ALO Law Office- IDT Tax I Arbitration I Litigation

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CESTAT Ahmedabad dismissed the allegations of undervaluation

In a landmark decision, the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), West Zonal Bench at Ahmedabad, has ruled in favor of M/s Ruchi Enterprise, dismissing allegations of undervaluation of imported PVC Flex Sheets. The case, which has been under scrutiny for years, highlights critical aspects of customs valuation, evidentiary standards, and procedural fairness.

Background of the Case

M/s Ruchi Enterprise imported consignments of PVC Flex Sheets from China at Kandla Port. The Directorate of Revenue Intelligence (DRI) intercepted one of the consignments, alleging undervaluation and short payment of customs duty. Following investigations, the DRI issued a show cause notice proposing confiscation of goods, demanding differential duty of ₹12,93,381 along with interest and penalties under Sections 112 and 114A of the Customs Act, 1962.

The adjudicating authority upheld the charges, imposing penalties and rejecting the declared transaction value. Subsequent appeals to the Commissioner (Appeals) and the Tribunal led to a series of legal proceedings, culminating in the present appeal.

Key Arguments by M/s Ruchi Enterprise

The appellant challenged the allegations on several grounds:

1. **Non-Speaking Order:** The Commissioner (Appeals) overlooked their submissions and relied mechanically on test reports and letters.

2. **Transaction Value:** They argued that the transaction value should be accepted unless specific conditions under Rule 4(2) of the Customs Valuation Rules, 1988, are met.
3. **Quality of Goods:** The imported goods were of lower quality and could not be compared with standard quality goods imported by others.
4. **Sampling Process:** Only 10 samples were tested out of 540 rolls, making the findings unreliable.
5. **Extended Limitation Period:** The show cause notice was issued beyond the standard limitation period, and charges of suppression or misstatement were baseless.
6. **Retracted Letter:** The appellant claimed that their letter dated 15.02.2008 admitting undervaluation was written under duress and later retracted.

Tribunal's Observations

The Tribunal meticulously analyzed the evidence and arguments presented by both parties. Key findings include:

1. **Letter Dated 15.02.2008:** The Tribunal ruled that the letter admitting undervaluation was obtained under duress and could not be treated as admissible evidence.
2. **Sampling and Assumptions:** The department's reliance on partial sampling and assumptions regarding GSM and value was deemed unsustainable.
3. **Comparison with Other Importers:** The Tribunal noted that the supplier and nature of goods were different, and the department failed to establish similarity or identical nature of the goods.
4. **Legal Precedents:** The Tribunal relied on various Supreme Court judgments emphasizing the burden of proof on the revenue to establish undervaluation.

Final Verdict

The Tribunal concluded that the department failed to substantiate its charges of undervaluation. It allowed the appeal, granting consequential relief to M/s Ruchi Enterprise.

Implications of the Judgment

This decision underscores the importance of procedural fairness and evidentiary standards in customs valuation cases. It reiterates that transaction value cannot be rejected arbitrarily and highlights the need for concrete evidence to sustain allegations of undervaluation.

Conclusion

The ruling in favor of M/s Ruchi Enterprise is a significant victory for importers facing allegations of undervaluation. It serves as a reminder to authorities to adhere to legal provisions and evidentiary requirements while assessing customs duties. This case will undoubtedly set a precedent for similar disputes in the future.

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 or on his Mobile +91-9999005379.

Source: CESTAT Ahmedabad

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Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO. 1

Customs Appeal No. 470 of 2011

(Arising out of Order in Appeal No. 212/2011/Cus/Comr (A)/KDL dated 01.07.2011 passed by the Commissioner (Appeals)-Customs, Ahmedabad)

M/s Ruchi Enterprise **...Appellant**
S-3, Premchand Sheth Colony
Hunnershala Compund, New Jail Road
Jamnagar-362005

VERSUS

Commissioner of Customs –Kandla **...Respondent**
Customs House, Near Balaji Temple, Kandla

APPEARANCE:
Shri Manish Jain, Advocate with Ms. Surabhi Chandani, Advocate appeared for the Appellant
Shri Sanjay Kumar, Superintendent (AR) appeared for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

FINAL ORDER NO. 10615 /2025

DATE OF HEARING: 25.04.2025
DATE OF DECISION: 31.07.2025

SATENDRA VIKRAM SINGH:

M/s Ruchi Enterprise (the appellant in this case) had imported consignments of PVC flex sheets of assorted size from M/s Heibei Hongding Plastic Manufacturing Company, China at Kandla Port. One of their consignments was intercepted by the officers of DRI who conducted investigation in the matter by searching the premises of the importer and recording the statements of Shri Niraj Dodhia, Proprietor of the said firm. During investigation, the officers found that the importer had undervalued their goods and thus, short paid the customs duty. Similar searches were conducted at the premises of other importers namely (i) R K Exports, Hyderabad, (ii) Shilpa Abrasive Manufacturing Company, Secundrabad, (iii) M/s Venkatesh Textiles, Madurai, (iv) M/s Gujarat Pickers, Ahmedabad and (v) M/s Tower Overseas Ltd., Ahmedabad where the DRI observed that these importers were importing PVC Flex sheets of different GSM from China whose value was higher than the value at which goods were imported by M/s Ruchi Enterprise. The samples drawn from the goods of the appellant were tested by the CRCL

which determined the GSM of the goods ranging from 306 to 629.8. After completing the investigation, DRI issued a show cause notice dated 10.03.2008 proposing confiscation of the seized goods under section 111(m), rejecting the value declared in the Bills of Entry, demanding differential duty of Rs. 12,93,381/- along with interest and penalty on the importer under Section 112/ 114A of the Customs Act, 1962.

1.1 The above show cause notice was decided by the adjudicating authority vide OIO dated 31.03.2009 wherein he confiscated the seized goods valued Rs. 8,07,631/- and gave the importer to redeem the same on payment of redemption fine of Rs. 3,00,000/-, rejected the declared value in respect of consignments imported by the appellant and re-determined the value of the goods at Rs. 93,69,685/- and confirmed the differential duty of Rs. 12,92,381/- along with interest. He also imposed equal penalty under Section 114A of the Customs Act, 1962 besides penalty of Rs. 15,00,000/- on the proprietor Shri Niraj K. Dodhia under Section 112 of the Customs Act, 1962. Aggrieved with this order, the appellant filed appeal before the Commissioner (Appeals) who vide order-in-appeal dated 12.10.2009 dismissed the appeal of the party for non-compliance of Section 129E of the Customs Act, 1962. Aggrieved with this order, the party filed appeal before this Tribunal who vide Order dated 23.08.2010 directed the party to deposit an amount of Rs. 1,50,000/- within a period of 8 weeks and report compliance to the Commissioner (Appeals) to decide the appeal on merits. Subsequently, the matter was taken up by the Commissioner (Appeals) who vide Order-in-Appeal No. 212/2011/Cus/Commr (Appeals)/KDL dated 01.07.2011 set aside the redemption fine imposed against confiscation of goods valued at Rs.83,59,234/- and upheld the rest of the order. Hence, the present appeal.

2. In the appeal, the appellant has assailed the impugned order dated 01.07.2011 of the Commissioner (Appeals) on the following grounds:

- The order is non-speaking order as the Appellate Authority has over looked their submissions and mechanically passed the order relying on the test report dated 21.11.2007 of the samples drawn from their premises and letter dated 15.02.2008 of the proprietor of the firm. He cited the decision of Apex Court (Para 11 and 12) in the case of Cyril Lasrado Vs Juliana Maria Lasrado 2004 (7) SCC 431.

- Transaction value of the goods should have been accepted in the present case as has been held in several cases that transaction value can be discarded only in the circumstances mentioned in Rule 4(2) of the Customs Valuation Rules, 1988 and not otherwise. He also cited the decision of Hon'ble Supreme Court in the case of Basant Industries reported at 1996 (81) ELT 195 (SC), Tolin Rubber Private Limited Vs Commissioner reported at 2004 (163) ELT 289 (SC) and Commissioner vs Bureau Veritas reported at 2005 (181) ELT 3 (SC).
- Loading of value of imported goods being stock lot relying on the value of standard quality goods is not sustainable. Value of good quality Flex Sheets has been taken for assessing value of their imported goods is not correct. The goods imported by them are not of any standard size or of standard GSM and therefore, its value is always less than the standard quality goods. They relied on the following decisions:-
    - Commissioner of Customs, New Delhi vs D.M. International, 2009 (238) ELT 132 (Tri. Del.)
    - Bansal Industries 2002 (147) ELT 967 (Chennai)
    - S.V. International vs Commr. of Customs, Kolkata 2004 (166) ELT 405 (Tri. Kolkata)
    - Multi Trade Overseas, 2004 (172) ELT 397 (Del.)
- Rejection of declared value in the absence of knowledge of exact GSM of the imported goods is not sustainable in the present case. They also mentioned that the decision of Hon'ble Supreme Court in Varsha Plastics and Ukkuru International Trade relied upon by the Commissioner (Appeals) are not applicable as both the cases clearly deal with mis-declaration of imported goods which is not the case here.
- Reliance by the Commissioner (Appeals) on the letter dated 15.02.2008 of the Proprietor is not correct as the said letter was subsequently withdrawn/ retracted vide letter dated 20.02.2008.
- Demand is time barred as the imports were made during the period 30.10.2006 to 25.06.2007 whereas the show cause notice has been issued on 10.09.2008 after invoking extended period of limitation. As they have declared the imported goods based on description given in the exporter's invoice and other supporting documents hence, charges of suppression or mis-statement or mis-

