

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 76098 of 2025

(Arising out of Order-in-Appeal No. KOL/CUS/PORT/KS/141-142/2025 dated 07/04/2025 passed by Commissioner of Customs (Appeals), Kolkata.)

Commr. of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

Dhruv Agarwal
(44C, Indian Mirror Street, Bowbazar, Kolkata-700013)

Respondent

**With
Customs Appeal No. 76099 of 2025**

(Arising out of Order-in-Appeal No. KOL/CUS/PORT/KS/141-142/2025 dated 07/04/2025 passed by Commissioner of Customs (Appeals), Kolkata.)

Commr. of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s. Ankraj Developer Pvt. Ltd
(201B, Elgin Chamber, 1A, Ashutosh Mukherjee Road,
Kolkata-700020)

Respondent

APPEARANCE :

Mr. S. Chitkara & Mr. A. K. Chaudhary, Authorized Representative for the Appellant
Mr. Saurabh Bagaria, Mr. Indranil Banerjee, Ms. Samrita Das, all Advocates for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER NO. 75173-75174/2026

Date of Hearing : 03 February 2026
Date of Decision : 03 February 2026

PER R. MURALIDHAR

The appellant sought to export Mend Cow Leather Wallets. For this, they have filed 9 Shipping Bills during the period 16/2/2023 to 17/2/2023. On the ground that the value adopted per piece of leather

wallet was higher than the market price of such goods and this has resulted in over-valuation which will also allow the appellant to claim more drawback, the consignments were stopped from being exported. A Show Cause Notice was issued on 18/07/2024. Against the FOB value of Rs. 6,61,02,740/- adopted by the appellant, the Show Cause Notice fixed the same on Rs. 4,72,30,000/-. For arriving at this value, the Department claimed that market survey was taken up. In the course of adjudication, the adjudicating authority has modified this value to Rs. 5,22,87,600/-. After this modification, the adjudicating authority has confiscated the goods, granting option to the exporter to redeem the same on payment of Redemption Fine of Rs. 50,00,000/-. He has also imposed penalty on the exporter and on Mr. Dhurv Agarwal. Being aggrieved, the exporter and Dhurv Agarwal have filed their appeals before the Commissioner (Appeals). Vide impugned order dated 07/4/2025, the Commissioner (Appeals) has set aside the Order-in-Original and allowed the appeals filed by the appellants. Being aggrieved, the Revenue has filed their appeals before the Tribunal.

2. The Learned AR appearing on behalf of the Revenue submits that the value adopted by the appellant for the wallets proposed to be exported by the appellant, were very high showing the total FOB value as 6,61,02,740/-. Market Survey was undertaken to gather the correct value of such leather wallets. At the time of market survey even the representative of the appellant exporter was also included in the team visiting the market to gather information. All the data gathering was done in a fair manner. He further submits that the adjudicating authority has also considered certain pleadings of the appellant and has enhanced the value to Rs. 5,22,87,600/- as against the proposed value of Rs. 4,72,30,000/- in the SCN. This shows that principles of natural justice were followed and the department has come to a fair conclusion about the value of the goods proposed to be exported. In view of the overvaluation adopted by the appellant, it is clear that they were seeking to get additional drawback benefits. In view of these submissions, he justifies the value adopted by the Adjudicating Authority and the Redemption Fine imposed and penalties imposed on the appellants. He prays that the appeal may be allowed.

3. The Learned Counsel appearing on behalf of the Respondents submits that the department did not follow the procedure specified under Section 14 of the Customs Act for arriving at the valuation. He submits that the appellant has been regularly exporting to the same overseas importer for the past many years and the value adopted in the disputed nine Shipping Bills are very much similar to the value adopted in the past. He further submits that the market survey was not conducted correctly. The details were taken from the manufacturers of the product whereas the appellant was procuring the goods from traders wherein the margin of profit is also required to be considered. Even as the Department had relied on the market survey valuation to issue the Show Cause Notice, the Adjudicating Authority has gone beyond the scope of Show Cause Notice and adopted the value totally on a presumption basis by re-determining the unit value of the goods and adding notional profit margin of 10%. The Learned Counsel submits that there is no provision under Export Valuation Rules to adopt such method for arriving at the value of the goods. He submits that the Commissioner (Appeals) has considered all the factual details and has gone through the past records of exports, the method adopted by the department for arriving at the value and arbitrary method adopted while passing the adjudication order. Only after this, he has come to a proper conclusion that the adjudication order is not legally sustainable. The Ld Counsel, fully relies on the detailed findings of the Commissioner (Appeals) while setting aside the impugned Order-in-Original. He prays that the Revenue's appeal may be dismissed.

