CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 1

CUSTOMS APPEAL NO. 51966 OF 2022

[Arising out of Order-in-Original No. 01/2022/SG/Pr. Commr./ ICD-Import/TKD dated 24.01.2022 passed by the Pr. Commissioner of Customs, ICD, Import, Tughlakabad, New Delhi]

CONTINENTAL TRADING CO **.....APPELLANT**

2423/1, Surekha Building
GB Road, Delhi-110006

Vs.

PRINCIPAL COMMISSIONER, CUSTOMS-NEW DELHI(ICD TKD) **.....RESPONDENT**

ICD, Import, Tughlakabad,
New Delhi-110020

Appearance:

Shri Priyadarshi Manish and Shri Kunal Sharma, Advocates for the Appellant

Shri Girijesh Kumar, Authorised Representative for the Respondent

CORAM:
HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51650 /2025

DATE OF HEARING : 28/07/2025
DATE OF DECISION : 31/10/2025

P.V. SUBBA RAO

M/s. Continental Trading Co.[1] filed this appeal to assail the Order in Original dated 24.12022[2] passed by the Commissioner of Customs, ICD Tughlakabad[3]. The operative part of the Order is as follows:

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1 the appellant
2 impugned order
3 Commissioner

ORDER

(i)The declared transaction value and self-assessed value of Rs. 11,05,59,851/- is rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007, read with section 14 of the Customs Act, 1962 not being the serial transaction value for the goods entered in the bills of entry detalled in Table-4.

(ii) The assessable value for the goods entered in the hills of entry detailed in Table 4 is re determined to Rs. 14,19,67,583/- under Rule 4 & 9 of the Customs Valuation (Determination of value of imported goods) Rules, 2007.

(iii) Bond of Rs.31,24,498/-(Rupees Thirty-One Lakhs Twenty Four Thousand Four Hundred and Ninety Eight Only) executed for provisional release of goods imported vide Bill of Eatry No. 2949435 dated 23.04.2019 which were seized vide Selzure Memo dated 28.05.2019 is enforced and the Bank Guarantee No. 003GT01191620004 dt.11.06.2019 for differential duty of Rs 1,94,017/- (Rupees One Lakh Ninety Four Thousands and Seventeen only) and Bank Guarantee No. 003GT01191620005 dt. 11.06.2019 of Rs. 1,00,000/- (Rupees One Lakh only) for RF/PP deposited at the time of provisional release of goods, is ordered to be appropriated against the duty and penalty recoverable from them.

(iv) Goods having revised assessable value of Rs. 14,19,67,583/-as detailed in Table-4, (including seized goods valued at Rs. 31,24,498/-) is confiscated/held liable to confiscation under Section 111 (m) of the Customs Act, 1962. However, I give an option to redeem the seized goods valued at Rs. 31,24,498/- on payment of redemption fine of Rs,10,00,000/-(Rupees Ten Lakhs only) under Section 125 of the Customs Act, 1962.

(v) I order recovery of differential duty amounting to Rs. 87,18,157/- (Rupees Eighty Seven Lakhs Eighteen Thousand One Hundred and Fifty Seven Only) on the re-determined value of Rs.14,19,67,583/-, which has been short levied and short paid due to wilful suppression of actual transaction value, under Section 28(4) of the Customs Act, 1962 along with interest under the provisions of Section 28AA of the Customs Act, 1962.

(vi) I impose a penalty of Rs. 87,18,157/- (Rupees Eighty Seven Lakhs Eighteen Thousand One Hundred and Fifty Seven Only) under Section 114A of the Customs Act, 1962.

(vii) I impose a penalty of Rs. 50,00,000/- (Rupees Fifty Lakhs only) under Section 114AA of the Customs Act, 1962.

