



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

मंज़िल 4th Floor, हुड्को भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009 दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20251171MN0000555CA5

क	फ़ाइल संख्या FILE NO.	As per Table-I
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-389 to 392-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	07.11.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	As per Table-I
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	07.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Pashupati Polytex Pvt. Ltd., Hariyawala - Kunda Road, Kashipur- 244713 (Udham Singh Nagar), Uttarakhand.



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 हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज 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 चायालय शुल्क टिकट लगा होना चाहिए।
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1, item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया 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 सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं				
	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 :				
	<table border="0"> <tr> <td style="vertical-align: top;">सीमाशुल्क, केन्द्रीय 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>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> </table>	सीमाशुल्क, केन्द्रीय 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	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय 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	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	<p>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-</p> <p>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 -</p> <p>(क) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रुपए.</p> <p>(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;</p> <p>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 हजार रुपए</p> <p>(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 ;</p> <p>(ग) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रुपए.</p> <p>(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</p> <p>(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 ।</p> <p>(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.</p>				
6.	<p>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.</p> <p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



ORDER-IN-APPEAL

M/s. Pashupati Polytex Pvt. Ltd., Hariyawala - Kunda Road, Kashipur 244713 (Udham Singh Nagar), Uttarakhand, (hereinafter referred to as the 'Appellant') has filed four 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 File No.	Bill of Entry No.	Bill of Entry Date
1	S/49-277/CUS/MUN/SEP/2025-26	2601657	12/06/2025
2	S/49-278/CUS/MUN/SEP/2025-26	2577620	10/06/2025
3	S/49-279/CUS/MUN/SEP/2025-26	3161106	09/07/2025
4	S/49-331/CUS/MUN/OCT/2025-26	4109068	26/08/2025

2. As the issue involved in all the four appeals are same, they are taken up together for disposal. Facts of the case, in brief, as per the appeals memorandum are that the Appellant presented the above-mentioned Bill of Entries through their Customs Broker, M/s. Continental Shipping Services & M/s. B N Thakker and Sons (CHA), at Custom House, Mundra, for clearance of goods declared as Pet Lumps / Regrind/Chips under CTH 39076990.

2.1 The goods were unloaded at Mundra Port in Gujarat and were classified under HSN Code 39076990. The Appellant had declared the transaction value at a lower value, on DA/DP payment terms. However, the Assistant Commissioner of Customs, Mundra SEZ Port, rejected the declared transaction value, resulting in an increased assessable value. The enhancement resulted in additional duty liability, which the importer decided to pay under protest for all the impugned Bills of Entries. The Appellant, being in urgent need of the raw materials for their manufacturing process and to avoid demurrage charges, had cleared the goods by paying the enhanced duty while reserving their right to challenge the arbitrary assessment before the appellate forum. The Appellant

had communicated their protest against the arbitrary enhancement vide different dated letters, however, the same was not accepted by the department.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

3.1 These appeals relate to a similar matter of valuation of imported goods under the Customs Act, 1962 and Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and are accordingly tagged together for combined hearing and disposal as they belong to the same party and have been filed on the same issue. Briefly stated facts of the case are that the appellant imported various items, viz. Pet Lumps / Regrind/Chips (CTH 39076990), and filed the above-mentioned Bills of Entries at Mundra SEZ Port, Mundra, Gujarat. The said goods were assessed by the Customs authorities at a higher value than the declared value in each case.

3.2 That the act of enhancing the value of the imported goods without providing the reason and without rejecting the transaction value declared by the appellant is arbitrary and illegal and liable to be set aside.

3.3 That in the appellant's own case for the past period, the Hon'ble Commissioner (Appeals), Noida, has consistently granted relief to the Appellant while allowing the appeal and declaring the invoice value as the actual transaction value of the imported goods in similar matters vide:

1. Order-in-appeal No. NOI-CUSTM-000-APP-915 to 976-21-22 dated 11.03.2022
2. Order-in-appeal No. NOI-CUSTM-000-APP-79 to 82-22-23 dated 09.06.2022
3. Order-in-appeal No. NOI-CUSTM-000-APP-306 to 321-22-23 dated 27.12.2022
4. Order-in-appeal No. NOI-CUS-000-APP-476 to 478 dated 08.01.2024.