declaration cannot be invoked against them as their conduct is totally bonafide.

- For the above reasons, goods imported by them are not liable to confiscation and consequently, they are not liable to any penalty under Section 114A of the Customs Act, 1962.

3. During arguments, learned advocate on behalf of the appellant reiterates their grounds and highlighted several decisions in their favour. He mentioned that the department has tested only a partial quantity of goods as samples were taken from only 10 rolls out of more than 540 rolls imported vide Bill of Entry No. F-197326 dated 25.06.2007. The department has assumed that goods which were already imported and sold by the appellant were of the same GSM. Applying the import data of other importers on such goods is not sustainable. Also commercial quantity of value or details of import by other importers are not provided in the show cause notice. He highlighted the decision of Hon'ble Supreme Court in the case of Eicher Tractors Ltd. reported at 2000 (122) ELT 321 (SC) to impress that the transaction value can be discarded only under circumstances mentioned in Rule 4(2) of the Customs Valuation Rules, 1988 and not otherwise. He also mentioned that the appellant imported lower quality goods which cannot be compared with high/ standard quality of goods imported by other manufacturers and placed reliance on the following decisions:

- Commissioner of Customs, New Delhi Vs D.M. International, 2009 (238) E.L.T. 132 (Tri.-Del.)
- M/s. Bansal Industries, 2002 (147) E.L.T. 967 (Chennai)
- S.V. International v. Commissioner of Customs, Kolkata, 2004 (166) E.I.T. 405 (Tri. - Kolkata)
- Multi Trade Overseas, 2004 (172) E.L.T. 397 (Del.)

3.1 Reliance was also placed on the decision of this Tribunal in the case of Italik Metalware Pvt. Ltd. Vs Commissioner of Customs, Mundra Final Order No. A/11464-11469/2023 placing reliance in the matter of Sarda Energy and Minerals Ltd. v. Commissioner of Cus. Ex., Raipur reported at 2018 (359) ELT 262 (Tri.-Del.) which held that:

> "4. Considered. We have gone through the judgment relied upon by the Learned Advocate, we find that para 6 deals with all that is required for implementation of provision of Rule 12 of Customs Valuation Rules, 2007. The Para 6 is reproduced below:
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> > "6. In this connection, we have perused the provisions of Rule 12, which enables the rejection of declared assessable value. The said rules provide for proper officer seeking

clarification from the importer to provide further information to satisfy the correctness of the declared assessable value. In the present case, the appellants did submit the invoice, purchase order and supporting contract documents with reference to the impugned consignments. Nothing more is required with the importer to further substantiate the value. In such situation, it is for the assessing officer to discount the documents with valid reasons in order to reject the declared value and thereafter to proceed with the reassessment, after due enhancement. Explanation (1)(i)(iii)(a) in Rule 12 appears to be applicable to the present case. In other words, the assessing officer having noticed higher value of contemporaneous import raised the doubt regarding the correctness of declared value. The legal provisions mentioned in the Explanation clearly stipulates that the contemporaneous value should be significantly higher for identical or similar goods at or about the same time, in a comparable commercial transaction. We find in the present case due examination about this crucial aspect has not been done by the assessing officer and comparison based on the contemporaneous import is not proper. Further, the contractual arrangements and invoices should not be rejected in the absence of any evidence to question their authenticity. As submitted by the appellants. NIBD data is a guidelines and an indicator for the assessing officer and it cannot be a substitute for assessable value. The assessable value for imported items has to be invariably arrived at applying Section 14 read with Customs Valuation Rules, 2007."