Submissions of the appellant

2. Shri Priyadarshi Manish assisted by Shri Kunal Sharma, learned counsels for the appellant made the following submissions:

(i) The impugned order is arbitrary, illegal and must be set aside;

(ii) The value was declared in the Bills of Entry as per the import documents by the appellant;

(iii) The goods were imported as per an agreement dated 1.1.2018 which was also provided to the department during investigation;

(iv) The appellant is an old customer of the overseas supplier and hence signed an agreement which is possibly the reason that his prices were lower than the prices at which others imported goods;

(v) The rejection of transaction value was not justified when the price was paid as per the documents through banking channels;

(vi) The appellant had not violated any of the Valuation Rules;

(vii) Even if the transaction value was rejected, it can only be re-determined based on the least of the values of contemporaneous imports and not the highest of them;

(viii) The mere fact that others imported the goods at higher values does not justify rejection of transaction value;

(ix) The statement made by the proprietor of the appellant under section 108 of the Act has evidentiary value;

(x) The goods imported under Bill of Entry no. 2949435 dated 23.4.2019 were illegally detained;

(xi) Confiscation of the goods under section 111(m) of the Act and redemption fine under Section 125 of the Act

and imposition of penalties under section 114A and 114AA are not correct;

(xii) The appeal may be allowed and the impugned order may be set aside with consequential relief to the appellant.

Submissions of the Revenue

3. Shri Girijesh Kumar, learned authorised representative for the Revenue vehemently supported the impugned order and made the following submissions:

(i) The rejection of declared transaction value under Valuation Rule 12 was correct and proper because it was found that the values declared by the appellant were much lower than the values declared by Radiant Corporation for imports from the same overseas supplier.

(ii) Since the transaction value was rejected undervaluation Rule 12, it had to be re-determined. In respect of the live Bill of Entry, the value was re-determined as per Valuation Rule 4 (being the transaction value of identical goods). In respect of past Bills of Entry, since Valuation Rules 4,5,6 & 8 were found to be inapplicable, valuation was done under Rule 9.

(iii) Since the appellant had mis-declared the values, the goods were correctly confiscated under section 111(m).

(iv) Since the duty was short paid by not declaring the correct value, the demand of differential duty under

section 28(4) with interest under section 28AA has been correctly confirmed.

(v) The Sales contract which the appellant had presented would not be relevant to determine the value because the condition in it of purchases of USD 1 million was not met.

(vi) The impugned order may be upheld and the appeal may be dismissed.

Findings

4. We have considered the submissions advanced by both sides and have perused the records.

5. Before examining the facts of this case, we examine the relevant legal provisions, viz., Section 14 of the Customs Act, 1962 and Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Duties of customs are levied on goods imported into and exported from India at the rates specified in the Schedules to the Customs Tariff Act, 1975. Duty can be levied as per tariff based on quantity (specific duty), value (ad valorem) or a combination of both. If the duty is to be levied based on value, valuation for the purpose has to be done as per Section 14 of the Act.

6. Up to the year 2007, Section 14 of the Act provided for determination of duty based on a deemed value [the price at which such goods are ordinarily sold in international trade for delivery at the time and place of importation or exportation] but it also said that such value shall be the transaction value.

7. Finding a contradiction, section 14 was substituted by a new section by the Finance Act, 2007 providing for determination of duty based on 'transaction value'. The Finance Minister explained this change in law while introducing the Finance Bills. The relevant portion of the Memorandum is reproduced below:

> **"Memorandum to the Finance Bill, 2007**
>
> **N. Amendments in Customs Act and Central Excise Act:**
>
> [To come into effect on enactment of Finance Bill, unless otherwise specified]
>
> 1) **As per sub-section (1) of section 14 of the Customs Act, 1962, valuation of goods is based on the concept of 'deemed value'. Sub-section (1A) of section 14 provides that valuation of imported goods shall be based on the concept of 'transaction value'.** To remove this contradiction, existing section14 is being substituted by a new section 14. **The new section provides that the value of imported goods and export goods shall be the transaction value of such goods, as determined in accordance with the rules made in this behalf.** Moreover, transaction value of imported goods shall include any amount that the buyer is liable to pay for costs and services, including commissions and brokerages, assists, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance and handling charges. Further, where there is no sale or the transaction value of the imported goods or export goods is not determinable, the value of such goods shall be determined in accordance with the rules made in this behalf. This change will come into effect from a date to be notified after enactment of Finance Act, 2007."

