



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

**Date: 02.07.2025**

### **CESTAT Chandigarh Dismisses Customs Appeals in Metal Scrap Valuation**

The Customs, Excise and Service Tax Appellate Tribunal (CESTAT) Chandigarh, via Final Order Nos. 60650–60742/2025 dated 30.06.2025, dismissed 93 appeals filed by the Revenue against M/s Vardhman Sales Agency and reaffirmed the principles of natural justice and lawful valuation under the Customs Act, 1962.

#### **Background of the Case**

- M/s Vardhman Sales Agency, an importer based in Faridabad, imported metal scrap through 93 Bills of Entry at ICD Piyala.
- The declared transaction value was ₹35.56 crore with self-assessed customs duty of ₹7.70 crore.
- Customs authorities enhanced the assessable value unilaterally based on NIDB (National Import Database) data, raising the duty to ₹9.38 crore.
- Although the importer initially paid the enhanced duty under protest to avoid demurrage, they challenged the re-assessment before the Commissioner (Appeals).

#### **Findings of Commissioner (Appeals)**

The Commissioner (Appeals), New Delhi, allowed the appeal of the importer, setting aside the enhancement and ordered reassessment at the originally declared value, holding:

- The Assessing Officer failed to issue a speaking order or provide reasons for rejecting the declared value under Rule 12 of the Customs Valuation Rules, 2007 (CVR, 2007).
- Acceptance of enhanced duty under duress does not amount to consent and cannot be construed as waiver of statutory rights.
- Reliance solely on NIDB data is insufficient for value enhancement without cogent evidence or contemporaneous import comparison.

### **Tribunal Observations**

- Supreme Court's decision in Century Metal Recycling (2019): Held that valuation cannot be enhanced based on arbitrary doubts; reasons must be recorded and communicated to the importer.
- Delhi High Court's ruling (Nov 2024) in Niraj Silk Mills & Hanuman Prasad & Sons: Overruled the Revenue's reliance on older Tribunal decisions, reaffirmed that Rule 12 must be strictly followed and reassessment must be justified with evidence.
- The Revenue cannot bypass procedural safeguards like Section 17(5) of the Customs Act, which mandates a speaking order unless written acceptance is unambiguous and voluntary.

### **Key Legal Principles Reiterated**

1. Acceptance of Enhanced Duty Under Protest - Waiver of Right to Appeal
2. NIDB Data Alone - Valid Basis for Valuation Enhancement
3. Speaking Order Mandatory under Section 17(5) unless reassessment is expressly accepted
4. Burden of Proof lies on the Department to reject the declared value with cogent reasons
5. Importer's Right to Appeal is a statutory and inalienable right and cannot be deemed waived by procedural acquiescence

### **Final Verdict**

- The CESTAT dismissed all 93 appeals filed by the Revenue and upheld the importer's right to fair valuation and due process.
- It reinforced judicial precedent protecting importers from coercive valuation tactics and improper use of database comparisons without evidence.

### **Implications**

This order:

- Reasserts the necessity of due process and transparency in customs valuation.
- Is a major relief for importers facing arbitrary reassessments based on NIDB.
- Sets a clear precedent that valuation must be backed by objective material and reasoned order.
- Could prompt systemic improvements in assessment procedures at Indian customs stations.

*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 Chandigarh**

**Disclaimer**

Write to us at [office@aadrikaalaw.com](mailto:office@aadrikaalaw.com)

Tel: +91-11-4999 2707 | +91-9999005379

[www.aadrikaalaw.com](http://www.aadrikaalaw.com)

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 60057 of 2025**

[Arising out of Order-in-Appeal No. CC(A)/CUS/D-II/ICD/PPG/831-950/2021-22 dated 03.09.2021 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi]

**Commissioner of Customs  
ICD Patparganj & Other ICDs**  
Patparganj, Delhi 110096  
& Other ICDs, Piyala, Faridabad 121004