4. Heard both sides and perused the appeal papers and the documentary evidence brought in by both the sides.

5. In respect of valuation of goods as per Section 14(1) of the Customs Act, 1962, in the normal course, the value of exported goods shall be the 'transaction value'. In case this value is not found to be correct, the procedure specified under Customs Valuation (Determination of value of Export goods, 2007) (CVR, 2007 in short) Rules, is required to be followed, sequentially.

6. As per Rule (3)(1) of CVR 2007, in the normal course, the value of export goods shall be taken as per Shipping Bill. As a matter of fact,

Rule 3(2) states that the transaction value shall be accepted even where the buyer and seller are related so long as the relation has not influenced the price. Therefore, in order to invoke the other provisions of these Rules to determine the value, first and foremost, the Revenue is required to come out with plausible explanation as to why the transaction value is to be discarded. From the present proceedings, there is nothing to indicate that the Department has undertaken any investigation or verification and has come across any data to show that the appellant was over-valuing the goods for which any amount was being sent to the overseas parties to honor amounts mentioned in the export invoices. Admittedly, there is no dispute that the goods were to be exported and the overseas importer was required to pay the amount to the appellants banker and then get hold of the documents like export invoice, Bill of lading etc to release the goods. Therefore, the goods were being cleared through proper banking channels only. In case, the transaction value is not acceptable to the Revenue, the Rule 4 to 8 of CVR, 2007 are to be applied in a sequential manner. In the present proceedings, we do not see that this method was adopted by the Revenue. There is no data brought in as evidence towards export of such goods about the same time in respect of the other exporters to the same destination country. The department has directly adopted the market survey method. Even in this survey, they have compared the value of the goods of the manufacturers whereas the appellant was buying from the traders, wherein the cost of procurement would be higher. Therefore, even this comparison is erroneous.

7. Further, we find that the Adjudicating Authority has gone on a different tangent altogether by partly holding that there was error in computing the value under the market survey and has re-determined the per unit value of the goods and added notional profit margin of 10%. We do not find that any provision of this kind is available in the Customs Act, 1962 or CVR, 2007.

8. We have also gone through the detailed findings given by the Commissioner (Appeals). The relevant portion is reproduced below:

7.1. *I have examined the factual matrix surrounding the valuation dispute. The appellant, M/s Ankraj Developer Pvt. Ltd., declared an FOB value of*

₹6,61,02,740.90 for the export consignment of leather wallets under nine shipping bills. The department rejected this value based primarily on a joint market survey that suggested an average value of ₹466.3-496.3 per piece, leading to a re-determined value of ₹4,72,30,000/-. I observe that this re-determination was purportedly justified on three grounds: the market survey results, alleged discrepancies between purchase and export prices, and suspicions about suppliers credentials.

7.2. I find that the adjudicating authority committed fundamental legal errors in rejecting the declared value. The approach adopted violates the basic statutory scheme of customs valuation laid down in Section 14 of the Customs Act, 1962. I place strong reliance on the landmark judgment of the Hon'ble Supreme Court in Eicher Tractors Ltd. vs. CC (2000 (122) ELT 321 (SC)), where Their Lordships laid down the cardinal principle:

"The invoice value is presumed to be the transaction value under Section 14 of the Customs Act. The burden to prove otherwise lies entirely on the Revenue. This burden can only be discharged by showing that the transaction value was influenced by extraneous considerations or that the price was not the sole consideration for sale."

The department has manifestly failed to discharge this burden. The entire case rests on a market survey that compared non-comparable goods and arithmetic assumptions about profitability, without any concrete evidence of underhand payments, circular trading, or other extraneous factors that would vitiate the transaction value. I further note that the authority disregarded the appellant's consistent business relationship with Max Standard Ltd., Hong Kong, evidenced by multiple past transactions at comparable values, which strongly corroborates the bona fides of the declared value.

