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Date: 30.09.2025

CESTAT Mumbai set aside the revised assessable value

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In a landmark decision, the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), Mumbai, has set aside the revision of assessable value in the case of Nilkamal Limited. This judgment, delivered on September 29, 2025, highlights critical issues surrounding the valuation of imported goods under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The case revolved around the rejection of declared values for imported wooden furniture and sofa sets from Malaysia and China, and the subsequent reassessment by customs authorities.

Background of the Case

Nilkamal Limited imported consignments of wooden furniture and sofa sets from Malaysia and China between September and November 2012. The customs authorities rejected the declared transaction values, citing lack of comparability with contemporaneous imports. They revised the assessable value using a "price factor" based on the weight of the furniture, which was derived from the unit quantity code (UQC) specified in the Customs Tariff Act, 1975. This reassessment was challenged by Nilkamal Limited, leading to the appeals before the Tribunal.

Key Issues Addressed

1. **Rejection of Declared Value:** The customs authorities invoked Rule 12 of the Customs Valuation Rules, 2007, to reject the declared value, citing insufficient details about the composition and

components of the furniture. However, the Tribunal noted that detailed inventories were available, which contradicted the claim of lack of specifics.

2. **Use of Weight-Based Valuation:** The reassessment relied on the weight of the furniture as a basis for valuation, which the Tribunal deemed inappropriate. Furniture is not typically sold by weight, and the UQC specified in the Customs Tariff Act is intended for statistical purposes, not for determining assessable value.
3. **Non-Adherence to Valuation Rules:** The Tribunal found that the customs authorities failed to adhere to the prescribed methods under Rule 5 of the Customs Valuation Rules, 2007. The use of a "price factor" instead of a surrogate transaction value was deemed inconsistent with the law.
4. **Improper Reliance on Administrative Guidelines:** The Tribunal criticized the reliance on administrative guidelines, such as valuation alerts and standing orders, which are meant to assist assessing officers but cannot override statutory provisions.

Tribunal's Observations

The Tribunal emphasized that the valuation of imported goods must conform to the Customs Valuation Rules and the principles laid down under Section 14 of the Customs Act, 1962. It highlighted the importance of using transaction values or surrogate values based on "similar goods" and ensuring adjustments are made with demonstrated evidence.

The Tribunal also referred to precedents, including decisions in Nilkamal Ltd v. Commissioner of Customs (Import), Nhava Sheva, and Century Metal Recycling Pvt Ltd v. Union of India, to reinforce its stance against arbitrary valuation methods.

Final Decision

The Tribunal set aside the revised assessable value and restored the declared transaction value. It held that the customs authorities had erred in their approach to valuation and failed to justify the rejection of declared values. Consequently, Nilkamal Limited's appeals were allowed.

Implications of the Judgment

This decision has significant implications for importers and customs authorities alike. It underscores the need for adherence to statutory provisions and proper valuation methods while assessing imported goods. Importers can take solace in the fact that arbitrary rejections of declared values can be successfully challenged if they are not backed by evidence or proper reasoning.

Conclusion

The Nilkamal Limited case serves as a reminder of the importance of transparency and fairness in customs valuation. The Tribunal's decision reinforces the principle that valuation must be based on transaction values or properly adjusted surrogate values, and not on arbitrary metrics like weight. This judgment is a victory for importers and a call for customs authorities to ensure compliance with established rules and procedures.

Source: CESTAT Mumbai

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CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 86374 OF 2014

[Arising out of Order-in-Appeal No: 158(Gr.VI)/2014(JNCH)/IMP-147 dated 21ST January 2014 passed by the Commissioner of Customs (Appeals), Mumbai – II.]

Nilkamal Limited
Nilkamal House, 77/78 MIDC, Road No. 13/14
Andheri (E), Mumbai - 400093 … ***Appellant***

versus

Commissioner of Customs (Imports)
Jawaharlal Nehru Customs House, Nhava Sheva
Tal: Uran, Dist: Raigad - 400707 ***…Respondent***

WITH

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Tal: Uran, Dist: Raigad - 400707 ***…Respondent***

APPEARANCE:

Shri Mihir Mehta, Shri Suyog Bhave and Shri Ananta Khandiat, Advocates for the appellants

Shri Deepak Sharma, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)

FINAL ORDER NO: 86362-86363/2025

DATE OF HEARING: 04/04/2025
DATE OF DECISION: 29/09/2025

PER: C J MATHEW

These two appeals of M/s Nilkamal Limited stem from two sources of import – one being three consignments from Malaysia between 13th September 2012 and 11th October 2012 and other being ten consignments from China between 17th September 2012 to 12th November 2012 – in which the 'proper officer', by recourse to empowerment under section 17(4) of Customs Act, 1962, revised assessable value as provisioned in rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 consequent upon rejection of the declared value in exercise of authority under rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

