



## ***ALO Law Office- IDT Tax / Arbitration / Litigation***

**Date: 26.04.2025**

### **CESTAT Kolkata Rejects Customs Value Enhancement Based on NIDB Data**

The Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), Eastern Zonal Bench, Kolkata, has recently dismissed an appeal filed by the Revenue challenging the decision of the Commissioner (Appeals) to reject the enhancement of import values based on National Import Database (NIDB) data.

#### **Background:**

M/s Radha Engineering Company imported "LED/NON-LED Christmas Lights" and "LED Strip Light/LED Rope Light," declaring specific transaction values. Following an investigation by the Directorate of Revenue Intelligence (DRI), the Revenue alleged undervaluation and enhanced the declared import values based on NIDB data.

#### **Key highlights of the CESTAT Kolkata proceedings:**

##### **1. Issue of Valuation:**

- Dispute involved alleged undervaluation of imported "LED/NON-LED Christmas Lights" and "LED Strip Light/LED Rope Light."

##### **2. Revenue's Action:**

- Revenue enhanced the transaction values based on National Import Database (NIDB) data.

### 3. Appeal by Respondent:

- M/s Radha Engineering challenged the enhancement order before the Commissioner (Appeals), who ruled in their favor by setting aside the value enhancement.

### 4. Revenue's Appeal:

- Revenue appealed to CESTAT against the Commissioner (Appeals)' decision.

### 5. CESTAT Decision:

- Tribunal dismissed Revenue's appeal, upholding the Commissioner's decision to reject arbitrary valuation enhancements.
- Tribunal emphasized that Revenue failed to adhere to proper valuation procedures under Customs Valuation Rules, 2007.

### 6. Precedents Referenced:

- Tribunal cited its earlier decisions, notably in cases involving M/s Prabhu Electrical Industries and M/s Bajaj Writing Aid, reiterating that selective reliance on NIDB data without comprehensive evaluation was unlawful.

### 7. Outcome:

- Tribunal affirmed that enhancement of values in absence of solid evidence or procedural compliance is invalid, thereby dismissing Revenue's appeal.

*This Article has been written by Shri Ravi Shekhar Jha, Advocate Delhi High Court based on his interpretation of the law. He can be reached at his email id [intelconsul@gmail.com](mailto:intelconsul@gmail.com) or on his Mobile +91-9999005379.*

**Source: CESTAT Kolkata**

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**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH – COURT NO. 1

**Customs Stay Petition No. 75158 of 2020**

(on behalf of Appellant)

**In**

**Customs Appeal No. 75126 of 2020**

(Arising out of Order-in-Appeal No. KOL/CUS/PORT/23/2020 dated 06.03.2020 passed by the Commissioner of Customs (Appeals), 15/1, Strand Road, Kolkata – 700 001)

**Principal Commissioner of Customs (Port)**

15/1, Custom House, Strand Road,  
Kolkata – 700 001 (West Bengal)

**: Appellant /  
Applicant**

**VERSUS**

**M/s. Radha Engineering Company**

Village: Takrohi, Sector-11, Indira Nagar,  
Lucknow – 226 016 (Uttar Pradesh)

**: Respondent**

**APPEARANCE:**

Shri Sourabh Chakravorty, Authorized Representative, for the Appellant / Applicant

None for the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**

**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 75986 / 2025**

DATE OF HEARING / DECISION: 24.04.2025

**ORDER: [PER SHRI ASHOK JINDAL]**

None appeared on behalf of the respondent.

2. The Revenue has filed the present stay petition seeking stay of operation of the impugned Order-in-Appeal No. KOL/CUS/PORT/23/2020 dated 06.03.2020 passed by the Ld. Commissioner of Customs (Appeals), 15/1, Strand Road, Kolkata – 700 001.

2.1. *Prima facie*, we find that the impugned order, passed by the Ld. Commissioner of Customs (Appeals), Kolkata is not *ex facie*, illegal or without jurisdiction. Consequently, the stay petition filed by the Revenue is rejected, being devoid of merit.