7.3. The adjudicating authority has grossly misapplied the sequential valuation mechanism under Customs Valuation Rules. The proper officer must first attempt to determine value under Rule 4 by examining contemporaneous exports of identical/similar goods. Only when this proves impossible may the officer proceed sequentially through Rules 5 and 6. This sequence is mandatory, not discretionary. In the present case, the records reveal a complete abdication of this statutory duty. The proper officer failed to consult the Council for Leather Exports for benchmark prices, examine DGFT records of comparable transactions, or analyze Customs' electronic database of historical shipments. This wholesale bypassing of primary valuation methods demonstrates a

fundamental disregard for established legal safeguards designed to protect both revenue interests and exporter rights. In this regard, I rely on the authoritative pronouncement in the matter of COMMISSIONER OF CUSTOMS, CALCUTTA Versus SOUTH INDIA TELEVISION (P) LTD., 2007 (214) E.L.T. 3 (S.C.) wherein THE Hon'ble SUPREME COURT OF INDIA emphasized:

"8. Before concluding, we may point out that in the present case at the stage of show cause notice, the Department invoked Rule 8 on the ground that the invoice submitted by the importer was incorrect. In *Eicher Tractors (supra)* this Court observed that Rule 4(1) of the Customs Valuation Rules refers to the transaction value. Utilization of the word 'the' as definite article indicated that what should be accepted as the transaction value for the purpose of assessment under the Customs Act is the price actually paid by the importer for the particular transaction, unless it is unacceptable for the reasons set out in Rule 4(2). In the said judgment, it has been further held that, the word 'payable' in Rule 4(1) also refers to the "transaction value" and payability in respect of the transaction envisaged a situation where payment of price stood deferred. Therefore, this decision of the Supreme Court directs the Revenue to decide the validity of the particular value instead of rejecting the transaction value. We wish, however, to clarify that it is still open to the Department based on evidence, to show that the declared price is not the price at which like goods are sold or offered for sale ordinarily, which words occur in Section 14(1). Lastly, it is important to note that in the above decision of this Court in *Eicher Tractors (supra)* this Court has held that the Department has to proceed sequentially under Rules 5, 6 onwards and it is not open to the Department to invoke Rule 8 without sequentially complying with Rules 5, 6 and 7 even in cases where the transaction value is to be rejected under Rule 4. In the present case, the show cause notice indicates that the Department had invoked Rule 8 without complying with the earlier rules."

7.4 Further, I find that the appellant has submitted copies of the shipping bills, details of which are tabulated below, evidencing consistent export values of comparable goods. Details of the export data is mentioned below in table-A:

TABLE-A

Sl. No.	Name of the Exporter	Shipping Bill No.	Shipping Bill Date	Sl. No. of the item	Description of the goods	Unit price of the goods (USD)	Name of the Buyer	Country of Final Destination
1	Ankraj Developer Pvt. Ltd.	1958703	26.06.2024	1	Leather Wallet with PU Upper	6.95	Orient Express Imports	USA
				2	Fancy PU Wallet	6.45		
				3	PU Wallet in Individual Box	8.95		
2	Ankraj Developer Pvt. Ltd.	5812288	29.11.2022	1	Mens Leather Wallet	9.45	Consultores De Negocios Repet SA DE	Mexico
3	Ankraj Developer Pvt. Ltd.	5812302	29.11.2022	1	Mens Leather Wallet	9.45	Consultores De Negocios Repet SA DE	Mexico
4	Ankraj Developer Pvt. Ltd.	5812507	29.11.2022	1	Mens Leather Wallet	9.45	Consultores De Negocios Repet SA DE	Mexico
5	Ankraj Developer Pvt. Ltd.	5812365	29.11.2022	1	Mens Leather Wallet	9.45	Consultores De Negocios Repet SA DE	Mexico
6	Ankraj Developer Pvt. Ltd.	5812418	29.11.2022	1	Mens Leather Wallet	9.45	Consultores De Negocios Repet SA DE	Mexico
7	Ankraj Developer	9991092	18.05.2024	1	Mens Leather Wallet	8.95	Slash Busines	Mexico

	Pvt. Ltd.						SADECV	
8	Ankraj Developer Pvt. Ltd.	1514420	07.06.2024	1	Goat Leather Mens Wallet	8.95	Lady lord West Inc	USA
9		8002443	23.02.2023	1	Mens Cow Leather Wallet	7.95	Lady lord West Inc	USA
	Ankraj Developer Pvt. Ltd.			2	Mens Cow Leather Wallet	7.85		
				3	Mens Cow Leather Wallet	6.95		
10	Ankraj Developer Pvt. Ltd.	9216813	18.04.2024	1	Mens Leather Wallet	8.95	Kirpan Importaciones SADECV	Mexico

I find from the above table-A that the adjudicating authority has committed a fundamental error in rejecting the declared value without properly considering the contemporaneous export data of identical/similar goods exported by the appellant itself. These records, drawn from the NIDB database, clearly demonstrate that the declared value of USD 7.95 per unit in the impugned shipping bills falls within the established price range (USD 6.45 to USD 9.45) for identical/similar leather wallets exported to the same buyers (Consultores De Negocios Repet SA DE, Mexico) "during proximate periods (November 2022 to June 2024).