5. In short, the rule empowers proper officer to seek various invoices, in case the value is doubted by him. Such documents, inter alia, can be invoices, purchase order or any supporting contract and this depends upon whatever was duly given by the appellant. The decision also requires if such documents are available, then it is for the Assessing Officer to indicate as to why he is not convinced, despite such documents and given reasons for the same. We find that even if the waiver of SCN has been granted by the appellants in this case, still it was incumbent upon the authority passing the original order, to give its reason as to why the documentary evidence by way of invoice, packing list, Certificate of origin or whatever was available had to be rejected. We find that the reasons in this case, are not available therefore, there is a breach of provision of Rule 12 of Customs Valuation Rules, 2007. In the instant case, the decision cited (supra), is therefore squarely applicable. We therefore agree with the appellant's submissions.

3.2 The department has relied on the Appellant's letter dated 15.02.2008, wherein the Appellant had agreed to pay the differential duty on the subject goods due to harassment and to buy mental peace. However, immediately the appellant vide letter dated 20.02.2008 had retracted the above-mentioned admission. Thus, the admission made vide letter dated 15.02.2008 is not sustainable and cannot be relied upon

for enhancing the value of the imported goods. Accordingly, he pleaded for setting aside the impugned order and allowing their appeal with consequential relief.

4. Learned Authorised Representative, on the other hand, reiterated that the findings of the lower authorities are on merits. He submitted that the appellant was summoned to appear on 07.02.2008 but instead of appearing on that date, they sent a letter dated 15.02.2008 admitting purchase of imported goods at higher value. In the said letter, it is clearly mentioned that they had purchased initial 5 consignments @ 900 USD per MT but paid duty by taking value @ 750 USD per MT whereas the last consignment was purchased @ 1000 USD per MT but duty was paid @ 850 USD per MT. Learned AR impresses that admittal of undervaluation by the proprietor of the company, amounts to misdeclaration of the imported goods by the appellant. He also highlighted that the searches at the premises of other importers engaged in import of similar goods revealed that overseas invoices were discarding the GSM, length, width, breadth, number of rolls, square meters, backlit and front lit and SKU as unit quantity whereas the invoices produced by the present appellant do not contain these details which shows their intention to undervalue the goods. Regarding the appellant claim of low quality goods, he mentioned that the invoice or any other supporting document does not say so.

4.1 He relied on the decision of Hon'ble Supreme Court in the case of Sharp Business Machines Pvt. Ltd. reported at 1990 (49) ELT 640 (SC) to state that when there is a clandestine design, it is not incumbent upon the department to prove everything. The ratio of this judgment is that where a fraud has been committed, it is not necessary to have concrete evidence as are necessary in a criminal case. He defended the undervaluation charges made by the department and also confiscation of the impugned goods. He cited the decision of Hon'ble Supreme Court in the case of Varsha Plastics Private Limited reported at 2009 (235) ELT 193 (SC) and P. V. Ukkru International Trade reported at 2009 (235) ELT 229 (Ker.) to state that when there is mis-declaration, transaction value automatically goes and the department gets the right to question the correctness of valuation by the importer. He also cited the Supreme Court decision in the case of Global Technologies & Research reported at

2024 (388) ELT 257 (SC). Para 8,9 and 10 of this order are reproduced below:

> **"8.** The issue of undervaluation has been discussed in detail in a decision of this Court in the case of *Commissioner of Central Excise and Service Tax, Noida* v. *Sanjivani Non-ferrous Trading Pvt. Ltd.* [(2019) 2 SCC 378 = 2019 (365) E.L.T. 3 (S.C.)]. Paragraph 10 of the said decision reads thus :-
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> > 10. The law, thus, is clear. As per Sections 14(1) and 14(1A), the value of any goods chargeable to *ad valorem* duty is deemed to be the price as referred to in that provision. Section 14(1) is a deeming provision as it talks of "deemed value" of such goods. Therefore, normally, the Assessing Officer is supposed to act on the basis of price which is actually paid and treat the same as assessable value/transaction value of the goods. This, ordinarily, is the course of action which needs to be followed by the Assessing Officer. This principle of arriving at transaction value to be the assessable value applies. That is also the effect of Rule 3(1) and Rule 4(1) of the Customs Valuation Rules, namely, the adjudicating authority is bound to accept price actually paid or payable for goods as the transaction value. Exceptions are, however, carved out and enumerated in Rule 4(2). *As per that provision, the transaction value mentioned in the bills of entry can be discarded in case it is found that there are any imports of identical goods or similar goods at a higher price at around the same time or if the buyers and sellers are related to each other. In order to invoke such a provision it is incumbent upon the Assessing Officer to give reasons as to why the transaction value declared in the bills of entry was being rejected; to establish that the price is not the sole consideration; and to give the reasons supported by material on the basis of which the Assessing Officer arrives at his own assessable value.'*
>
> (Emphasis Supplied)
>
> In Paragraph 19 of the impugned judgment, a comparative table of the goods subject matter of this appeal imported by the appellant and the goods imported by the appellant earlier has been incorporated. After due consideration, the adjudicating authority and CESTAT found the goods identical to/similar to the ones imported earlier. We have perused the said table. We find that except for the description as an "unpopular brand," the products appear to be identical/similar. In any case, the factual finding rendered by CESTAT is after a detailed consideration of the material on record.
>
> **9.** At this stage, we may also make a note of the statement made by an officer of the appellant during the inquiry before the adjudicating authority. In Paragraph 11, he stated that there is a little difference in the hardware and software functions in the disputed goods as compared to the earlier versions. In the order-in-original and in the impugned judgment of CESTAT on facts, it was found that Item Nos. 1 and 3 were identical goods, and Item No. 2 was of similar goods. Detailed reasons have been recorded in the order-in-original as to why the transaction value of the imported goods has been discarded. Cogent reasons have been assigned to arrive at the assessable value.
>
> **10.** Hence, in view of the findings recorded by the CESTAT, we find no error in the view taken. No fault can be found with the imposition of

> penalties. Hence, there is no merit in the appeal and the same is dismissed with no order as to costs."

5. We have heard the rival submissions. The issue to be decided here is whether the appellant had mis-declared the value of PVC Flex Sheets imported by them and if so, is there any differential duty payable by them? To establish its case, the department has relied on the appellant's letter dated 15.02.2008 accepting undervaluation of the imported goods as well as on other evidences collected during search at the premises of various importers revealing supply of PVC Flex Sheets by exporters from China on Per Sq.mt. basis instead of Per MT basis as claimed by the appellant. In reply, the appellant has negated the allegations and challenged the order both on merits as well as on limitations contending that there is no mis-declaration on their part and so, extended period is not invokable in this case. The department's evidences vis-à-vis appellant's arguments are being discussed as under:-

5.1 Reliance on letter dated 15.02.2008: In this letter, the appellant mentioned that they had purchased 5 consignment of PVC Flex Sheets @ 900 USD per MT but paid duty @ 750 USD per MT. The last consignment was purchased @ 1000 USD per MT but duty was paid @ 850 USD per MT. It further mentions that the material was of inferior quality. We however find that the said letter was retracted by the appellant vide their letter dated 20.02.2008 wherein they mentioned that:- "*in their earlier letters dated 01.10.2007, 19.10.2007 and 03.12.2007, they had requested DRI for release of their detained goods which have not been released till date. They were pressurized by the DRI to pay additional duty unconditionally to get the goods released. Due to this harassment and to buy mental peace, they have written letter dated 15.02.2008 under stress admitting to pay additional duty on the goods imported by them.*" The above makes it clear that so called admittal letter dated 15.02.2008 on which department has placed heavy reliance is not a voluntary admission. Such a letter therefore, cannot be treated as admissible evidence, and hence, cannot be relied to sustain charges of undervaluation. We rely on the following cases.

- Vinod Solanki vs UOI reported at 2009 (233) ELT 157 (SC)

> **"34.** A person accused of commission of an offence is not expected to prove to the hilt that confession had been obtained from him by any inducement, threat or promise by a person in authority. The burden is on the prosecution to show that the confession is voluntary in nature and not obtained as an outcome of threat, etc. if the

same is to be relied upon solely for the purpose of securing a conviction. With a view to arrive at a finding as regards the voluntary nature of statement or otherwise of a confession which has since been retracted, the Court must bear in mind the attending circumstances which would include the time of retraction, the nature thereof, the manner in which such retraction has been made and other relevant factors. Law does not say that the accused has to prove that retraction of confession made by him was because of threat, coercion, etc. but the requirement is that it may appear to the court as such."

- Francis Stanly @ Stalin Vs. Intellingence Officer, Narcotics Control Bureau, Thiruvananthpuram reported at 2006 (13) SCC 210

"Confession only if found to be voluntary and free from pressure, can be accepted. A confession purported to have been made before an authority would require a closure scrutiny. It is furthermore now well-settled that the court must seek corroboration of the purported confession from independent sources."