8. The new section 14 introduced from 2007 is relevant to the case which reads as follows:

> **"Section 14. Valuation of goods. -**
>
> (1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, **the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf**:
>
> **Provided** that such transaction value in the case of imported goods shall **include, in addition to the price as aforesaid, any amount paid or payable for costs and services,**

including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the **rules** made in this behalf **may provide for,-**

(i) the circumstances in which the **buyer and the seller shall be deemed to be related**;

(ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or **price is not the sole consideration for the sale or in any other case**;

(iii) **the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section**:

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation. - For the purposes of this section - (a) rate of exchange" means the rate of exchange - (i) determined by the Board, or

(ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b)"foreign currency" and ''Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).”

9. The non-obstante clause in sub-section (2) of section 14 gives the Board the power to fix tariff values for any class of goods and if they are fixed, duty shall be determined on the tariff value only regardless of the actual transaction value. This sub-section is not relevant to this appeal because no tariff values were fixed for the goods in question. In all other cases, the value to be reckoned for calculating the Customs duty shall be the

transaction value, i.e., the price paid or payable subject to five conditions:

a) Buyer and seller are not related.

b) Price is for delivery at the time and place of importation, i.e., all costs up to the point of import are to be included. For instance, if the sale is on Free on Board basis, the costs of transportation to the place of import, transit insurance, etc. will have to be added.

c) Price is the sole consideration for sale.

d) Some amounts indicated in the first proviso to sub-section 1 of section 14 must be included.

e) Valuation will be as per any other conditions as may be specified in the Rules.

10. Thus, the default position is that the valuation has to be done on the basis of the transaction value and not based on any deemed value. Subject to the provisions for rejection of transaction value by the proper officer, if there are a hundred transactions between the importers and the overseas sellers at different prices, for each transaction, the value under section 14 shall be that transaction value. Simply because the price was higher in any particular transaction, such price cannot be applied to other transactions to determine duty. Conversely, the importer cannot claim to pay duty on a lower value than the transaction value in any consignment even if other consignments were sold even to the same importer by the same overseas supplier at lower prices. Valuation has to be done for each import as per that transaction value. Some additions must be made to the transaction value as per the first proviso to section 14(1).

11. The second proviso to this sub-section provides for Rules to be made in this behalf to provide for:

a) the circumstances in which **the buyer and the seller shall be deemed to be related**;

b) the manner of determination of value in respect of goods **when there is no sale**,

c) the manner of determination of value in respect of goods if **the buyer and the seller are related**,

d) the manner of determination of value in respect of goods where **price is not the sole consideration for the sale**;

e) the manner of determination of value in respect of goods in **any other case**; and

f) the manner of **acceptance or rejection of value** declared by the importer or exporter, as the case may be, **where the proper officer has reason to doubt the truth or accuracy of such value**, and determination of value for the purposes of this section.

12. Valuation Rules were framed as per the second proviso to sub-section(1) of section 14. It has 13 Rules of which Rules 1 and 2 are Preliminary rules. Rule 3 states that subject to Rule 12, the value shall be the transaction value adjusted according to Rule 10. Rule 10 provides for adding certain costs to the transaction value. Rule 12 empowers for the proper officer to reject the transaction value if he has a reasonable doubt about its truth and accuracy. **Thus, unless the proper officer rejects the transaction value under Rule 12, valuation has to be based**

on transaction value only as per Rule 3 with some additions, if necessary, as per Rule 10.