**.....Appellant**

*VERSUS*

**M/s Vardhman Sales Agency**  
14/1 Milestone, Main Mathura Road,  
Faridabad, Haryana 121004

**.....Respondent**

**WITH**

<b>C/60058/2025</b>	<b>C/60059/2025</b>	<b>C/60060/2025</b>	<b>C/60061/2025</b>
<b>C/60062/2025</b>	<b>C/60063/2025</b>	<b>C/60064/2025</b>	<b>C/60065/2025</b>
<b>C/60066/2025</b>	<b>C/60067/2025</b>	<b>C/60068/2025</b>	<b>C/60069/2025</b>
<b>C/60070/2025</b>	<b>C/60071/2025</b>	<b>C/60072/2025</b>	<b>C/60073/2025</b>
<b>C/60074/2025</b>	<b>C/60075/2025</b>	<b>C/60076/2025</b>	<b>C/60077/2025</b>
<b>C/60078/2025</b>	<b>C/60079/2025</b>	<b>C/60080/2025</b>	<b>C/60081/2025</b>
<b>C/60082/2025</b>	<b>C/60083/2025</b>	<b>C/60084/2025</b>	<b>C/60085/2025</b>
<b>C/60086/2025</b>	<b>C/60087/2025</b>	<b>C/60088/2025</b>	<b>C/60089/2025</b>
<b>C/60090/2025</b>	<b>C/60091/2025</b>	<b>C/60092/2025</b>	<b>C/60093/2025</b>
<b>C/60094/2025</b>	<b>C/60095/2025</b>	<b>C/60096/2025</b>	<b>C/60097/2025</b>
<b>C/60098/2025</b>	<b>C/60099/2025</b>	<b>C/60100/2025</b>	<b>C/60101/2025</b>
<b>C/60102/2025</b>	<b>C/60103/2025</b>	<b>C/60104/2025</b>	<b>C/60105/2025</b>
<b>C/60106/2025</b>	<b>C/60107/2025</b>	<b>C/60108/2025</b>	<b>C/60109/2025</b>
<b>C/60110/2025</b>	<b>C/60111/2025</b>	<b>C/60112/2025</b>	<b>C/60113/2025</b>
<b>C/60114/2025</b>	<b>C/60115/2025</b>	<b>C/60116/2025</b>	<b>C/60117/2025</b>
<b>C/60118/2025</b>	<b>C/60119/2025</b>	<b>C/60120/2025</b>	<b>C/60121/2025</b>
<b>C/60122/2025</b>	<b>C/60123/2025</b>	<b>C/60124/2025</b>	<b>C/60125/2025</b>
<b>C/60126/2025</b>	<b>C/60127/2025</b>	<b>C/60128/2025</b>	<b>C/60129/2025</b>
<b>C/60130/2025</b>	<b>C/60131/2025</b>	<b>C/60132/2025</b>	<b>C/60133/2025</b>
<b>C/60134/2025</b>	<b>C/60135/2025</b>	<b>C/60136/2025</b>	<b>C/60137/2025</b>
<b>C/60138/2025</b>	<b>C/60139/2025</b>	<b>C/60140/2025</b>	<b>C/60141/2025</b>
<b>C/60142/2025</b>	<b>C/60143/2025</b>	<b>C/60144/2025</b>	<b>C/60145/2025</b>
<b>C/60146/2025</b>	<b>C/60147/2025</b>	<b>C/60148/2025</b>	<b>C/60149/2025</b>

**APPEARANCE:**

Shri Anurag Kumar and Shri Goverdhan Dass Bansal, Authorized

Representatives for the Appellant

None for the Respondent

**CORAM: HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)**  
**HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 60650-60742/2025**

DATE OF HEARING: 25.06.2025  
DATE OF DECISION: 30.06.2025

**S. S. GARG :**

All these 93 appeals are filed by the Revenue against the impugned order dated 03.09.2021 passed by the Commissioner of Customs (Appeals), New Delhi, whereby the learned Commissioner (Appeals) has disposed of the appeals filed by the importer/assessee/respondent namely M/s Vardhman Sales Agency in respect of the assessment of 93 Bills of Entry.