In this regard, I observe that the adjudicating authority mechanically invoked Rule 6 of the Customs Valuation Rules without first exhausting the primary methods under Rule 3 (transaction value of identical goods) or Rule 4 (transaction value of similar goods). This approach contravenes the mandatory sequential application principle laid down in Rule 12 and affirmed by the HonTale Supreme Court in Eicher Tractors Ltd. v. Commissioner of Customs (2000) 122 ELT 321 (SC), which held that the Customs Valuation Rules must be applied in a hierarchical manner. / further note that the authority failed to provide any cogent reasoning for disregarding the appellant's own export history, which constitutes the best evidence of transaction value under Section 14 of the Customs Act, 1962, as interpreted in Commissioner of Customs v. South India Television (2007) 214 ELT 3 (SC). Relevant portion of the said order is reproduced below:

"6. We do not find any merit in this civil appeal for the following reasons. Value is derived from the price. Value is the function of the price. This is the conceptual meaning of value. Under Section 2(41), "value" is defined to mean value determined in accordance with Section 14(1) of the Act. Section 14 of the Customs Act, 1962 is the sole repository of law governing valuation of goods. The Customs Valuation Rules, 1988 have been framed only in respect of imported goods. There are no rules governing the valuation of export goods. That must be done based on Section 14 itself. In the present case, the Department has charged the respondent-importer alleging mis-declaration regarding the price. There is no allegation of mis-declaration in the context of the description of the goods. In the present case, the allegation is of under-invoicing. The charge of under-invoicing has to be supported by evidence of prices of contemporaneous imports of like goods. It is for the Department to prove that the apparent is not the real. Under Section 2(41) of the Customs Act, the word "value" is defined in relation to any goods to mean the value determined in accordance with the provisions of Section 14(1). The value to be declared in the Bill of Entry is the value referred to above and not merely the invoice price. On a plain reading of Section 14(1) and Section 14(1 A), it envisages that the value of any goods chargeable to ad valorem duty has to be deemed price as referred to in Section 14(1). Therefore, determination of such price has to be in accordance with the relevant rules and subject to the provisions of Section 14(1). It is made clear that Section 14(1) and Section 14(1A) are not mutually exclusive. Therefore, the transaction value under Rule 4 must be the price paid or payable on such goods at the time and place of importation in the course of international trade. Section 14 is the deeming provision. It talks of deemed value. The value is deemed to be the price at which such goods are ordinarily sold or offered for sale, for delivery at the time and place of importation in the course of international trade where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale or for offer for sale. Therefore, what has to be seen by the Department is the value or cost of the imported goods at the time of importation, Le., at the time when the goods reaches the customs barrier. Therefore, the invoice price is not sacrosanct. However, before rejecting the invoice price the Department has to give cogent reasons for such rejection. This is because the invoice price forms the basis of the transaction value. Therefore, before rejecting the transaction value as incorrect or unacceptable, the Department has to find out whether there are any imports of identical goods or similar goods at a higher price at around the same time. Unless the evidence is gathered in that regard, the question of importing Section 14(1A) does not arise. In the absence of such evidence, invoice price has to be accepted as the transaction value. Invoice is the evidence of value. Casting suspicion on invoice produced by the importer is not sufficient to reject it as evidence of value of imported goods. Under-valuation has to be proved. If the charge of under-

valuation cannot be supported either by evidence or information about comparable imports, the benefit of doubt must go to the importer. If the Department wants to allege under-valuation, it must make detailed inquiries, collect material and also adequate evidence. When under-valuation is alleged, the Department has to prove it by evidence or information about comparable imports. For proving under-valuation, if the Department relies on declaration made in the exporting country, it has to show how such declaration was procured. We may clarify that strict rules of evidence do not apply to adjudication proceedings. They apply strictly to the courts' proceedings. However, even in adjudication proceedings, the AO has to examine the probative value of the documents on which reliance is placed by the Department in support of its allegation of under-valuation. Once the Department discharges the burden of proof to the above extent by producing evidence of contemporaneous imports at higher price, the onus shifts to the importer to establish that the invoice relied on by him is valid. Therefore, the charge of under-invoicing has to be supported by evidence of prices of contemporaneous imports of like goods. Section 14(1) speaks of deemed value". Therefore, invoice price can be disputed. However, it is for the Department to prove that the invoice price is incorrect. When there is no evidence of contemporaneous imports at a higher price, the invoice price is liable to be accepted. The value in the export declaration may be relied upon for ascertainment of the assessable value under the Customs Valuation Rules and not for determining the price at which goods are ordinarily sold at the time and place of importation. This is where the conceptual difference between value and price comes into discussion."