2. The goods in question were diverse items of 'wooden furniture' in bills of entry impugned in both notices and 'sofa sets' in one notice and the rejection of declared value was purportedly prompted by lack of comparability with contemporaneous imports, which, apparently, had been communicated to the importer *vide* letter dated 29th October 2012. Oddly, insofar as the appeal pertaining to procurement China is concerned, we note that three of the consignments were imported after the purported letter and it surprises that the said communication was claimed as

justification for rejection of value thereof and sufficing as compliance with 'pre-rejection' requisite set out in rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The letter itself suggests that lack of details about the composition and components individual pieces of furniture in the consignment does not permit comparison with 'identical goods' and, hence, proposed comparison with 'similar goods' which, in the assessment order was held to be unfavorable to the importer. Be that as it may, and the absence of any validation of the information deployed for comparison as prelude to assessment notwithstanding, the order[1] of Commissioner of Customs (Appeals), Mumbai – II, upon challenge to the explanation under section 17(5) of Customs Act, 1962 for revision of assessment, did not find any reason to interfere with rejection of declaration as the process prescribed for revision of value was unimpeachable. The sanction of the judgement of Hon'ble High Court of Bombay was drawn upon for affirming the scope of revision vested in proper officer of customs.

3. It is also seen that the impugned order did not either consider it warranted to interfere with revised assessable value, computed by applying 'price factor' to the weight of each type of furniture though this factor was premised on non-comparability of even goods of the same description in the absence of details, such as composition and proportion of the constituents in the whole,

[1][order-in-appeal no.158(Gr.VI)/2014(JNCH)/IMP-147 dated 21st January 2014]

which could be normalized by reduction of the benchmark consignment to price per unit which, for the impugned goods, was in kilograms. The challenge of appellant therein to the validation of the benchmark for construing as 'similar' was discarded with the proposition that the requisite ingredients were adhered to for which some expressions were culled from the definition in rule 2 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and synthesized.

4. On being pointed out by Learned Counsel for appellant, we did examine the bills of entry as well as the accompanying documents only to note that the omnibus description in the bills of entry notwithstanding, detailed inventory of articles in the consignments corresponding to each bill of entry was available which, evidently, does not bear out the findings of the lower authorities on the compulsion, from lack of details, to detract from the simplicity of 'one-to-one' comparison. We are also inclined to retain, even if as backdrop, the contention on behalf of appellants that the 'rate of duty' is not of consequence in the facts of the import owing to which the notations in, and protocols of, classification should not have been grafted onto resolution of an assessment dispute exclusively restricted to valuation of imported goods. According to Learned Counsel for the appellant, the resort to rejection of the declared value was arbitrary inasmuch as the 'so-called' contemporaneous invoices were not amenable to use for the purpose of rule 12 of Customs Valuation (Determination of

Value of Imported Goods) Rules, 2007. It is further contended that the derivation of a formula for application to total weight of each of the impugned consignments, though plausibly passable as another method of valuation and remaining unchallenged for fitment in absence of such proposition from the 'proper officer', was not in consonance with rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. According to Learned Counsel, similar goods would have to be similar and transaction value of these goods, as they are and adjusted only in the manner provided for, would need to be adopted for validating reassessment. He pointed out that the lower authorities had affirmed a value which is not the transaction value and consequently not acceptable for having been defaced to such extent as to be recognizably not. Furthermore, it was pointed out that the adjustment, permitted in terms of rule 4(1)(b) and rule 4(1)(c) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, cannot be stretched beyond recognition to contrive a value statistically that is but a 'rate' when the key determinant in 'transaction value', having its own definition in rule 2(g) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, has to be nothing but value. Learned Counsel further pointed out that the 'kilograms', corresponding to heading 9403 of First Schedule to Customs Tariff Ac, 1975, would have to be read with, and within, the intent and purpose of 'unit' set out in the General Rules for Interpretation of the Tariff appended to Customs Tariff Act, 1975.

