



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,
चौथी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009 दूरभाषक्रमांक Tel. No. 079-26589281
DIN - 20250671MN00005555CE

क	फ़ाइलसंख्या FILE NO.	S/49-253/CUS/MUN/23-24
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-078-25-26
घ	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	OIO No. 2101/2023-24/DC/Gr.IV/NS- III/CAC/JNCH dated 06.03.2024 issued by the Assistant Commissioner of Customs, Gr-IV, JNCH, Nhava Sheva
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	13.06.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. Suncity Metals and Tubes Private Limited, 503/2, 520/P2, Guntha, Gundala, Gandhidham Mundra Highway, Mundra, Kachch - 370421
1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै. This copy is granted free of cost for the private use of the person to whom it is issued.	
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआ देशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं.	

	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.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगेजकेरूपमेंआयातितकोईमाल.
(a)	any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतरेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो.
(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)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	कोर्टफीएक्ट, 1870केमदसं. 6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(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)	सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु.1000/- (रूपएएकहज़ारमात्र), जैसाभीमामलाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क, मांगागयाब्याज, लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.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.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं
	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, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench

	दूसरी मंजिल, बहुमाली भवन, निकट गिरधर नगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमा शुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमा शुल्क 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 जहाँ कि सीमा शुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपये या उससे कम हो तो एक हजार रूपये.	
(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 जहाँ कि सीमा शुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपये से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रूपये	
(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 जहाँ कि सीमा शुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपये से अधिक हो तो; दस हजार रूपये.	
(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, मांगा शुल्क के 10% अदा करने पर, जहाँ शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहाँ केवल दंड विवाद में हैं, 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. Suncity Metals and Tubes Private Limited having address 503/2, 520/P2, Guntha, Gundala, Gandhidham Mundra Highway, Mundra, Kachch-370421 (hereinafter referred to as the "appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against the OIO No. 2101/2023-24/DC/Gr.IV/NS-III/CAC/JNCH dated 06.03.2024 (hereinafter referred to as the "impugned order") issued by the Assistant Commissioner of Customs, Gr-IV, JNCH, Nhava Sheva (hereinafter referred to as the "assessing authority").

2. Briefly stated, facts of the case are that the appellant, holders of IEC 1304009815, had imported the as 'Stainless Steel Cold Rolled Coils (Grade-J3-Finish-2B)' by classifying the said goods under CTH 72193390 vide Bill of Entry No. 9773034 dated 22.01.2024 declaring the assessable value of the goods as Rs. 2,08,25,039/- and duty of the goods as Rs. 57,75,825/-. The said Bill of Entry was filed on 2nd Check basis and the appellant had uploaded Invoice, Packing List and NOC from Technical Division, Ministry of Steel, since the import of the impugned goods was allowed subject to compliance of mandatory provisions of BIS as per the IS No. 6911: 2017.

2.1 Further, the said Bill of Entry was allotted to FAG at JNCH for assessment wherein it appeared that the appellant had declared the Unit Price of the said goods as 1.185 USD/Kgs which was on lower side as per contemporaneous import data at JNCH. Further, it was noticed that the impugned goods were a regular commodity in import at JNCH and the NIDB data for the said commodity reflected the contemporaneous import price much higher than the price declared by appellant in the said B/E. The declared value of 'Stainless Steel Cold Rolled Coils (Grade-J3-Finish-2B)' was low as compared to other contemporaneous imports for similar goods, hence system query was raised in this regard for the said Bill of Entry and the appellant was asked to explain the observed discrepancy in value. Since the declared value was very low and not supported by further documentary evidences, demanded by proper officer, in terms of Rule 12 of the Customs Valuation Rules, 2007, it appeared that the importer had deliberately declared lower value.

3. Thereafter, the assessing authority found the declared value liable for rejection under Rule 12 read with Rule 3 of the Customs Valuation Rules, 2007, and as identical goods were not available in contemporaneous import data, Rule 4 could not be applied. However, data for similar goods with comparable grade/type/specifications was found in the NIDB, enabling consideration under



Rule 5 and assessing authority vide the impugned order passed the following order as:

"(i) I reject the declared unit value of 1.185 USD/KGS of the goods covered vide BE No. 9773034 dated 22.01.2024 (total declared value Rs. 2,08,25,039/-) and re-determine the same @1.30 USD/KGS (total re-determined assessable value Rs. 2,28,46,034/- under Rule -5 of Customs Valuation (Determination of Value of Imported Goods) Rules 2007. I order to assess the said Bill of Entry accordingly."

4. Being aggrieved with the impugned order, the Appellant have filed the present appeal and mainly contended the following:

- That the assessing authority illegally skipped the Rule 4 (identical goods) and directly applied Rule 5 (similar goods), violating the mandatory sequential method required by Rule 3(4).
- That impugned order falsely claimed that no identical import data was available, while such data was provided by the appellant through assessed Bes and the appellant provided evidence of contemporaneous imports of identical goods (same supplier, same port, same time) which were ignored despite being assessed at similar declared values.
- That even under Rule 5, the assessing authority failed to adjust for differences in commercial level, quantity, and product characteristics, as required under Rule 5(2) and Rule 4(1)(c).
- That the assessing authority enhanced the value without issuing a proper SCN or offering a personal hearing, even after a specific request and no copies of Bills of Entry or invoices relied upon for value enhancement were provided to the appellant, violating principles of natural justice.
- That the declared value was the sole consideration for the imports, with no evidence of under-invoicing or extra-commercial considerations and other BEs with identical goods from the same supplier were accepted and assessed by the department itself, establishing credibility of the declared price.
- They have relied upon the following Judgments:
 - Siddhartha Polymer Limited Versus Commissioner of Customs, New Delhi 2007(216) ELT 604(Tri-Del)
 - Global Industries Versus Commissioner of Customs, Cochin -2011 (272) E.L.T. 724 (Tri. - Bang)