13. Rule 3 further provides that if the valuation cannot be done under that Rule, i.e., as per the transaction value with additions as per Rule 10, then **it must be done sequentially under Rules 4 to 9**. In other words, if the transaction value is rejected under Rule 12, valuation must be done sequentially under Rules 4 to 9.

14. We now proceed to examine Rules 4 to 9. **Rule 4** provides for the valuation on the basis of transaction value of **identical goods**. **Rule 5** provides for the valuation on the basis of the transcation value of **similar goods**. Rule 6 states if Rules 4 and 5 cannot determine the value, then it must be done as per Rule 7 and thereafter Rule 8 but this sequence can be reversed at the option of the importer. In other words, if the importer so chooses, Rule 8 can be applied directly instead of Rule 7. **Rule 7** provides for a **deductive method of valuation** on the basis of prices of similar or identical goods sold in India and after making some deductions from such prices. **Rule 8 provides for computed value,** i.e., based on the cost of raw material, cost of manufacture, reasonable profit, etc. In view of Rule 6, the importer may choose the computed value without examining the feasibility of determining value through deductive methods. **Rule 9 is the residual method** which provides for determining the value where it cannot be determined under Rules 3 to 8. Rule 10, as already discussed, provides for some costs to be added to the transaction value if the valuation is done as per Rule 3. Rule 11 requires the importer to make a declaration. Rule 12 lays down

the provision for rejection of transaction value. Rule 13 provides for interpretative notes for the Rules.

15. **To sum up, valuation has to be done sequentially** as follows:

a) If a **tariff value** is fixed by the Board, it shall be the value (sub- section (2) of Section 14);

b) If no tariff value is fixed by the Board, the value shall be the **transaction value, if necessary, with some additions** (as per the first proviso to sub-section (1) of section 14 and as per Rule 10);

c) If the transaction value is rejected under Rule 12 by the proper officer, value shall be the **transaction value of identical goods** (Rule 4);

d) If transaction value is rejected under Rule 12 and there is no transaction value of identical goods, then the value shall be the **transaction value of similar goods** (Rule 5);

e) If transaction value is rejected under Rule 12 and there is no transaction value of identical goods or similar goods, value must be determined through **Deductive method** (Rule 7)

f) If transaction value is rejected and there is no transaction value of identical goods or transaction value of similar goods and if it is not possible to determine value following deductive method, then value must be determined through **computation** (Rule 8)

g) If the importer so chooses, computational method may be adopted without examining the deductive method first (Rule 6).

h) If the transaction value is rejected and there is no transaction value of identical goods or similar goods and if it is also not possible to determine the value through deductive method or computational method, then value may be determined through the **residual method** by the officer following the above principles (Rule 9).

16. The next question which arises is when can the proper officer reject the transaction value. Rule 12 reads as follows:

> **"12. Rejection of declared value. -**
>
> (1) When the proper officer **has reason to doubt the truth or accuracy of the value declared** in relation to any imported goods, he **may ask the importer of such goods to furnish further information including documents or other evidence** and if**, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt** about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.
>
> (2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).
>
> **Explanation**.-(1) For the removal of doubts, it is hereby declared that:-
>
> (i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.
>
> (ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.
>
> (iii) **The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include-**
>
> (a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
>
> **(b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;**
>
> (c) the sale involves special discounts limited to exclusive agents;
>
> (d) the mis-declaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;

(e) then on declaration of parameters such as brand, grade, specifications that have relevance to value;

(f) the fraudulent or manipulated documents."

17. Thus, if the officer has **reason to doubt** the truth and accuracy of the transaction value, he can call for information including documents and evidence. If the information and evidence is presented and after examining it or if no information or evidence as called for is presented, if the proper office has **reasonable doubt** about the truth and accuracy of the transaction value, then it shall be deemed that the value cannot be determined as per Rule 3 (i.e., based on transaction value with additions, if necessary). While the officer can, in the first stage call for information and evidence if he has reason to doubt, at the second stage, he should have not just some reason to doubt but a **reasonable doubt.** If he has such reasonable doubt, then the transaction value can be rejected. The grounds on which the proper officer may raise doubts about the truth and accuracy of the transaction value have been illustrated in explanation 1 (iii) to Rule 12. The list is inclusive and not exhaustive.

