

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,  
KOLKATA**  
REGIONAL BENCH – COURT NO.2

**Customs Appeal No. 75332 of 2023**

(Arising out of Order-in-Original No. KOL/CUS/COMMR/PORT/02/2023 dated 03.03.2023 passed by Commissioner of Customs (Port), Kolkata.)

**M/s Eagle International,**

(T-177B, Shukhar Bazar, Near Jindal School, Uttam Nagar,  
New Delhi-110059.)

**...Appellant**

*VERSUS*

**Commissioner of Customs (Port), Kolkata,**

(Customs House, 15/1, Strand Road, Kolkata-700001.)

**...Respondent**

..

**APPEARANCE :**

Shri S. C. Ratho, Consultant for the Appellant

Shri Faiz Ahmed, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)**

**HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER No.77805/2025**

DATE OF HEARING : 13.11.2025

DATE OF PRONOUNCEMENT : 27.11.2025

**PER R. Muralidhar :**

The appellants Eagle International (IEC-0512011796), imported Consignments of Water Purifier Spare Parts from overseas supplier M/S. China Ningbo Cixi Imp & Exp. Corp., China, against invoice No: CNC20121510 dated: 15.10.2012. Bill of Entry No: 8440612 dated: 08.11.2012 was filed for clearance of the goods through Customs Broker, M/S. Jaiswal Import Cargo Services Ltd, as per value indicated in the invoice for different items as per suppliers invoice along with the import documents. The goods were supplied by the aforesaid supplier after negotiating the price of the items and the invoice was raised by them. The prices were declared as per the commercial invoices enclosed

**Customs Appeal No. 75332 of 2023**

with each of the above referred bill of entry. The goods were assessed in the Assessing group on the basis of the invoice submitted by the importer and the declaration made in the Bill of Entry after enhancing values of the two items out of five items in the Bill of Entry. Further investigation was proceeded by the SIB (Port) and on examination of the goods in Dock, it was alleged that the goods were grossly mis-declared in terms of description and value and representative samples were drawn for further investigation. After examination and scrutiny of the goods, it was presumed that the importer has mis-declared the description of the goods specifically the membrane of RO filter. After examination of the goods by the SIB officers, the importer vide their letter dated: 10.01.2013 & 15.01.2013 agreed for enhancement of value as per DOV data because of huge mounting rent of CFS and container detention charges and also sought waiver of issuance of Show cause notice, personal hearing and Adjudication order in this regard.

2. In the course of investigation, it was alleged that the address provided by the appellant was found to be fake and no such firm with the name M/s Eagle International existed at those addresses. Prima facie, the investigating authorities attempted to bring out an allegation against the appellant that, it is a non-existing firm and against their IEC some unscrupulous importers are importing the goods by grossly under invoicing the value of the goods for evasion of duty. But in the course of investigation, the Proprietor of the import firm tendered his statement before SIB, wherein he stated that, he had been using 177B, Shukhar Bazar, Uttam Nagar, address and imported the parts of RO. He also

**Customs Appeal No. 75332 of 2023**

admitted that till date he has imported 5 consignments. A Show cause notice F.No. S2-39/2013 dated: 21.08.2013, was issued to the appellant along with the CHA. After submissions of their reply, the Adjudicating authority passed Order-In-Original No. KOL/CUS/PORT/27/2014 dated: 31.03.2014. In the order it was held that goods are liable to be confiscation under section 111(m) of CA'62. The differential duty of Rs.29,02,556/- is confirmed along with the applicable interest u/s 28AA of CA'62. The importer, Shri Kuldeep Sharma, is liable to penalty of Rs. 10,00,000/- u/s 112(a) of CA'62. Further penalty of Rs. 50,00,000/- is also liable to be paid by the proprietor of the import firm u/s 114AA of CA62, besides the CHA M/S. Jaiswal Import Cargo Services Ltd, liability of penalty to the extent of Rs. 3,00,000/- u/s 112(b) of the Act, ibid. Being aggrieved with the order, an appeal was filed in CESTAT, Kolkata, against the said Order-In-Original. The Tribunal, took into consideration the Appellant's submissions and vide their Final Order No. 75425/2022 dated: 27.07.2022, allowed the appellant's appeal partly and remanded the matter back to the Original Authority for considering the issue afresh after allowing opportunities of hearing to the appellant before passing the order. After going through the submission made, the Adjudicating authority passed Order-In-Original No. KOL/CUS/COMMR/PORT/02/2023 dated: 03.03.2023, wherein the declared value of the imported goods was rejected and re-assessed duty of Rs. 30,84,594/- u/s 17(4) of the CA'62 was levied along with differential duty of Rs.29,02,556/- with applicable interest u/s 28AA of the Act. Besides confiscation of the imported goods covered under Bill

**Customs Appeal No. 75332 of 2023**

of Entry No. 8440612 dated: 08.11.2012, an option was given for redemption of the goods on payment of Redemption Fine to the tune of Rs.12,00,000/- u/s 125 of the CA'62. Further Penalty of Rs.2,00,000/- u/s 112(a)(ii) was also imposed on the appellant. Being aggrieved, the appellant is before the Tribunal.