A

- Shree Panchganga Agro Vs Commissioner of Customs, Nhava Sheva -2010 (250) E.L.T. 55 (Tri. - Mumbai)
- Commissioner of Central Excise and Service Tax vs Sanjivani Non-ferrous trading Pvt Ltd Civil Appeal No. 18300-19305 of 2017)

PERSONAL HEARING

5. Shri Shyam Lal Bansal, consultant of the appellant attended the personal hearing on 15.05.2025 in virtual mode on their behalf. He reiterated the submission made in the appeal memorandum.

DISCUSSION & FINDINGS

6. I have gone through the appeal memorandum filed by the appellant, records of the case and submissions made during personal hearing. The main contention in the appeal is that assessing officer wrongly rejected the declared value and skipped Rule 4 despite the availability of contemporaneous identical goods, violating Rule 3(4) of the Customs Valuation Rules, 2007. Therefore, the main issue to be decided is that the impugned order enhancing the assessable value under Rule (5) of Customs Valuation Rules, 2007 in the facts, and circumstances of the case, is legal and proper or otherwise.

6.1 Before going into the merits of the case, I find that as per CA-1 Form of the Appellant, the present appeal has been filed on 26.03.2024 against the impugned order dated 06.03.2024 which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

6.2 It is observed that the appellant has contended that the assessing authority has erred in rejecting the declared transaction value under Rule 12 of the Customs Valuation Rules, 2007, without properly applying Rule 4 of the Customs Valuation Rules, 2007, despite availability of contemporaneous imports of identical goods at the same port and from the same supplier. Instead, assessing authority applied Rule 5 of the Customs Valuation Rules, 2007 bypassing the mandatory sequential application of valuation rules as per Rule 3(4) and no evidence was provided to them regarding comparability in commercial level, quantity, or product characteristics. Further, appellant stated that they had himself supplied the contemporaneous price of "identical goods" imported at same port of import, i.e. Mundra vide their reply dated 01/02/2024 by submitting the copies of two Bills of Entry i.e., BOE No. 9774383 dated

22/01/2024 (assessed value @ 1.185 USD/kg to 1.200004 USD/Kg) and another BOE No. 9540098 dated 05/01/2024 (assessed at declared assessable value of 1.16 USD/kg to 1.19 USD /kg) which were not taken into account and assessing authority had jumped to Rule 5 of CVR 2007 when the value of "identical goods" was available as per Rule 4 of CVR 2007.

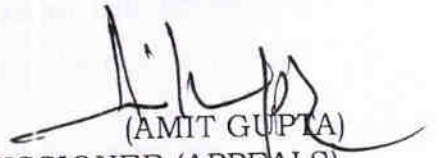
In this regard, it is observed that the assessing authority failed to undertake a proper and thorough examination of the facts and supporting documents submitted by the appellant, particularly with respect to contemporaneous imports of identical goods. As per the mandate of Rule 3(4) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the assessing officer is required to apply the valuation methods sequentially from Rule 4 to Rule 9 of CVR 2007 when the transaction value is rejected under Rule 12 of CVR 2007. However, in the present case, the assessing officer has bypassed this statutory requirement without providing sufficient justification. In the interest of justice and to ensure fair and lawful determination of assessable value, the matter is hereby remanded back to the assessing authority with a direction to re-assess the goods in accordance with the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, after affording the appellant a reasonable opportunity of being heard.



6.3. In view of the above, I find that remitting the present appeal to the authority for passing fresh order for considering the submissions made by the appellant in the present appeal has on record, become sine qua non to meet the ends of justice. Accordingly, the case is remanded back to the adjudicating authority, in terms of sub-section of (3) of Section 128A of the Customs Act, 1962, for passing a fresh order by following the principles of natural justice. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs - 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers ltd. [2012 (284) E.L.T. 677 (Tri.-Del)] holding that Commissioner (Appeals) has power to remand the case under Section - 35A (3) of the Central Excise Act, 1944 and Section - 128A (3) of the Customs Act, 1962.

7. In view of the above discussion, I allow appeal by way of remand to the assessing authority with the direction to pass the fresh speaking order considering the submissions made by the appellant.




(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD

F. Nos. S/49-253/CUS/MUN/23-24

Dated - 13.06.2025

By Registered Post A.D.

1569

To,

M/s. Suncity Metals and Tubes Private Limited
503/2, 520/P2, Guntha, Gundala,
Gandhidham Mundra Highway,
Mundra, Kachch 370421

સાત્કારિત/ATTESTED

અધીક્ષક/SUPERINTENDENT
સીમા શુલ્ક (અપીલ), અમદાવાદ,
CUSTOMS (APPEALS), AHMEDABAD

Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Commissioner of Customs, Customs Mundra.
3. The Assistant Commissioner of Customs, Gr-IV, JNCH, Nhava Sheva.
4. Guard File.