3. As the Ld. Authorized Representative of the Revenue/appellant submitted that the appeal can be heard at this stage, therefore, the appeal itself was taken up for disposal.

4. The facts of the case are that the respondent has imported "LED/NON-LED Christmas Lights" and "LED Strip Light/LED Rope Light" from overseas supplies vide 16 Bills of Entry, which were self-assessed. The price per bulb was declared as Rs.0.038 to Rs.0.094 per bulb for LED Christmas Lights, Rs.0.036 to Rs.0.100 per bulb for NON-LED Christmas Lights and Rs.0.830 to Rs.1.449 per metre for LED Strip Lights. On the basis of an investigation conducted by the DRI, the Revenue formed the opinion that the value of the LED bulbs, NON-LED bulbs and LED Strip Light/LED Rope Light had been undervalued and was required to be enhanced. Accordingly, the value of the impugned goods was enhanced by the Revenue, by adopting the NIDB data.

4.1. Thereafter, by way of the Order-in-Original dated 29.05.2018, the assessment of the impugned goods was finalized, the value of the impugned goods was re-determined and revised Customs duty as per the re-determined value arrived at by the Id. adjudicating authority was demanded from the respondent, along with interest thereon.

4.2. Being aggrieved, the respondent filed an appeal before the Ld. Commissioner (Appeals) who, vide the impugned order, has set aside order of enhancement of values of the impugned goods and directed assessment of the impugned Bills of Entry at the declared transaction values.

5. Aggrieved from the said order, the Revenue is before us.

6. Heard the Ld. Authorized Representative of the Revenue and perused the records.

7. We observe that an identical issue has already been dealt with by this Tribunal in the case of *Commissioner of Customs (Port), Kolkata v. M/s. Prabhu Electrical Industries [Final Order No. 75543 of 2025 dated 28.02.2025 in Customs Appeal No. 76788 of 2019 – CESTAT, Kolkata]*, wherein it was held as under: -

*"2. The facts of the case are that the Respondent has imported "Christmas light" and others electrical items from China. After DRI Investigations it was felt the value is required to be enhanced. The Department adopted the NIDB data to enhance the values and revised the Customs Duty to be paid.*

*3. Being aggrieved, the Appellant-Revenue has filed an Appeal before the Commissioner (Appeals). The Ld. Commissioner (Appeals) set aside the enhancement of value. Against the said order, the Revenue is in appeal.*

*4. Heard both the parties and considered the submissions. 5. We find that the similar issue has been dealt by this Tribunal in the case of Commissioner of Customs (Port), Kolkata Vs. M/s Bajaj Writing Aid vide Final Order No.77599/2023 dated 31.10.2023 wherein this Tribunal has held as under :*

"2. Being aggrieved the Appellant had filed an Appeal before the Commissioner (Appeals). The Commissioner (Appeals) has gone through the facts and statutory provisions and has held as under: 20. I also find that in the case of Commissioner of Customs (Port), Kolkata Vs. M/s. Krishna Wax Pvt. Ltd. wherein Hon'ble CESTAT has passed the final order vide no. FO/75466-75472 dated 21.03.2018 where it is held as follows:

"6. From the record, it also appears that the assessing officer has rejected the transaction value without any valid reasons and without new procedure as per Section 14 and valuation rules especially, there is nothing on record that the appellant has imported the secondary items but the value was considered for the fresh items. No speaking order was passed for enhancement of value. There is nothing on record to suggest that the buyers and sellers of the goods are related persons. Therefore the enhancement of the value is likely to be struck down and rightly struck down by the Commr. (Appeals)." [Emphasis Supplied]