18. In this case, what was discovered was that the appellant had filed Bill of Entry No. 2949435 dated 23.4.2019 in which the values declared were lower than the values declared by another importer- M/s Radiant Sales Corporation in Bill of Entry No. 2982408 dated 25.4.2019 for the same goods imported from the same supplier. In respect of one of the items imported viz., UC209, the appellant declared unit price as Rs 119.11 whereas Radiant Sales Corporation declared unit price as Rs. 145.08 (Table C of the SCN). Thus, the value declared by the appellant

was 17% less than the value declared by Radiant Sales Corporation. In 38 of the 42 models of the goods imported under this Bill of Entry, the values declared by the appellant were found lower and in 4 models (US 214, UC 215, UC 215-48 and UCT 209), the values were the same [RUD 7 to the SCN].

19. The differences had given the officer reason to doubt the declared value under Rule 12 and accordingly he issued summons to Shri Harinder Pal Singh, proprietor of the importer firm who gave his statement on 23.5.2019 in which he said that he had declared the prices as per the invoice dated 25.3.2019. He also said that he had a Contract with the supplier effective from 1.1.2018 to 31.12.2019 but the actual price could vary from the contract by 1 to 2.5%. He also said that he was aware that Radiant Sales corporation also imports from the same supplier and after seeing both the Bills of Entry, he said that the goods were identical. Later, he produced a copy of his Purchase agreement with the supplier.

20. On examining the Purchase Agreement, it was found that the agreement indicated the prices on FOB basis whereas in the Bills of Entry, the appellant had declared the terms of contract as CIF. It was also found that agreement had a condition that the prices were subject to minimum order of One Million USD in a year. Remittances by the appellant were examined and it was found that the appellant had not met this minimum annual purchase of one million USD per year.

21. In light of these facts, the Commissioner rejected the transaction value under Valuation Rule 12 and re-determined the

value not only in this Bill of Entry but also in 44 past Bills of Entry which had been filed by the appellant.

22. Having rejected the transaction value in Bill of Entry No. 2949435 dated 23.4.2019, he re-determined the value under Valuation Rule 4 being the transaction values of identical goods imported by Radiant Sales Corporation from the same supplier about the same time.

23. In respect of the remaining 44 Bills of Entry, having found that there were no imports of identical goods (Valuation Rule 4) or similar goods (Valuation Rule 5) and that the values could also not be determined under the Deductive method (Valuation Rule 7) or Computational method (Valuation Rule 8), the Commissioner determined the value under Valuation Rule 9 (residual method).

24. The rejection of the transaction value in the Bill of Entry No. 2949435 dated 23.4.2019 under Valuation Rule 12 must be upheld because about the same date, goods imported by Radiant Sales from the same overseas supplier were at higher prices. The difference in prices was about 20%. This gave the officer reason to doubt and when questioned, the proprietor of the appellant could only produce his contract and invoices. There was no satisfactory explanation as to why its values were so much lower. One of the grounds on which the transaction value can be rejected under Rule 12 is "the significantly higher value at which identical or similar goods imported at or about the same time in comparable commercial transaction were assessed."

25. Having rejected the transaction value, the Commissioner determined the value under Valuation Rule 4 being transaction values of identical goods. This re-determination also needs to be upheld.