2. Briefly stated facts of the case are that the importer/assessee/respondent M/s Vardhman Sales Agency had imported impugned goods vide 93 Bills of Entry at ICD Piyala, Faridabad, Haryana by declaring the goods as metal scrap and self assessed duty of Rs.7,70,81,624/- on the declared transaction value of Rs.35,56,19,815/-. The said Bills of Entry were re-assessed by the Deputy/Assistant Commissioner of Customs, ICD Piyala, Faridabad at higher value than the declared value. The total re-assessed duty comes to Rs.9,38,76,801/- on re-determined value of Rs.43,38,57,108/- by the department. Thus, the total differential duty of Customs in these 93 Bills of Entry comes to Rs.1,67,95,177/-. The importer/assessee/respondent at the time of clearance has accepted the value enhancement of the impugned goods. However, later on, the importer challenged the value enhancement and filed

appeals before the Commissioner of Customs (Appeals) against the assessment of 93 Bills of Entry with enhanced value. The learned Commissioner (Appeals) vide the impugned order allowed the appeal filed by the importer/assessee against the assessment and set aside the enhanced value of the respective assessment of 93 Bills of Entry with direction to re-assess the Bills of Entry at declared value. Aggrieved by the order of the Commissioner (Appeals), the Revenue has filed present appeals.

3. Heard the learned Authorized Representative for the appellant/Revenue. No one has appeared on behalf of the respondent/assessee/importer. Since the issue is in narrow compass, therefore, we proceed to decide the same on perusal of the material on record.

4. The learned Authorized Representative for the department submits that the impugned order passed by the Commissioner (Appeals) is not accordance with law and facts. He further submits that the importer/assessee/respondent had voluntarily accepted the enhanced values relinquishing their right to be issued with a show cause notice for personal hearing. He further submits that the enhancement was not done arbitrarily or irrationally, as the same was done as per the contemporaneous import of 'Metal Scrap' available in NIDB data specific re-assessed value for each Bill of Entry was done. He further submits that assessable value was liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 ("CVR, 2007") read with Section 14 of the Customs Act, 1962. He further submits that the Commissioner

(Appeals) has failed to appreciate the fact that the importer/assessee had voluntarily accepted the re-assessment on enhanced values and accordingly paid the duty without asking for any speaking order, show cause notice and personal hearing. In support of his submission, the learned Authorized Representative relies on the decision of Principal Bench of the Tribunal in the case of **Commissioner of Customs, Patparganj vs. Hanuman Prasad & Sons and Niraj Silk Mills - Final Order No. 51584-61619 dated 20.10.2020**, wherein the Tribunal held that valuation once accepted in writing by the assessee/importer as per Section 17(5) of the Customs Act, 1962 shall be the transaction value for the purpose of levy of customs duty. While passing the said order, the Principal Bench of the Tribunal distinguished various case-laws submitted by the assessee including the decisions of the Tribunal in cases of Maruti Fabric Impex, Artex Textile, Hanuman Prasad, Uniexcel Polychem etc. and judgments of Hon'ble Apex Court in the cases of Eicher Tractor, Century Metal etc.

5. We have gone through the impugned order and perused the material on record. We find that the learned Commissioner (Appeals), after considering the submission of the importer/assessee and relying upon the judgments of the Hon'ble Supreme Court, High Court as well as the Tribunal on identical issue, has framed two issues namely;

(i) whether the declared value has been rightly rejected by the Assessing Officer; and

(ii) whether the re-determined value has been correctly arrived at in terms of CVR, 2007.

6. We find that while considering issue no. (i), the learned Commissioner (Appeals) has examined Rule 12 of CVR, 2007 and relied upon the judgment of Hon'ble Apex Court in the case of *Century Metals – 2019 (367) ELT 3 (SC)* wherein the Hon'ble Apex Court has categorically held that doubt under Rule 12 of CVR, 2007 must be based on certain reasons and it should be based and predicated on grounds and material in the form of 'certain reason' and not mere *ipse dixit*. The learned Commissioner (Appeals) has cited para 15 of the said judgment in his order. The learned Commissioner (Appeals) has also observed in para 5.3.3 of his order that the Assessing Officer did not issue the speaking order presuming that the assessee had accepted the enhanced value; however, the assessee had preferred appeal against the value enhancement, which in itself is a kind of protest. The relevant findings of learned Commissioner (Appeals) on issue no. (i), in para 5.3.3 to 5.3.10 of the impugned order, are reproduced herein below:

**5.3.3** Evidently the Assessing Officer did not issue the speaking order presuming that the appellant had accepted the enhanced value. However, the appellant had preferred appeal against the value enhancement which in itself is a kind of protest.