7. Hence we do not find any reason to interfere with the impugned order and the same is hereby upheld along with reasons mentioned therein. 21. I also observe that the lower authority stated at Para 5 that as per NIDB data 1341 cases of similar goods were assessed at higher value during the period from July, 2016 to September 2017. However, the data for all those cases were not supplied to the appellant. Instead, data of only 88 cases were supplied to the appellant. Hence it is evident that the lower authority has adopted a pick and choose approach in the present case which is not the right way to adjudication. The Principal Bench of CESTAT, New Delhi in the case of M/s Margra Industries Vs. Commissioner of Central Excise, Nodia reported in 2007 (216) ELT 710 (Tri Del) has held as,

".....10. It is well recognized that quality and price of marble vary vastly depending

*upon place of occurrence. The Revenue authorities have made comparison of value without taking these aspects into account. The imports were of „Monaco Brown“, „Diano“, Mermer Royal Beize“ etc. The prices are also varying vastly. In fact, the price of „Monaco“ imported by the appellant under Bill of Entry No. 277105 was higher than the contemporaneous import of the same item at Euro 315. The Revenue has accepted that value and rejected all other values. Clearly, the effort is to assess imported goods at the higher end of the value spectrum. This is contrary to market reality as well as Valuation Rule. While market prices vary depending upon myriad factors, Rule 4 of Custom Valuation Rules specifically provides that transaction value should be the basis for the valuation of the consignment under assessment, unless the transaction value is not representing the full price for the reasons mentioned in the Rule itself. Law does not allow a pick and choose approach Revenue’s acceptance of higher prices and rejection of lower prices for assessment is clearly illegal”. [Emphasis Supplied] The Hon’ble Supreme Court has also supported the same view in its order reported in 2012 (275) ELT A83 (SC).*

*22. From the above it is found that the assessing officer has rejected transaction values without any valid basis/reasons and without following the due procedure as per section 14 and Valuation Rules, especially when there is nothing on record to suggest that the transaction value declared by the appellant was not the price actually paid for the good when sold for export to India. Also no evidence has been produced by the respondent that any amount, over and above the invoice values was paid by the appellant to the supplier of the goods. There is also nothing on record to suggest that the buyer and seller of the goods were related or price was not for the sole consideration for sale. Therefore, in these circumstances, the enhancement of assessable value is liable to be struck down and set aside and the bills of*

*entry in the impugned appeal are to be assessed at value declared by the appellant.*

*23. Therefore, I have no hesitation to hold that the enhancement of values done in this case is without having any sanction of law and is thus liable to be set aside outrightly. [Emphasis Supplied]*

*24. In view of above, the enhancement of values in the present case is not sustainable in the eye of law and accordingly assessment of the impugned bills of entry is ordered at the values declared at invoice value. The appeal is accordingly liable to be allowed with consequential relief.” 3. After going through at the submissions of the Ld. Respondent, we find that the Department has not made any attempt to follow the procedure given under the Valuation (Determination of Value of Importers Goods) Rules 2007 and has simply adopted the NIDB data and selectively enhanced value. As discussed above, the Commissioner (Appeals), has given a detailed finding along with reasons while setting aside the Order-in-Original. We do not find any reason to interfere with the same. Accordingly, we dismiss the Appeal filed by the Revenue.”*

*6. Respectfully following the ratio of the above decision of this Tribunal, we find that the enhancement of values in the present case is not sustainable in the eyes of law. Accordingly, we do not find any infirmity in the order passed by the Ld. Commissioner (Appeals). Therefore, we do not find any reason to interfere with the same. Accordingly, the impugned order is upheld.*

*7. In the result, the appeal filed by the Revenue is dismissed.”*

7.1. Considering the fact that the issue has already been settled by this Tribunal in the case of *M/s. Prabhu Electrical Industries (supra)*, we are of the view that the above ratio is squarely applicable to the present case. Therefore, by following the ratio laid down in the above decision, we hold that the enhancement of values in the present case is not sustainable in the eyes of law. In these circumstances, we do not find any infirmity in the impugned order passed by the Ld. Commissioner (Appeals) and accordingly, the same is upheld.

8. In the result, we do not find any merit in the appeal filed by the Revenue and therefore, the same is dismissed.

(Dictated and pronounced in the open court)

Sd/-

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

Sd/-

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)