5. Learned Counsel for the appellant relied upon the decision of the Tribunal in ***Nilkamal Ltd v. Commissioner of Customs (Import), Nhava Sheva***[2] *and* in ***Abhiman Impex v. Commissioner of Customs (Import), Nhava Sheva***[3] and of the Hon'ble Supreme Court in ***Century Metal Recycling Pvt Ltd. v. Union of India***[4] while assailing reliance placed by customs authorities on erroneous construction of the decision of the Hon'ble High Court of Bombay in ***Lifestyle International Pvt Ltd v. Union of India***[5]***.***

6. Learned Authorized Representative submitted that the 'proper officer' had no option but to invoke provision for discard of declared value for lack of specifics about the articles in the bill of entry and to reject the declared value for want of material enabling comparison to validate as 'transaction value' in terms of section 14 of Customs Act, 1962 and rule 3 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. It was further submitted that rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 allowed sufficient flexibility and, to that extent, lack of explanation on the part of the importer sufficed to reject the declared value. It is also submitted that the details of contemporaneous imports had been relied upon for the purpose of re-determination of the assessable value. He relied upon the

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[2] **[2018 (11) TMI 1767 – CESTAT MUMBAI]**
[3] **[(1) TMI 670 – CESTAT MUMBAI]**
[4] **[2019 (367) ELT 3 (SC)]**
[5] [**2011 (271) ELT 190 (Bom)]**

decision of the Tribunal in ***Anil Kumar Tiwari v. Commissioner of Customs, Tuticorin***[6] and in ***Deve Anand Agarwal v. Commissioner of Customs, New Delhi***[7]*.*

7. The re-assessment by 'proper officer' was sought to be justified, with findings thereupon affirmed in impugned order, by relying upon the wide scope of rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 followed by recourse to value of 'similar goods' as appreciated by the lower authorities. At this stage, and notwithstanding the submission on that count by Learned Counsel, we do not propose to examine the scope of the provisioning for rejection of acceptability of declared value for assessment; we shall revert should that need addressing. Suffice it to say, for the nonce and upon assumption, that the, doubtlessly, far-reaching scope of this enabling empowerment is constrained only by the procedure set out therein and restricted transactions that may not be deployed as benchmarks. Compliance with the template in rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is to be ascertained on adherence to 'similar' on comparability of impugned goods and benchmarked goods and adherence of 'adjustments' permitted by rule 4(1)(b) and rule 4(1)(c) therein made applicable to rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

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[6] [2016 (344) ELT 1051 (Tri.-Chennai)]
[7] [2016 (337) ELT 397 (Tri.Del)]

8. There is no doubt that, as the appellant claims, recourse to rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 hinges on 'similarity' of goods corresponding to benchmarked value with imported goods and, by having adopted so, the onus lies on customs authorities to demonstrate the congruity. Admittedly, insofar as imports from China are concerned, the 'transaction value' in bills of entry no. 8163031/09.10.2012 for 'sofa sets' and no. 8025745/24.09.2012 for 'other furniture' by M/s Twenty First Century Techno Products Ltd and M/s Multiseats Ltd were adjudged for 'similarity'; even here, and not surprisingly considering the further treatment undertaken as adjustments, the 'price factor' is consistent only in the variance thereof. Insofar as imports from Malaysia are concerned, the 'transaction value' in bill of entry no. 7601801/07.08.2012 for 'furniture' by M/s Reliance Fresh Ltd adjudged for 'similarity' with imported goods. For the nonce, we park the congruity of the compared goods while examining the computation derived therefrom by the original authority.

9. It is patently clear that the impugned order has not adopted the surrogate 'transaction value' as such and nor, as evident from lack of any discussion, tempered by

> ***'(c) …the transaction value of ….goods sold at different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments***

> ***shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustments leads to an increase or decrease in the value.'***

in rule 4(1) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 as applicable to 'similar goods' envisaged by rule 5 thereof. The identical finding of

> *'16. I find that goods under import are various kinds of furniture item/articles; the value per kilogram for furniture made from the same type and quality of raw material gives a uniform measure for comparing values of furniture. Thus the values of paper laminated particle board furniture having same weight should remain reasonably same though they are of different description. Therefore, I see the logic in applying the weight value ratio by the adjudicating authority. Further, the weight value ratio, as arrived at after undertaking a scientific / systematic agency like DGOV. I also find in the case of M/s Lifestyle International Ltd 2011 (271) ELT 190 (Bom.), the Hon'ble High Court refused to set aside the Standing Order No. 36/2008 date 1 13.08.2008 that prescribed the valuation of furniture on the basis of weight.'*

in both the impugned orders is an apology of conformity for having reduced the 'transaction value' of the benchmarked imports to a statistic and for that statistic to be applied to declared value of imported goods again reduced to statistic to finalize 'price factor' for loading. Indeed, 'loading' is not recognized or envisaged as an option among the several methods enumerated in Customs Valuation (Determination of Value of Imported Goods) Rules,

2007. To the extent that reassessment has ordered loading instead of determining acceptable surrogate value, the revision of declared value is not correct.