3. The Ld Consultant appearing on behalf of the appellant makes the following submissions:

3.1 The main allegation held in the order that, the goods were mis-declared both in description and value, as per the chart below;

Sl. No.	Description declared	Value declared (Rs.)	Description found	Value ascertained as per th NIDB Date(Rs.)
1.	Housing Slim white (Water purifies spare parts)	16.71	Housing Slim white (Water purifies spare parts)	20.41
2.	Spun filter parts-1 (Water purifier spare parts)	22.28	Spun filter Cartridge 10' Long (Water purifier spare parts)	40.56
3.	Carbon Filter (Water Purifier Spare parts)	22.28	Carbon Filter Cartridge (K33C/T33C) (Water purifier spare parts)	33.22
4.	Parts DCC-002 (Water purifier spare parts)	11.14	Vontron membrane (Reverse osmosis element) Model no. UPL 1812-80	358.05
5.	Water filter parts SV-01 (Water purifier spare parts)	11.14	Water filters parts. Solenoid valve for R.O. water purifier parts Model No. SLC-2	28.34

3.2 The declared value of the imported goods is the true transaction value. It is not a case that it is only and first import of the appellant. As admitted in the Order-In-Original itself at para-6, prior to this the appellant imported four consignments which were duly cleared by the Customs authorities. But without any consideration, the R.O.

**Customs Appeal No. 75332 of 2023**

membrane imported in the instant case was compared with R.O. membrane imported against another Bill of Entry without any material evidence establishing the quality of the R.O. membrane imported in the instant case is the same and cleared as per the NIDB data is also the same or similar in all respects.

3.3 In terms of Explanation to Rules-5 of the Customs Valuation Rules, vide the interpretive note, it has been categorically provided that, in applying Rule -5, the proper office of Customs shall wherever possible, compare similar goods at the same commercial level and in substantially the same quantities as the goods being valued for the purpose of Rule-5. In terms of Rule- 5(2) of the said Rule, the provisions of clause (b) and (c) of sub rule (1), sub rule (2) and sub rule (3) of Rule - 4 shall mutatis mutandis, also apply in respects of similar goods. Further in terms of Rule-4 (3) in applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of the imported goods.

3.4 But the adjudicating authority in para-47.9.1 of the order straightaway has re-determined the value on the basis of NIDB data retrieved indicating the Bill of Entry and the description of the goods which is legally not maintainable.

3.5 At the outset, the appellants dispute and submit that the value determined on rejection of transaction value, without mentioning the specific relied upon evidences is arbitrary and is bad in law. Hon'ble

Supreme Court in the case of **Eicher Tractors Ltd- 2000(122) ELT 221 (SC)** held that transaction value cannot be rejected without clear and cogent evidence produce by the department with regard to quality, quantity, country of origin and place and time of import.

3.6 In the course of investigation, when the investigating authority disputed the declared value, they ignored that the BE was assessed by the assessing group and assessed duty of Rs.2,55,841/- was paid after complying to the query raised by the assessing group.

3.7 The appellant is a regular importer of the goods and the supplier to keep up his business avenue may consider reduction in price for sale of his goods which is a normal trade practice. In the case of **Pioma Industries- 2008(230) ELT 494**, it was held that it is a common practice in business circle to offer lower prices to the buyers, who repeatedly buy the goods from the same supplier. On the face of the discount given by the supplier, the rejection of the transaction value is not justified. Further in the case of **Commissioner of Customs (Export), Mumbai vs Radhey Shyam Ratan Lal -2006 (202) ELT 500 (Tri-Mumbai)**, the Hon'ble Tribunal held that Transaction value declared held to be genuine value and no other consideration either direct or indirect received by supplier - Only when transaction value under Rule 4 of Customs (Valuation) Rules, 1988 is rejected, recourse can be made to Rules 5 to 8 *ibid*.