**5.3.4** Such predicament of acceptance of enhanced value to save detention and demurrage and seek clearance of goods has been subject matter of several judicial pronouncements and it has been upheld that such acceptance cannot be basis of rejection of declared value. In this regard, I refer to cases of *Maruti Fabrics [2016 (343) ELT 963 (Tri Del)]* and *Artex Textile Pvt Ltd [2020 (9) TMI 527 CESTAT New Delhi]*.

**5.3.5** Further in this regard, I note that enhancement on basis of similar acceptance in other cases has been set aside

by higher forums. I refer to case of *Century Metal Recycling Pvt Ltd [2019 (6) TMI 1355 (CESTAT Chandigarh)]*. Hon'ble Tribunal in this case did consider unconditional acceptance of the re-determined value and decided to set aside the enhancement by referring to Hon'ble Apex Court's Order in the case of *Century Metals [2019 (367) ELT 3 (SC)]*. In the said decision, the Apex Court has held as under:-

*"20. We would ex facie for the reasons recorded below reject the contention of the respondents predicated on the letter of appellants dated 6th March, 2017 that the appellants did not seek provisional assessment of the bill of entry and had accepted and paid duty on the valuation done by the customs authorities. This letter exposits the predicament faced by the appellants as it states that the appellants were in urgent requirement and wanted clearance of the goods. Pertinently the appellants had earlier written several letters, including communications dated 22nd December 2016 and 4th March, 2017 requesting for clearance of the imported consignment of aluminium scrap on the declared transaction value pointing out therein that on account of delay in the clearance of the imported consignments, the appellants and its sister concern had been compelled to pay excess duty of over Rs. 25 crores from August 2013 onwards. It is unfortunate and has to be accepted that the respondent authorities had compelled and forced the appellant to furnish the letter dated 6th March, 2017 thereby waiving of its fight to provisional assessment and accepting valuation in terms of Rules 4 to 10. As per sub Rule (2) of Rule 12 the proper officer when required must intimate to the importer in writing the grounds for doubting the truth or accuracy of the value declared. The said mandate of sub-Rule (2) of Rule 12 cannot be ignored or waived. Formation of opinion regarding reasonable doubt as to the truth or accuracy of the valuation and communication of the said grounds to the importer is mandatory, subterfuge to by-pass and circumvent the statutory mandate is unacceptable. Formation of belief and recording of reasons as to reasonable doubt and communication of the reasons when required is the only way and manner in which the proper officer in terms of Rule 12 can proceed to make assessment under Rules 4 to 9 after rejecting the transaction value as declared."*

**5.3.6** It has been a judicially settled principle that onus to prove that declared price did not reflect true transaction value is on the Department. The declared value can be rejected on the basis of reasonable and cogent evidence only and Department should discharge the heavy burden to prove that invoice value does not represent the true transaction value in the international market.

**5.3.7** It also a well settled law that valuation of the imported goods has to be done in terms of Section 14 of the Customs Act, 1962 and the CVR 2007. If transaction value can be determined under Rule 3(1) of CVR 2007 and such value does not fall under exceptions provided under Rule 3(2) of CVR 2007, the transaction value cannot be rejected under Rule 12 of CVR 2007. In the instant case, there is no allegation that over and above the declared price, the Appellant has paid any amount to the overseas supplier. There is also no allegation that the Appellant and supplier are related. Thus, the value declared by the Appellant meets criteria of transaction value under Section 14 of the Act and also do not fall in any exceptions cited in Rule 3(2) of CVR 2007. Therefore, for rejecting it in terms of Rule 12 of CVR 2007, the Assessing Officer need to give cogent and justified reasons, which has not been done in this case.