In NOI-CUS-000-APP-476 to 478 dated 08.01.2024, the Commissioner (Appeals) specifically held:

"I find that the assessing officer re-assessed the value of the goods imported vide impugned bill of entries on the ground that the appellant in their previous consignments paid the duty on the re-determined value and as such contemporaneous value of the similar/identical goods was available which formed the basis of rejection of declared value in the instant case... However, I find that the appellant had filed appeals in such previous cases and have also succeeded in getting relief from appropriate forums in this regard."

"It is the duty of the Department to establish that the declared value is not the true transaction value, adducing cogent and legally sustainable evidence, which has not been done in the present cases. The value determined by assessing officer squarely falls within the ambit of Clause (vii) of Rule 9(2) being arbitrary especially as Department has failed to point out any contemporaneous import of identical or similar goods at a higher price than the declared transaction value."

3.4 That in view of the above order (s), the issue is already settled in favour of the Appellant and thus the same is liable to be accepted on this ground alone. The Tribunal in Sedna Impex India Pvt Ltd vs Pr.CC reported in **(2022-TIOL-287-CESTAT-ALL)** held:

"As issue has already been settled in favour of appellant in their own case, therefore, assessed value of bill of entry of similar goods cannot be the basis of enhancement of declared value by appellant and it should be the transaction value."

3.5 Thus, the same judicial discipline should be followed as Customs is a central levy, and the principles established by appellate authorities in Customs valuation matters are binding precedents that must be consistently applied across all jurisdictions.

3.6 Payment of enhanced duty to secure release of goods does not create any estoppel against the Appellant's right to challenge the assessment, particularly when such payment is made under protest. Under the CVR and judicial precedents, the burden lies squarely on the department to prove that the declared value is incorrect.

3.7 Absence of reasonable doubt to reject transaction value is violative of the scheme of the Customs Act.

3.7.1 That the BOE was re-assessed by the proper officer without providing any reasons for not accepting the transaction value declared by the appellant.

3.7.2 That, as per Section 2(41) of the Customs Act, value is defined to mean the value determined under section 14 and the value of



imported goods as per Section 14 of the Customs Act read with the CVR, 2007 is transaction value provided inter-alia the below-mentioned conditions are satisfied: -

- a. Buyer and seller are not related.
- b. Price is the sole consideration.
- c. There are no restrictions as to the disposition or use of the goods by the buyer.
- d. Is not subject to some condition or consideration for which a value cannot be determined.

3.7.3 It is submitted that Rule 12 of CVR provides that if the proper officer has reason to doubt the truth or accuracy of value declared by the importer, he may ask for additional information and if he is not satisfied with such additional information/ documents it shall be deemed that the transaction value cannot be determined under the provisions of Rule 3(1) of the CVR.

3.7.4 It is submitted that Section 14 of the Customs Act uses the word "shall" in order to clearly indicate that transaction value shall be the value of imported goods and thus the same cannot be ignored by the proper officer unless expressly allowed under the provisions of the Customs Act itself.

3.7.5 Rule 4(1)(b) requires that for applying transaction value of identical goods, such goods must be imported "at the same commercial level and in substantially the same quantity" as the goods being valued.

3.7.6 Rule 4(1)(c) further mandates that where no such sale exists at same commercial level/quantity, "adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments."

3.7.7 The party relied upon these case laws in support of their claim:

- a. Ganesh Prasad Shah Kesari vs. Lakshmi Narayan Gupta (1985 3 SCC 53)
- b. Century Metal Recycling Pvt. Ltd. vs. Union of India [2019 (367) ELT 3 (SC)]
- c. M/s. Sanjivani Non-ferrous Trading Pvt. Ltd. Vs Commissioner of Central Excise and Service Tax, Noida reported as 2017-TIOL-3396-CESTAT-ALL.
- d. Indian Farmers Fertilisers Co-Op Ltd Vs CCE, C & ST Bhubaneswar-I reported as [2010(252)ELT 523(Tri-Kolkata)]
- e. M/s. SRR International Vs. Commissioner of Customs Mundra reported as (2019-TIOL-287-CESTAT-AHM)
- f. Ramdev Traders Vs Commissioner of Customs, Chennai reported [2018(359)ELT 431 (Tri-Chennai)]



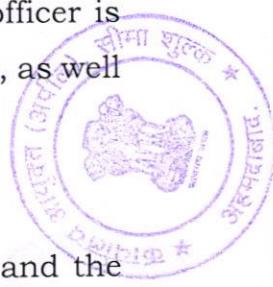
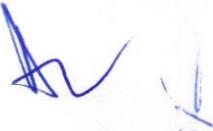
- g. Sharda Energy and minerals Ltd Vs Commr of Central Excise, Raipur (2018(359)ELT 262 (Tri.- Del)
- h. Marvel Agencies Vs Commissioner of Customs, New Delhi reported as [2017(348)ELT 534 (Tri.- Del)]
- i. Taylor Vs Taylor [(1875) LR 1 Ch D 426) and Nazir Ahmed Vs King Emperor (AIR 1936 Privy Council 253)