5.2 We also find that Sri Neeraj Dodhia, proprietor of the appellant firm, in his statements dated 14.09.2007, recorded by the officers during investigation had admitted to have imported PVC Flex Sheets on Per Metric Ton basis. The department however has come up with a proposition that PVC flex sheets are to be valued on per sqm basis. This is based on the evidences recovered by the DRI officers during search of the premises of other importers. They also relied on the CRCL test report dated 21.11.2007 in respect of 10 samples drawn on 12.09.2007 from the premises of the appellant. In this test report, we find that GSM of all 10 samples are different ranging from 306 to 629.8. The appellant had questioned the sampling process saying that only 10 samples have been taken out of 540 rolls and, therefore, the test report does not give any idea about GSM wise quantity of PVC flex sheets/ rolls. In addition, we find that no such data of GSM wise import is available for the earlier consignments. On the basis of various evidences, the department has tabulated actual rates of PVC flex sheets of different GSM imported from China. Except for a quantity of 2.519 MT imported under bill of entry No. 197326 dated 25.06.2007, which is taken of 600 GSM with value @ 0.70 USD per sqm, the rest quantity under this bill of entry as well as of earlier consignments imported by the appellant has been assumed to be of 320 GSM and rate of 0.40 USD per sqm has been applied. To arrive at the quantity of the imported flex sheets in sqm, the department has divided weight of the flex sheets in gms by the GSM. Thus, we find that the entire calculation of the department for alleging undervaluation and demanding the differential duty in this case is based on the assumptions. While applying value on the basis of documents recovered from the premises of other importers, the department has failed to establish – (a) whether supplier of the goods was same?, (b) whether imported goods

were identical or similar?, (c) whether comparative value pertains to imports during the same period?, (d) volume of the goods of which price is compared. We find that in this case the supplier is different and the similarity of the goods has not been established. Therefore, in our view adoption of value on the basis of invoices recovered from other importers during search of their premises cannot be justified for alleging under-valuation in the instant case. We rely on the decision in case of Mirah Exports Pvt. Ltd. Vs Collector of Customs 1998 (3) SCC 292, wherein Hon'ble Apex Court held that the burden of proving a charge of undervaluation lies upon the revenue. Para 13 of the order is reproduced:

> "13. The legal position is well settled that the burden of proving a charge of under-valuation lies upon Revenue and Revenue has to produce the necessary evidence to prove the said charge 'Ordinarily the Court should proceed on the basis that the apparent tenor of the agreements reflect the real state of affairs' and what is to be examined is 'whether the revenue has succeeded in showing that the apparent is not the real and that the price shown in the invoices does not reflect the true sale price."

5.3 The department has relied on the decisions of Hon'ble Apex Court in the case of M/s Sharp Business Machines Pvt. Ltd., M/s Varsha Plastics Private Limited and Global Technologies & Research and decision of Hon'ble Kerala High Court in the case of M/s P. V. Ukkru International Trade to support their case. In case of M/s Global Technologies & Research, imported goods were found to be similar/ identical to earlier import consignments of same goods by same assessee from same exporter abroad, value of which was much higher than the value declared for present consignment. On this ground, transaction value was rejected and new assessable value adopted. In the case of M/s P. V. Ukkru International Trade, goods were misdeclared in description as well as value as MS Scrap was declared whereas imported goods were MS flat bars. Hence, value was rejected. In case of M/s Varsha Plastics Private Limited, some goods were found misdeclared in terms of both description as well as value where some were misdeclared in terms of value only. The transaction value was accordingly rejected on account of misdeclaration. In the case of M/s Sharp Business Machines Pvt. Ltd., the value declared was on the basis of invoice showing lower value as compared to quotations showing higher value. Hence, the value was rejected. We therefore, find that the facts in hand are totally different than the referred case laws.

6. In view of above, we hold that the evidences relied upon by the department in this case for alleging undervaluation by the appellant are

not admissible as neither supplier of the goods is same nor similarity or identical nature of the goods has been established by the department. Reliance on the party's letter dated 15.02.2008 which later on, was retracted on 20.02.2008 is also not sustainable as the same has been obtained under duress. Therefore, we hold that the department has not been able to sustain its charges of undervaluation against the appellant. Agreeing with the contention of the appellant, we allow the appeal along with consequential benefits, if any.

7. The appeal allowed.

(Order Pronounced in the open court on 31.07.2025)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Neha