**5.3.8** Hon'ble High Court of Calcutta in the case of *Sigma Power Products Pvt. Ltd [2017 (350) ELT 510 (Cal)]* held that:-

*"13. The adjudication of the question of law we formulated is to be on consideration of the submissions made by the parties. The order made by the proper officer on the bills of entry in changing the classification and value enhancement is an order of re-assessment attracting the provisions of sub-section (5) of Section 17 of the Act as urged by the appellant which also appears to be the case from the affidavit filed by the Revenue. Hence, the conclusion has to be that the proper officer was required to pass a speaking order on the re-assessment within 15 days of the re-assessment of the bills of entry. No speaking order was passed. In the circumstances, we have no hesitation to set aside the re-assessment. In*

*view of the aforesaid, there is no scope for a contrary finding. The writ petition thus succeeds to that extent."*

**5.3.9** There are CBEC instructions on the matter advising the assessing officers to pass a speaking order on the re-assessment within 15 days from the date of re-assessment of the Bill of Entry. An importer has an inalienable right to know the reasons for loading of value. Omission to issue speaking orders in matter of re-assessment may not prejudicially affect the right of the importer to appeal as such, but nevertheless deprives him of knowing the grounds of such re-assessment. At the same time, any such re-assessment without the support of a speaking order could be perceived as legally questionable. In fact, Hon'ble Delhi Bench of Tribunal in case of *Polyglass Acrylic Manufacturing Co. Ltd [2014 (301) ELT 0545]* and *[2011 (274) ELT 419]* had rejected Department's appeal and upheld Commissioner (A)'s order setting aside enhancement of declared value without passing a speaking order.

**5.3.10** Keeping these aspects in mind, I hold that rejection of declared value by the Assessing Officer was not correct and he should have accepted the declared value as the transaction value."

7. We also find that while considering issue no. (ii), the learned Commissioner (Appeals) has observed in para 5.4.1 to 5.4.2 of the impugned order as under:

**"5.4.1** As I have held above that rejection of declared value under CVR 2007 was not proper, it is not necessary to go into the legality/correctness of second issue of re-determination of value under CVR 2007. Nonetheless I would like to discuss this aspect also on merits.

**5.4.2** The Assessing Officer has failed to follow provisions of CVR 2007 which require sequential application of CVR 2007 to redetermine declared value. The Assessing Officer failed to specify which rule under CVR 2007 was applied for value

enhancement. Such value enhancement is not proper and legal.”

8. Further, we find that in the grounds of present appeals, the department has relied upon the decision of the Tribunal in the case of **Commissioner of Customs, Patparganj vs. Hanuman Prasad & Sons and Niraj Silk Mills** (supra). We find that the said decision of the Tribunal has recently been overruled by the Hon’ble High Court of Delhi vide its **order dated 27.11.2024** passed in the case of **Niraj Silk Mills and Hanuman Prasad & Sons Vs. Commr of Customs (ICD) Patparganj – CUSAA 26 of 2022** and **CUSAA No. 27 of 2022**, wherein the Hon’ble High Court of Delhi, in a bunch of appeals, has considered the identical issue in detail and after considering the various judgments of the Tribunal as well as of the Hon’ble Supreme Court, has decided the issue in favour of the importer/assessee. Here, it is pertinent to reproduce the relevant paras of the **judgment of the Hon’ble Delhi High Court passed on 27.11.2024**, which are reproduced herein below:

“**58.** Before we proceed to analyse Section 17 of the Act and its application to the appeals before us, it would be pertinent to preface the discussion by acknowledging the statutory position as it exists. An entity intending to import goods is firstly required to self-assess the duty which would be leviable. This obliges the importer to comply with the prescriptions set out in Section 46 of the Act. As that provision stands in its present avatar, the importer of any goods is required to electronically present on the customs automated system, the BoE for the consideration of the proper officer. The BoE is to include all particulars required in terms of the provisions made in the Act and corresponding rules. In addition to the presentation of a BoE, the importer is also statutorily obliged to submit a declaration as to the truthfulness of the contents of such BoE and in support thereof produce before the proper officer the invoice and other documents relating to the imported

goods as may be prescribed. In terms of sub-section (4A) of Section 46, the importer who presents a BoE is to ensure that the said document is accurate and complete in respect of the information disclosed therein, the authenticity and validity of documents filed in support thereof and the import itself being compliant with any restriction or prohibition imposed in relation to those goods by law.