3.8 **No Estoppel Applicable.** It is submitted that even otherwise, payment of duty on enhanced value by the importer previously or in the instance case to get its goods cleared quickly is not a valid ground to enhance the declared value, as each and every clearance is a separate transaction. Further, as mentioned supra, the Appellant had already registered its protest vide letter addressed to the assessing authority regarding payment of duty under protest. The party placed reliance on the following case laws in their support:

- a. Commr of Customs (Import) TKD, New Delhi vs. AAA Impex [2019 (370) ELT 1285 (Tri.- Del)]
- b. Dunlop India Ltd. & Madras Rubber Factory Ltd. vs. Union of India and others [1983(13) ELT 1566 (SC)]
- c. Laxmi Color Lab vs. Collector of Customs reported as [1992 (62) ELT 613 (Tribunal)]
- d. Kisco Casting Ltd. vs. Commissioner of Customs, Ludhiana reported as 2018 (364) ELT 1084 (Tri.- Chan)

3.9 Unilateral reassessment of the Bill of Entry is violative of Section 17 of the Customs Act. It was submitted that another lacuna in the re-assessment of the Bill of Entry by way of addition of loading by the proper officer is that the same was done without following the prescribed provision, as well as in gross violation of principles of natural justice.

3.10 That the re-assessment is against the importer in any manner, and the importer has not given their confirmation to such re-assessment in writing. In that case, it is mandatory to pass a speaking order within fifteen days from the date of re-assessment of the bill of entry. However, in the present case, the bill of entries was re-assessed without giving any reasons, and the value was arbitrarily enhanced, forcing the appellant to



pay duty liability on the enhanced value. The appellant relied upon the following case laws in their Support: -

- a. M/s. Kothari Metals Limited Vs Union of India &Ors reported as 2012-TIOL-11-HC-KOL-CUS
- b. Commissioner of Customs (Import), Mumbai Zone-II Vs I-Tech Corporation reported as 2015-TIOL-307-CESTAT-MUM
- c. New India Sugar Mills Ltd. vs. Commissioner of Sales Tax, Bihar reported as (AIR 1963 SC 1207).

PERSONAL HEARING:

4. The advocate of M/s. Pashupati Polytex Pvt. Ltd., their reply via email dated 06.10.2025, submitted that present appeals involves similar questions of law and facts as the in previous passed OIA by this office in their own case. He further requested that the present appeals be decided accordingly, without the need for a personal hearing.

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.

5.1 Before going into the merits of the case, I find that 2 out of 4 appeals have not been filed within the time limit, i.e., within 60 days from the assessment of Bills of Entries. It is further observed that 2 out of such 4 appeals have filed within condonable period of 30 days in Table-II under :-

Table-II

Appeals within condonable period of delay of 30 days

S. No	Appeal File No.	Bill of Entry No.	Assessment Date	Date of filing appeal	Delay in days
1	S/49-277/CUS/MUN/SEP/2025-26	2601657	20/06/2025	15/09/2025	26
2	S/49-278/CUS/MUN/SEP/2025-26	2577620	20/06/2025	15/09/2025	26

5.1.1 In respect of two appeals at Sr. No.1 and 2 of above Table -II, the Appellant has filed application for condonation of delay wherein it is submitted that the employee of the company looking after the Customs matter being sick due to which they could not file the above appeals in prescribed time limit. In the interest of justice, I take a lenient view and condone the delay in two appeals at Sr. No.1 and 2 of above Table -II on the grounds submitted by the party and admit these two appeals.

5.2 Now coming to the merits of the case involved in 4 appeals in Table-I above, I find that the issues involved is whether the Assessing Officer has rightly assessed the Bills of Entry and duty on the impugned consignments by following the due process of law; and whether rejection of the declared transaction value and redetermination of the Assessable value is legally sustainable. Therefore, before proceeding further, it would be proper to examine the relevant legal provisions of the Customs Act, 1962.

5.3 Section 14 of the Customs Act, 1962 deals with valuation of goods, and relevant portion of the Section is 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"

On cursory 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."