10. The justification offered by the adjudicating authority for fastening 'price factor' instead of surrogate value, even adjusted, is the provisioning against heading 9403 of First Schedule to Customs Tariff Act, 1975 for 'kg' in the column for 'unit' in contradistinction with other headings. The purpose of such 'units' in the First Schedule to Customs Tariff Act, 1975 is to standardize declaration for data collection and utilization as is evident from

> *'2. The matter has been carefully examined with the objective of improving data quality both from the view point of generating error free trade statistics as well as providing usable contemporary reference values to the assessing officers. The Board notes that Standard Unit Quantity Codes (UQC) indicated in the Customs Tariff Act, 1975 are not being uniformly declared by importers and exporters for the same items across different Customs locations. This impacts data quality and makes comparisons and aggregations difficult. The use of non-uniform UQCs for the same item also vitiates the quality of the NIDB data and reduces its utility to the assessing officers, who are unable to ascertain the contemporaneous values or assessment practice of a given item in different Customs locations. Therefore, the solution lies in improving the quality of data by using standard UQCs.*
>
> *3. In this regard, it is seen that the Customs Tariff Act, 1975 prescribes only a single Unit Quantity Code (UQC) against each Tariff Item, and it is the requirement of the law that the same is properly declared by importers/exporters/Customs Brokers in the Bills of*

> *Entry/Shipping Bills. It is the view that the correct declaration of the UQC, as indicated in the Customs Tariff Act, 1975 would resolve the aforementioned difficulties. Accordingly, it is directed by the Board that Customs field formations should ensure that only the correct and prescribed Standard UQC as per the Customs Tariff Act, 1975 is mentioned in Bills of Entry/ Shipping Bills.'*

in instructions[8] to field formations by Central Board of Excise & Customs (CBEC). It was not ever intended for any purpose other than comparison which may, at best, have been of relevance to empowerment in rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and would certainly not be intended for surrogate value. This limited purpose is evident from

> *'7. At the outset, Mr. Jetly, learned counsel for the respondents, based on the written instructions given to him by the Deputy Commissioner of Customs vide his letter dated 15th January, 2010 (copy of which is placed on record of this Court), clarifies that the standing order dated 13th August, 2008 in the case of valuation of imported unbranded furniture has been issued merely by way of guidelines for assessing officers to arrive at a suitable conclusion in terms of Rule 12 of the Customs Valuation Rules in the event of any reason to doubt the truth or accuracy of the declared value of the imported furniture. According to him, actual valuation of the imported goods is to be determined as per the provisions of the Customs Act, 1962 and Custom Valuation Rules.*
>
> *xxxxxx*
>
> *10. Having heard rival contentions, having examined the length and breadth of the guidelines and the scope of*

[8] [circular no. 26/2013 dated 19th July 2013]

> *Section 14 of the Customs Act and the Customs Valuation Rules, the standing order No. 36/2008 dated 13th August, 2008 is merely departmental guidelines without any statutory force issued with a view to assist the assessing officer, but that does not mean that the assessing officer should abdicate his powers and assess the matter de hors the provisions of Section 14 of the Customs Act and Customs Valuation Rules. The said guidelines can only be used wherever the assessing officer finds that Customs Valuation Rules are silent or they need to be supplemented. The assessing officer is expected to bear in mind that wherever the standing order is running counter to the Customs Valuation Rules or mandate thereof or to the spirit of Section 14 of the Customs Act, the standing order cannot be put into operation. Mr. Shah's apprehension that once the standing orders are framed by the higher authorities, the sub-ordinate authorities are bound to consider the case of the assessee as per the standing orders or the guidelines incorporated therein cannot be without any foundation. But at the same time the assessing officer cannot ignore the law laid down by the Apex Court from time to time. Readily available judgment is quoted hereinbelow.'*

in decision of the Hon'ble High Court of Bombay in ***re Life Style International Pvt Ltd*** disposing off challenge to a prototype of circular *supra* on apprehended misdirecting of assessment by 'proper officers of customs'; clearly, the lower authorities have placed incorrect reliance on the extent to which such administrative guidelines may affect valuation provisions.