**59.** Upon the proper officer being satisfied that the goods entered for home consumption are not prohibited and import duty has been paid, it would pass an order permitting clearance of those goods for home consumption. This flows from a reading of Section 47 of the Act. In terms of Sections 48 and 49, an importer is also entitled to warehouse the imported goods after the same have been unloaded at a customs station or even transhipped within 30 days therefrom. The goods can thereafter remain in the warehouse pending clearance for removal.

**60.** Undisputedly, a self-assessed BoE which is submitted by an importer, if accepted and endorsed by the proper officer, would be deemed to have been duly assessed. This clearly flows from the manner in which the word 'assessment' has been defined in Section 2(2) of the Act and is in any case, an issue that is no longer *res integra*, bearing in mind the decision of the Supreme Court rendered in the matter of ITC Ltd. vs. CCE – (2019) 17 SCC 46.

.....

.....

**71.** On an overall consideration of the statutory scheme governing the valuation of imports and reassessment, it becomes clear that the reasonable doubt which is spoken of in Rule 12 is indelibly connected to the aspect of the valuation of imported goods and the identification of the transaction value which is spoken of in Section 14. Section 14 introduces a deeming fiction when it provides that the value of the imported goods "shall be the transaction value" and which is ordained to be the price actually paid or is payable for the goods when sold. The 2007 Rules themselves owe their genesis to the identification of transaction value and which subject is principally regulated by Section 14 of the Act.

.....

.....

**75.** The imperative of reasons being recorded in support of the doubt with respect to declared value and the same being communicated to the importer were aspects on which due

emphasis was laid by the Supreme Court in *Century Metal Recycling* as is evident from a reading of para 25 of the report. In fact, the Supreme Court pertinently observed that the aforementioned mandate of Rule 12(2) cannot be “ignored or waived”. The statutory obligations flowing from Rule 12 in this regard were reemphasized by the Supreme Court in that decision when their Lordships observed that the same would constitute the only manner in which the proper officer could proceed to make an assessment under Rules 4 to 9. The interplay between Sections 14 and 17, and the 2007 Rules was lucidly explained by the Supreme Court in *Century Metal Recycling* and where the Supreme Court was faced with a somewhat similar situation of an appellant who alleged that they had been coerced and intimidated into submitting a letter of consent conceding to the assessment and valuation exercise undertaken by the customs authorities compelled by the delay being caused in the clearance of imported articles and the continued levy of demurrage, warehousing charges and other liabilities. After noticing the language in which Rule 12 stood couched, the Supreme Court in *Century Metal Recycling* observed that while the expression “reason to doubt” may not be akin to a “reason to believe” or a subjective satisfaction being arrived at, it would clearly have to be reasonable and thus the doubt formed would have to be informed by a degree of objectivity.

.....

.....

**78.** The key takeaways from the decision in *Century Metal Recycling* would thus be the reasonable doubt being based on empirical and legally justifiable factors illustratively spelt out in Rule 12, the mandate to record reasons in support of the formation of that opinion and the mandatory requirement of communicating that material to the importer upon request.

.....

.....

**84.** We find ourselves unable to construe Rule 12(2) as contemplating any concession or waiver at least in explicit terms. All that Rule 12(2) stipulates is that the proper officer would intimate to the importer the grounds for doubting the declared value at its request. It is in the aforesaid context that we would thus have to adjudge whether the CESTAT was correct in holding that the exchange of communications amounted to a waiver or abandonment not just of the right to question and assail the reassessment but to impugn it in

further proceedings in accordance with the procedure prescribed under the Act.

**85.** In our considered opinion, the perceived concession made in respect of the opinion harboured by the proper officer cannot possibly be interpreted or construed as detracting from or depriving the importer of the right to question the decision of the proper officer in accordance with law. The right to question the correctness of the decision of the proper officer, be it with respect to the formation of opinion or even on merits, is one which is protected by statute. The question, which as a sequitur, arises is whether that right itself can be said to have been abandoned.

.....

.....