26. As far as the remaining 44 Bills of Entry are concerned, no separate reasons to doubt the truth or accuracy of the transaction values in those Bills of Entry have been recorded in the impugned order. Neither the SCN nor the impugned order records that there were any imports of identical or even similar goods at or about that time. It is for that reason, the value was determined under Valuation Rule 9. Thus, the only reason to doubt the transaction values in the 44 Bills of Entry is that the values declared in Bill of Entry No. 2949435 dated 23.4.2019 was doubted. In our considered view, this cannot be a ground to doubt the transaction values in those Bills of Entry especially when the impugned order as well as SCN record that there were no imports of identical or similar goods. Thus, the rejection of the transaction values in the 44 Bills of Entry cannot be sustained. Consequently, the re-determination of the values under Rule 9 and demand of differential duty under section 28(4)of the Act with interest under section 28AA of the Act also cannot be sustained.

Confiscation of the goods under section 111(m)

27. Section 111(m) renders `***any goods which do not correspond in respect of value*** *or in any other particular* ***with the entry made under this Act*** *or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under trans-shipment, with the declaration for*

trans-shipment referred to in the proviso to sub-section (1) of section 54' liable to confiscation. The entry made under the Act is the Bill of Entry. If the goods do not correspond in value to the entry made in the Bill of Entry, they will be liable to confiscation. The importer must declare the value truthfully. In this case, the importer declared the values as per its transaction value in the invoice. The importer is required to self-assess duty under section 17 and as per section 14, the value shall be the transaction value. The importer declared this value in the Bill of Entry and self-assessed duty.

28. The proper officer can reject the transaction value under Valuation Rule 12 if he has a reasonable doubt about the truth or accuracy of the transaction value and can re-determine the value following other methods of valuation. There is no provision in the Valuation Rules for the importer to reject his own transaction value nor is it feasible for the importer to know the transaction values of others in their imports.

29. The mere fact that the officer rejected the transaction value and re-determined the value following some other method does not mean that the appellant had mis-declared and rendered the imported goods liable to confiscation under section 111(m). Goods will be liable to confiscation if the value declared in the Bill of Entry is different from the transaction value reflected in the invoice or if there are parallel invoices with different values for the same goods, etc and not simply because these proper officer or the adjudicating authority assesses duty on a different value.

30. It is impossible for any importer to anticipate if the proper officer will reject his transaction value and if so, what value he would re-determine and following which method and then file the Bill of Entry indicating such anticipated value. Therefore, the confiscation of the goods under section 111(m) of the Act cannot be sustained.

Penalties under section 114A and 114AA

31. In the impugned order the Commissioner confirmed demand of duty in respect of the past Bills of Entry under section 28(4) of the Act and imposed an equal amount as penalty under section 114A. Since we found that the demand in respect of the past Bills of Entry cannot be sustained, the penalty imposed under section 114A also needs to be set aside.

32. The Commissioner imposed a penalty of Rs. 50,00,000/- on the appellant under section 114AA of the Act. This section reads as follows:

> **"Section 114AA. Penalty for use of false and incorrect material. -** If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times."

33. The mere fact that another importer (Radiant Sales Corporation) had imported identical goods from the same overseas exporter at different prices does not prove that the appellant had mis-declared anything in the Bill of Entry, let alone, did so knowingly or intentionally. Even if the appellant was aware that another importer was importing the goods at different prices, he does not and cannot declare such values in its Bill of

Entry. The appellant had to file the Bill of Entry declaring its transaction value which it did. Therefore, the penalty imposed on the appellant under section 114AA cannot be sustained.

34. In view of the above, the appeal is partly rejected and partly allowed as follows:

a) The rejection of the transaction value under Valuation Rule 12 and its re-determination under Valuation Rule 4 in respect of Bill of Entry No. 2949435 dated 23.4.2019 and the consequential demand of duty is upheld along with interest.

b) The rejection of the transaction value under Valuation Rule 12 and its re-determination under Valuation Rule 9 in respect of the other Bills of Entry and confirmation of demand of duty under Section 28(4) of the Act with interest under section 28AA of the Act is set aside.

c) Confiscation of the goods under section 111(m) of the Act and penalties under section 114A and 114AA of the Act are set aside.

d) The appellant will be entitled to consequential relief, if any.

[Order pronounced on **31/10/2025**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

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