3.8 Further in this context it is submitted that at the material time

**Customs Appeal No. 75332 of 2023**

similar goods were being cleared through other ports vide Bill of Entry No. 8151343 dated: 10.08.2012 and through Kolkata port against Bill of Entry No. 7964936 dated: 09.12.2012 besides 4-5 consignments cleared by the same importer against Bills of Entry No. 7644006 dated: 13.08.2012, 6942282 dated: 28.05.2012, 7459967 dated: 23.07.2012 and 7964936 dated: 17.09.2012.

3.9 Any enhancement of declared value without any evidence, documents or material is violation of Section 14 of the Act. The appellant declared the transaction value and there is nothing on record to suggest that the transaction value declared by the appellant was not the price actually paid for the goods when sold for export to India. There is nothing on record that the buyer and seller of the goods were related or price was not the sole consideration for sale. The lower authority has not adduced any evidence that the appellant has paid any amount over and above the invoice value to the foreign supplier of the goods.

3.10 The adjudicating authority has rejected transaction values without any valid basis/reasoning and without following the due procedure as per section 14 and CVR 2007 framed thereunder, especially when there is nothing on record to suggest that the transaction value declared by the appellant was not the price actually paid for the goods when sold for export to India. No evidence has been brought into record by the adjudicating authority, than any amount over and above the invoice value was paid by the appellant to the supplier of the goods. There is

**Customs Appeal No. 75332 of 2023**

also nothing on record to suggest that the buyer and the seller were related or price was not for the sole consideration for sale rendering the order infectious.

3.11 The importer resides in the address B-10A, Sai kunj, New Palam Vihar, Phase-III, Gurgaon-122001 as per his PAN and Voter ID card. All along the importer was available and no such allegation was brought by the Department either at the time of filing the Writ before the Hon'ble High Court or when the goods were allowed provisional clearance by Commissioner (Port) prior to issuance of the Show cause notice. But, wrongly it was held by the adjudicating authority, that the address provided by the importer were found fake and no such M/S. Eagle International existed in the given address.

4. In view of the above submissions, the appellant prays that the Appeal may be allowed.

5. The Ld A R, representing the Revenue submits that the appellant has mis-declared and also under-valued the imported consignment. Only after detailed investigation, it was found that even for the earlier consignments imported by the appellant, the value of similar goods were at higher side. Therefore, the NIDB data for the nearest time of import was obtained and the same was applied to arrive at the correct Assessable Value. He justifies the impugned order.

**Customs Appeal No. 75332 of 2023**

6. Heard both the sides and perused the appeal papers and submissions and documentary evidence placed before us.

7. We find that the first issue about the non-existence or otherwise of the appellant as an importer is not an issue raised at the earlier stages. The appellants are operating under the IEC code issued to them. Their appeal at the HC was taken by the High Court and their address details were not doubted at any stage. Therefore we are not dwelling on this issue any further. The main issue is that of value to be adopted for the imported consignment.

8. In the case of the present issue on hand, the imported goods were assessed by the Customs officials and is not a case of self-assessment. After the assessment, enhancement of value was ordered in respect of some goods, for which the appellant has given their consent. Only much later the so-called investigation has come up which resulted in the present proceedings.

9. We also find that the end result of this investigation has resulted in rejecting the value adopted by the appellant and applying of NIDB data to enhance the value.

10. The Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 [CVR 2007], reads as under :

3. Determination of the method of valuation.

**Customs Appeal No. 75332 of 2023**

- (1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;
- (2) Value of imported goods under sub-rule (1) shall be accepted:

11. The Rule 3 makes it clear in the normal course, the Transaction Value declared by the Importer is required should be 'accepted' as the correct price, unless any of the exclusions given under the Rule 3 get applied so as to reject the 'transaction value'. In the entire proceedings, we have not come across any allegation to the effect that the appellant has contravened any such provisions, so as to enable the Revenue to discard the 'transaction value' adopted by the appellant.

12. The Delhi Tribunal in the case of ***Krishna Impex International Versus Commissioner of Customs (ICD), New Delhi [2025 (5) TMI 1463 - CESTAT New Delhi*** has held as follows:

*"18. As noticed above, the main controversy in the present case is regarding valuation of the goods imported by the appellant. From the provisions of section 14 of the Act read with the Valuation Rules, it is clear that in the ordinary course, the transaction value has to be taken as the assessable value. The main issue before the authorities below was, whether the declared assessable value of the imported goods should be rejected in terms of section 14 of the Act read with rule 4 and rule 10A of the Valuation Rules, 1988 and why the same should not be re-determined, however, there is no discussion on the provisions of law which specifically casts mandatory duty on the department to record reasons as to why the declared value is being rejected and the exercise of re-determination has to be based in terms of the Valuation Rules. Repeatedly, the Courts have laid much emphasis on the principle that even where there is admission by the importer, the department is required to satisfy the compliance of the provisions of section 14 and the Valuation Rules while re-determining the value of the goods. Merely because there is admission by the importer does not absolve the department to act in*