**89.** The question of abandonment arose for consideration again before a Constitution Bench of the Supreme Court in *Bhau Ram vs. Baij Nath Singh - 1961 SCC OnLine SC 292*. The issue itself arose in light of the stand of the respondents that the appellants upon withdrawing the pre-emption price would be deemed to have accepted the decree and thus being deprived of the right to assail or question the same.

.....

.....

**97.** By virtue of Section 17(5) of the Act, the proper officer stands relieved of the obligation to pass a speaking order only in cases where the importer confirms his acceptance of the reassessment in writing. However, and as was noted in the preceding parts of this decision, the different Benches of the CESTAT have consistently taken the position that letters of consent of the like submitted by the appellants in this batch cannot be viewed as a complete or abject surrender of the right to assail or question a reassessment. However, the host of past precedents rendered on this aspect have come to be overlooked and ignored by the CESTAT which has merely proceeded to toe the line taken in the *Advanced Scan Support* and *Vikas Spinners*. We have already taken note of the distinguishing features which inform the aforementioned two decisions.

**98.** Therefore, the proper officer could not be said to have been relieved of its obligation to pass a speaking order in terms of Section 17(5). The process of rejecting the declared value and reassessing the transaction value is statutorily required to be preceded by the proper officer having drawn an opinion of why the declared value was not liable to be accepted before consequently proceeding to

reassess the value. While the said reassessment may not be framed in elaborate terms, it would necessarily have to be reflective of the reasons which weighed upon the respondent to form the opinion that the declared value was not liable to be accepted.

.....

**100.** Insofar as the aspect of whether the enhancement or reevaluation of the 'declared value' can be based solely on the data available in the NIDB, in *Agarwal Foundries*, the Hyderabad Bench of the CESTAT had held that the customs authorities would be unjustified in enhancing the declared import values solely on the basis of NIDB data. It emphasized that transaction values cannot be rejected arbitrarily and that the authenticity of importer-issued invoices must be accepted unless discredited on the basis of cogent evidence.

.....

.....

**103.** The Chennai Bench of the Tribunal in *M/s Gypsie Impex vs. Commissioner of Customs [Final Order No. 40131/2024 dated 5.2.2024]* addressed the limitations besetting the usage of NIDB data as the sole basis for re-determining transaction values. It is pertinent to note that Rule 10A of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988, as analysed by the CESTAT in this decision, was similar to Rule 12 of the 2007 Rules. The CESTAT ruled in favour of the appellant, holding that NIDB data alone would be insufficient for value reassessment without corroborative evidence or contemporaneous import comparisons. This decision underscored the importance of comprehensive evidence and procedural compliance in customs disputes, cautioning against arbitrary reliance on NIDB data.

**104.** It becomes apparent from a reading of these decisions collectively that the Tribunal has consistently found that a valuation addition based solely on NIDB data would wholly unwarranted and that any such reassessment would have to be shored by independent and cogent evidence. The legal position so articulated would ensure fairness and transparency in the determination of import values. The body of precedent noticed above have in unison held that mere reliance on external data without corroborative evidence or clear justification would fail to meet the tests and principles underlying the provisions enshrined in the 1988 Rules and 2007 Rules. They correctly lay emphasis on the imperatives of a reasoned approach to customs

valuation and a deviation from declared values being founded on tangible and justiciable material. A reassessment or rejection of declared value would thus have to necessarily be established as being compliant with the aforementioned requirements of pre-eminence. Relieving the respondents of this obligation would clearly lead to pernicious consequences.

**105.** Accordingly, and for all the aforesaid reasons, we would answer the question framed in the affirmative and in favour of the importers. The appeals are consequently allowed and the impugned orders of the CESTAT set aside. The order of the Commissioner (Appeals) shall in consequence stand restored.”

9. In view of our discussion above and by following the ratio of the above judgment of Hon’ble High Court of Delhi passed in the case of **Niraj Silk Mills and Hanuman Prasad & Sons** (supra) vide its **order dated 27.11.2024**, we are of the considered opinion that there is no infirmity in the impugned order passed by the learned Commissioner (Appeals), accordingly, we uphold the same and dismiss all the appeals of the Revenue.

(Order pronounced in the open court on 30.06.2025)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**