5.4 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, one of which is that there is a 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.

5.5 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".

5.6 I observe that Section 17 of the Customs Act, 1962, deals with the assessment of duty. The relevant portion of the Section is as under –

"Section 17. Assessment of duty-

(1) An importer entering any imported goods under Section 46, or an exporter entering any export goods under Section 50, shall, save as otherwise provided in Section 85, self-assess the duty, if any, leviable on such goods.

(2) The proper officer may verify the entries made under Section 46 or Section 50 and the self-assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary. Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

(3) For the purposes of verification under sub-section(2), the proper officer may require the importer, exporter or any produce any document or information, where the duty leviable on the imported or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter such other person shall produce such document or furnish such information.

(4) 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.

(5) where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, 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 or the shipping bill, as the case may be."

It is clear from Section 17(4) of the Customs Act that the proper officer can reassess the duty leviable if it is found on verification, examination, or testing of the goods or otherwise that the self-assessment was not done correctly. Sub-section (5) of Section 17 provides that where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer, the proper officer shall pass a speaking order on the re-assessment, except in a case where the importer confirms his acceptance of the said re-assessment in writing.

5.7 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 in the international market. 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 to the appellant, transaction value so declared by the appellant in the import documents cannot be rejected arbitrarily. I find that Hon'ble Supreme Court in the case of CCE, Noida v/s Sanjivani Non-Ferrous Trading Pvt. Ltd., has 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 Authority 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 seller of the goods, there is virtually no reasons to reject the transaction value. It is also a settled law that DRI Alerts cannot be adopted as a reason for enhancing the value. As such, we find no infirmity in the views adopted by Commissioner (Appeals) so as interfere in the impugned order. Accordingly, the appeals filed by Revenue are rejected."

5.8 I find that the appellant has relied upon the order passed by the coordinate bench of the appellate authority, Hon'ble Commissioner (Noida) office, in their earlier cases, wherein the plea of the department was not accepted, and the re-assessment was set aside, and the declared value was restored.

5.9 That the present impugned assessments fall squarely within the ambit of Section 128A(3)(a) of the Customs Act, 1962, which empowers this Hon'ble Authority 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 Bill of Entries suffer from fundamental legal defects that render it liable to be "annulled" rather than merely remanded.

5.10 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.



5.11 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 has enclosed copies of letters with respect to these Bills of Entry wherein they had informed the assessing officer that though they will pay the duty on the rates as enhanced by the department to avoid any stoppage in their manufacturing activities for want of raw materials and also to avoid demurrage, they reserve their right towards the legal remedies available before the appellate forum. These letters of the appellant to the department clearly show that they were not in agreement with the proposed enhancement of the assessable value by the assessing officer. In light of the said resentment shown by the appellant, it had become more imperative for the assessing officer to resort to the proper judicial discipline. It was obligatory on his part to issue a show-cause notice regarding the proposed enhancement of the value. After recording the defense of the appellant, he was required to pass the order as per his wisdom.

5.12 It is relevant to mention that in similar issue involved in earlier appeals filed by the same appellant before this office, I have allowed the appeal filed by the appellant vide Order-In-Appeal No. MUN-CUSTM-000-APP-192 to 200-25-26 dated 23.09.2025 along with corrigendum dated 07.10.2025 on the above grounds.

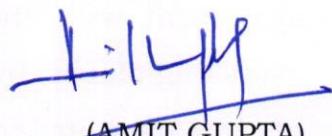
5.12 In view of the above discussion, I conclude that since in the present case, enhancement of value in respect of all the concerned Bill of Entries has been resorted by the assessing officer on an arbitrary manner, without any cogent reasons and in violation of all jurisprudential norms and in violation 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 four Bills of Entries corresponding to the Appeals at Sr. No. 1 to 4 as per Table-I above and order for re-assessment of the same at the value declared by the Appellant. All these four appeals are allowed along with consequential relief, if any, as per law.




(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-277/CUS/MUN/SEP/2025-26
F. No. S/49-278/CUS/MUN/SEP/2025-26
F. No. S/49-279/CUS/MUN/SEP/2025-26
F. No. S/49-331/CUS/MUN/OCT/2025-26

Date: 07.11.2025

By Speed post A.D/E-Mail

To,

M/s. Pashupati Polytex Pvt. Ltd.,
Hariyawala - Kunda Road, Kashipur
244713 (Udham Singh Nagar), Uttarakhand.
(Email:-fibre@pashupatigrp.com)

Copy to:

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