7.5. The joint market survey upon which the entire re-determination rests is legally invalid. The survey here fails on all counts. Conducted at local Kolkata retail markets rather than export manufacturing hubs, it compared entirely dissimilar products without any laboratory analysis of leather grade, stitch density or hardware quality. The survey teams further ignored export-specific costs like compliance testing and warranty obligations that legitimately impact pricing in international trade. I find it particularly concerning that while claiming Rule 4 couldn't be applied due to unbranded goods, the authority used this same characteristic to justify a retail market survey, without explaining how local prices could represent export values. In this regard, I place reliance on the judgement in the matter of OM PRAKASH BHATIA Versus COMMISSIONER OF CUSTOMS, DELHI, 2003 (155) E.L.T. 423 (S.C.), wherein THE Hon'ble SUPREME COURT OF INDIA observed:

"19. Learned Senior Counsel Mr. Dave submitted that in some cases, exporter may get much higher value of the goods than the market price prevailing in the

country and therefore, merely because higher export value is mentioned, it cannot be inferred that it is not the true sale consideration.....”.

In view the above discussion, I am of the opinion that the declared price of the impugned goods is fare in regular business parlance and the re-determination of the value of the impugned goods as determined by the lower authority is liable to be set aside and also the question of confiscation of the impugned goods under sections 113(i), 113(ia), and 113(ja) of the Customs Act, 1962 and imposition of redemption fine and penalty thereon does not arise.

7.6. Further I find that the lower adjudicating authority imposed redemption fine and penalty under section 125 and 114(iii) of the Customs Act, 1962 respectively. In this regard, I find on the basis of PARA 8 as discussed above, the goods are not liable for confiscation as the adjudicating authority has committed a fundamental error in rejecting the declared value without properly considering the contemporaneous export data of identical/similar goods exported as provided by the appellant mentioned at Table-A above. On the examination of the goods, no discrepancy was noticed in respect of quality, quantity and essential characteristics of the goods was reported. Further, the value of the goods found to be appropriate as discussed in foregoing paras.

7.7. As the appellant has not misdeclared the export goods hence the question of confiscation under section 113(i), 113(ia), and 113(ja) of the Customs Act, 1962 and in the present case, I note with concern that the authority failed to identify any legal prohibition applicable to leather wallets under the EXIM Policy or Customs notifications, and further disregarded the CRCL test report that confirmed the goods were as described. This reflects a serious error in applying confiscation provisions to what was essentially a valuation dispute.

7.8. I observe that all material particulars matched perfectly the quantity, description and HSN classification were exactly as declared and verified. The authority's attempt to equate a valuation difference with material misdeclaration ignores the specific requirements of the provision. I also find that the department has not produce any evidence that the appellant has submitted forged documents or fabricated claims. The incentives were claimed as per applicable notifications and legal requirements.

8. On the basis of the above discussions, records of the case and judicial pronouncement, I conclude that the rejection of declared FOB value violates statutory valuation principles and set aside, consequently, the question of confiscation does not arise and is quashed in its entirety; all fines and penalties imposed on the both appellants are also set aside.

9. In the course of hearing, the Learned Counsel has submitted that the goods were not released for export in February 2023 and they are still under custody of the Customs Department. Therefore, the export order got cancelled. Hence, he prays for immediate release of the goods if the Revenue's appeals are dismissed. He further submits that these goods would not be exported.

10. Based on our observations and discussions above and the detailed findings of the relevant portion of the Order in Appeal, we find that Revenue has not made out any case in support of their appeal. We do not find any reason to interfere with the considered decision arrived by the Commissioner (Appeals). Therefore, we dismiss the appeals filed by the Revenue.

11. Considering the request of the appellant, which we find to be reasonable since about 3 years have elapsed from the date of seizure, we direct the concerned authorities to release the goods as soon as the present order is uploaded at the official website of the Tribunal.

(Operative part of the Order was pronounced in the open court.)

Sd/-
(R. Muralidhar)
Member (Judicial)

Sd/-
(Rajeev Tandon)
Member (Technical)

Pooja