11. In ***re Anil Kumar Tiwari***, relied upon by Learned Authorized Representative, the Tribunal adjudged the acceptability of surrogate value assailed by the appellant therein

for not being contemporaneous; here, contemporaneousness is not in dispute but conformity of benchmark declaration as 'similar' to declaration in the impugned bills of entry is. The two stand on entirely different footing to dislodged acceptance as binding precedent. In re Dev Anand Agarwal, the goods concerned were 'artificial flowers' generally sold by weight whereas, and notwithstanding the notation for 'units' against heading 9403 of First Schedule to Customs Tariff Act, 1975 which is of limited significance, here the issue is of furniture that is neither ever sold by weight nor intended to be adopted under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

12. Furthermore, in ***re Nilkamal Ltd*** and in similar circumstances of dispute in their own dispute, the Tribunal held that

> *'6. We find that undisputedly the appellant had imported wooden furniture of different varieties meant to be used in bedrooms and hall etc. While importing the said goods, the appellant had declared the classification of the product, under Chapter 9403 89 90 of CTA, 1975 which are assessable to duty as unit not by weight. Therefore, noticing excess weight at the time of physical verification of the import by the Customs authorities, in our view, could not in any manner change the transaction value disclosed in the proforma invoices, which has not been disputed by the Revenue. In these circumstances, loading the invoice price prorata basis to the extent of excess weight of the furniture noticed during the physical examination, in our view, unsustainable in law for the reasons mentioned above. In the result, the impugned order is set aside and the appeals are allowed with consequential relief, if any, as per law.*

Likewise, in ***re Abhiman Impex,*** it was held that

> *'6. We find that undisputedly the appellant had imported wooden furniture of different varieties meant to be used in bedrooms and hall etc. While importing the said goods, the appellant had declared the classification of the product, under Chapter 9403 60 00 and 9403 20 90 of CTA, 1975 which are assessable to duty as unit not by weight. Therefore, noticing excess weight at the time of physical verification of the import by the Customs authorities, in our view, could not in any manner change the transaction value disclosed in the proforma invoices, which has not been disputed by the Revenue. In these circumstances, loading the invoice price pro rata basis to the extent of excess weight of the furniture noticed during the physical examination, in our view, unsustainable in law for the reasons mentioned above. In the result, the impugned order is set aside and the appeals are allowed with consequential relief, if any, as per law.'*

13. The Hon'ble Supreme Court in ***re Century Metal Recycling Pvt Ltd*** had held that

> *'25. Before closing, we would observe that the Valuation Alerts, as also stated by the respondents, are issued by the Director General of Valuation based on the monitoring of valuation trends of sensitive commodities with a view to take corrective measures. They provide guidance to the field formation in valuation matters. They help ensure uniform practice, smooth functioning and prevent evasion and short payment of duty. However, they should not be construed as interfering with the discretion of the assessment authority who is required to pass an Assessment Order in the given factual matrix. Declared valuation can be rejected based upon the evidence which qualifies and meets the criteria of 'certain reasons'. Besides the opinion formed must be reasonable. Reference to*

> *foreign journals for the price quoted in exchanges, etc. to find out the correct international price of concerned goods would be relevant but reliance can be placed on such material only when the adjudicating authority had conducted enquiries and ascertained details with reference to the goods imported which are identical or similar and 'certain reasons' exists and justifies detailed investigation. These reasons are to be recorded and if requested disclosed/communicated to the importer. Valuation alerts could be relied upon for default valuation computation under the Rules. [See Varsha Plastic Pvt. Ltd. v. Union of India, (2009) 3 SCC 365 = 2009 (235) E.L.T. 193 (S.C.)].'*

which applies squarely to adoption of weight of wooden furniture as basis for re-determination of value of imported wooden furniture and furniture in the face of specifics in alternatives afforded by valuation scheme.

14. It is clear that the lower authorities had not perused the General Interpretative Rules and the Explanatory Notes appended to the Customs Tariff Act, 1975 inasmuch as the additional notes specifically asserts

> *'In this schedule, --*
>
> *(3) in column (3), the standard unit of quantity is specified for each tariff item to facilitate the collection, comparison and analysis of trade statistics'*

making it abundantly clear that this has no reference to assessment for the purpose of duty and has no place within the framework of rules issued under section 14 of Customs Act, 1962. We do not propose to go into the rights and wrongs of rejection of

the declared value inasmuch as sufficient flexibility is afforded by the rules therein to the proper officer. But, the method of computation by relying upon unconnected notation in the First Schedule to Customs Tariff Act, 1975, intended for a particular purpose, is not in accordance with law and the revision in the assessable value is set aside. Consequently, the declared value remains unchallenged.

15. In view of the above, we set aside the impugned order to allow the appeals.

(Order pronounced in the open court on 29/09/2025)

(JUSTICE DILIP GUPTA)
President

(C J MATHEW)
Member (Technical)

**/as*