against." The impugned assessments in respect of the above-mentioned Bills of Entries suffer from fundamental legal defects that render it liable to be "annulled" rather than merely remanded.

5.15 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 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.

5.16 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 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. The contention of the appellant clearly show that they were not in agreement with the proposed enhancement of the assessable value by the assessing officer.

5.17 Having observed so, I conclude that since in the present case, enhancement of value in respect of all the concerned Bills of Entry has been resorted by the assessing officer on an arbitrary manner, without any cogent

prospective buyers. Therefore, the Appellant consented and paid the enhanced

reasons and in violation of all jurisprudential norms and in violation of the guidelines provided in the Customs Act, 1962, the said enhancement of value fails to sustain. Thus, the value enhancement order of the assessing officer needs to be set aside. 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 32 Bills of Entry corresponding to the Appeals at Sr. No. 1 to 32 as per Table-I above and order for re-assessment of the same at the value declared by the Appellant. All these 32 appeals are allowed along with consequential relief, if any, as per law.

(ii) I reject the appeal mentioned in Table-III above, being time-barred as per the provisions of Section 128 of the Customs Act, 1962.

सत्यापित/ATTESTED
अधीक्षक/SUPRERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad
Date: 17.03.2026

F. No. S/49-71 to 103/CUS/KDL/FEB/2025-26 6249.6250

By Speed post A.D/E-Mail

To,
M/s Krishna Shipping & Allied Services,
53/54-A, Transport Nagar,
Tankar Association Building, National Highway,
Gandhidham - 370201,
Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House Kandla.
3. The Additional/Joint Commissioner of Customs, Custom House, Kandla.
4. The Deputy /Assistant Commissioner of Customs, Custom House, Kandla.
5. Guard File.