**Customs Appeal No. 75332 of 2023**

*compliance of the mandatory provisions. Recording the basis for such an enhancement is the sine-quo-non of re-determination. From the perusal of the records of the case, we do not find that the department has made any effort to ascertain quality, quantity, characteristics of the goods of contemporaneous import from which the basis for such reassessment can be made out. In fact, there is no evidence at all to show that the department had carried out any exercise for ascertaining the basis for re-determining the value of the imported goods. It is not even forthcoming that the overseas supplier has been paid consideration higher than the amount declared in the invoices. In the present case, the revenue has merely re-assessed the value on the basis of the statement of Shri Jhunihunwala, which is not the prescribed requirement for reassessment of the value of the imported goods. The revenue has not discharged its burden and therefore, we conclude that the transaction value declared by the importer should form the basis of assessment and consequently, the enhanced value reassessed by the revenue is unsustainable.*

*19. We do not find any merits in the impugned order and hence the same is set aside. The appeal is, accordingly, allowed."*

13. Therefore, we hold that in the present case, directly moving to NIDB data for enhancing the value, without first discarding the 'transaction value' with plausible reason, is erroneous on part of the Revenue. On this ground itself, the Revenue's case fails.

14. If the 'transaction value' is discarded with proper reasoning, the next course of action is to find the details of 'identical' / 'similar' goods imported. The data towards this also is required to match as nearly as possible with the quantities in question, the country of origin etc. There is nothing to suggest that in the present proceedings, this method was adopted by the Revenue.

**Customs Appeal No. 75332 of 2023**

15. Now coming to the usage of NIDB data for enhancing the value, we find that in the case of **Venture Impex Pvt. Ltd Vs. CCE, Import and General, New Delhi [2016(338) E.L.T. 759 (Tr-Del.)**, the Tribunal in para-8 has held as under:

*“As regards valuation, we find from the above reproduced para from the Commissioner (Appeals) order that the Revenue has solely relied upon the NIDB data for the purpose of enhancement of value of the imported goods. Tribunal in the case of CC, New Delhi Vs Virasat Electronics reported in 2015 (317) E.L.T. 295 (Tri-Del) as also in the case of CC, New Delhi Vs Marble Art reported in 2013(289) E.L.T. 346 (Tri-Del) has held that for adopting any other method of enhancement of the value of the imported goods, first of all transaction value is required to be rejected as incorrect/false on the basis of some evidences. It is only thereafter that the other method of declaring value has to be adopted. In any case, the Tribunal has observed that NIDB data cannot be held to be the proper basis for enhancement of the value”.*

16. The Chennai Tribunal in the case of **Atlantis Trading Company Vs CC – Tuticorin -2-2024 (388) ELT 526 (Tri-Chennai)**, has held as under:

*”6.The issue in the present appeal lies on a very narrow compass. The reason for the Assistant Commissioner to reject the declared value is solely based on the NIDB data and other than this, we do not find any contemporaneous imports of similar goods declaring higher value having been referred to, by the said authority. Moreover, it is a fact borne on record that the appellant had tried to impress upon the Assistant Commissioner by furnishing imports of similar goods by various other importers, the value of which almost matched with that of the appellant before us, but however the same has not at all been considered by the said authority.*

*7.1 It is the settled position of law that NIDB data cannot be the only basis for rejection of the declared value, which has been reiterated by various CESTAT Benches, including the Chennai Bench, in the case of *M/s. Almaa Traders v.**

**Customs Appeal No. 75332 of 2023**

*Commissioner of Customs (Export), Chennai* [Final Order No. 40898 of 2023, dated 11-10-2023 in Customs Appeal No. 40935 of 2014 - CESTAT, Chennai] [(2024) 16 Centax 282 (Tri. - Chennai)], wherein it was held as under :-

Moreover, the officer has relied on alleged contemporaneous “7.3 imports which were never put across to the appellant for rebuttal, but however, that such reliance on the contemporaneous imports itself has been doubted by the adjudicating authority when he holds that the value of the imported goods could not be determined under Rule 4 and Rule 5 due to variable factors like numerable types of descriptions, grades, country of origin, etc.; Rules 7 and 8 also could not be applied for want of quantifiable data at the place of exportation and importation respectively. By this, the approach of the assessing officer in comparing the import value with that of the contemporaneous imports stood diluted. In other words, on the one hand the officer says that the value of contemporaneous imports were higher, but on the other hand he refers to various factors like numerable types of descriptions, grades, country of origin, place of exportation and importation, etc., which would apply in equal force in respect of the value of the imported goods as well.

The quantity of import is much higher than the quantity of import 7.4 in respect of the contemporaneous imports. Hence, so-called contemporaneous imports were in fact incomparables, due to which the rejection of the value of import as declared by the appellant is without any basis.

In view of the above, we are satisfied that the re-determination 8. of the import value by the Revenue is without any basis and certainly not in accordance with the spirits of law, for which reasons the same deserves to be set aside.”

8. We are therefore prima facie satisfied that the Revenue has not made out a case firstly, for the rejection of the declared value and secondly, no case is either made out justifying re-determination of the same. We find that the decisions/orders relied upon by the appellant support our above view, and hence, we hold that the adjudicating authority was clearly in error in rejecting the declared value and then re-determining the same; and hence, the impugned order is clearly unsustainable for the above reasons. Hence, we set aside the impugned order.

17. The Hyderabad Tribunal in the case of **Agarwal Foundries P Ltd Vs CC – 2020 (371) ELT 859 (Tri-Hyd)**, has held as under:

**Customs Appeal No. 75332 of 2023**

2. The appellant imported pig iron from various overseas traders for use in manufacture of billets. The declared value of pig iron varied from USD 229 per MT to USD 300 per MT. These values were rejected by the assessing officer who enhanced the value to USD 500 per MT based on the data available with the NIDB. NIDB is the data of the Customs Department which gives values of various commodities based on various transaction values of different goods. The question which falls for consideration is whether the invoice value can be rejected and the duty can be charged as per NIDB data without any specific evidence that the invoice values do not reflect actual transaction value. This issue was decided in respect of the same assessee vide Final Order No. A/30143-30156/2018, dated 29-1-2018. It has been held that the NIDB data can be a guideline for the customs to arrive at the value of the goods but the NIDB data cannot be applied directly unless the value given therein falls within the parameters of identical goods or similar goods. Relying on the decisions in the cases of *Topsia Estates Pvt Ltd v. CC (Import-Seaport) Chennai* [2015 (330) E.L.T. 799 (Tri. - Chennai)], *CC New Delhi v. Nath International* [2013 (289) E.L.T. 305 (Tri. - Del.)], *Impex Steel & Bearing Co. v. CC Delhi-IV* [2014 (302) E.L.T. 464 (Tri. - Del.)] and *Eicher Tractors Ltd v. CC Mumbai* [2000 (122) E.L.T. 321 (S.C.)] it has been decided that the department cannot reject the declared value and assess the goods as per the NIDB data.

3. We find that the issue in the present three appeals is identical to the aforesaid decision of this Bench and we find no reason to deviate from the same. Accordingly we set aside the impugned orders and allow the appeals of the appellant. Appeals are allowed and the impugned orders are set aside with consequential relief, if any.

**Affirmed by the Supreme Court :**

**Commissioner v. Agarwal Foundries (P) Ltd.  
2020 (371) E.L.T. A295 (S.C.)]**

The Supreme Court Bench comprising Hon'ble Mr. Justice S. Abdul Nazeer and Hon'ble Mr. Justice Sanjiv Khanna on 17-12-2019 after condoning the delay **dismissed** the Civil Appeal Diary No. 41728 of 2019 filed by Commissioner of Customs, Hyderabad against the CESTAT Final Order Nos. 30696-30698/2019, dated 19-6-2019 as reported in [2020 \(371\) E.L.T. 859 \(Tri. - Hyd.\)](#) (*Agarwal Foundries (P) Ltd. v. Commissioner*). While dismissing the appeal, the Supreme Court passed the following order :

**Customs Appeal No. 75332 of 2023**

“Delay condoned.

We find no reason to interfere with the judgment/order impugned.

Accordingly, the Civil Appeal is dismissed.

Pending application(s), if any, shall stand disposed of.”

18. The above decisions hold that (a) the Transaction Value cannot be discarded without any proper and cogent evidence (b) NIDB Data cannot be applied directly to enhance the value. We find that to the factual matrix of the present case, the cited decisions are squarely applicable.

19. Therefore, we set aside the impugned order and allow the appeal with consequential relief, if any, as per law.

(Pronounced in the open court on...27.11.2025.)

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

Sd/-  
**(K. Anpazhakan)**  
**Member (Technical)**

Tushar Kr.