CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Customs Appeal No.70027 of 2026

(Arising out of Order-in-Original No.04/PC/NOIDA/CUS/2025-26 dated 22.07.2025 passed by Commissioner of Customs, Noida)

M/s Uttam Steel Alloys Pvt. Ltd., ...Appellant
(C-14, Wazirpur Industrial Area, New Delhi)

VERSUS

Commissioner of Customs, Noida ....Respondent
(CONCOR Complex, Greater Noida-201311 U.P.)

WITH

Customs Appeal No.70807 of 2025

(Arising out of Order-in-Original No.04/PC/NOIDA/CUS/2025-26 dated 22.07.2025 passed by Commissioner of Customs, Noida)

Mr. Puneet Kumar, Director .....Appellant
(M/s Uttam Steel Alloys Pvt. Ltd.
C-14, Wazirpur Industrial Area, New Delhi-110052)

VERSUS

Commissioner of Customs, Noida ....Respondent
(CONCOR Complex, G.B. Nagar-201311 U.P.)

AND

Customs Appeal No.70806 of 2025

(Arising out of Order-in-Original No.04/PC/NOIDA/CUS/2025-26 dated 22.07.2025 passed by Commissioner of Customs, Noida)

Shri Gaurav, Director .....Appellant
(M/s Pioneer Global International, Honkong
R/o B-148, Derawal Nagar, Gujranwala Colony
GTB Nagar, North West Delhi, Model Town, Delhi-110009)

VERSUS

Commissioner of Customs, Noida ....Respondent
(CONCOR Complex, G.B. Nagar-201311 U.P.)

APPEARANCE:

Shri Abhinav Kalra, Advocate & Shri Nishant Mishra, Advocate for the Appellant
Shri Santosh Kumar Authorized Representative for the Respondent

CORAM: HON'BLE MR. P. K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NOS.- 70152-70154/2026

DATE OF HEARING : 10.03.2026
DATE OF PRONOUNCEMENT : 14.05.2026

P.K. CHOUDHARY:

All the three appeals have been filed by M/s Uttam Steel Alloys Pvt. Ltd[1]. assailing the common Order-in-Original No.04/PC/NOIDA/CUS/2025-26 dated 22.07.2025 passed by the Ld. Commissioner of Customs, Noida Customs Commissionerate, to the extent the same :-

(i) Rejects Certificates of Origin against which goods were imported in terms of Notification No.46/2011-Cus dated 01.06.2011 from overseas suppliers namely Pioneer ULT Enterprises, Malaysia and Ruking International Company Ltd., Hongkong and disallows benefit of Notification No.46/2011-Cus dated 01.06.2011 in respect of 28 Bills of Entry;

(ii) Rejects the declared origin of goods in 24 Bills of Entry on the ground that the goods were of Chinese origin;

(iii) Rejects the value of imported goods in 79 Bills of Entry as Rs.17,80,05,344/-, under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the value of goods at Rs.29,51,82,320/- under Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(iv) Confirms demand and recovery of differential customs duty amounting to Rs.10,22,11,057/- short-levied/short-paid on goods under 79 Bills of Entry and appropriates amount of Rs.1,82,893/- deposited during investigation;

(v) Imposes penalty of Rs.10,22,11,057/- under Section 114A of the Act;

2. The facts of the case in brief are that the Appellant is a company engaged in export of steel products as well import of Cold Rolled Stainless Steel Coils[2] from China, Malaysia, UAE, Indonesia and Hong Kong. For importing CRSS Coils, the

[1] Appellant
[2] CRSS Coils

Appellant negotiates with overseas suppliers telephonically, on receipt of commercial invoice and other documents the Appellant files Bill of Entry through CHA, after examination and assessment of imported goods, the goods are cleared for home consumption where after the Appellant remits the invoiced amount to the overseas supplier by banking channels and thereafter sell the imported goods in local market. Notification No.46/2011-Cus dated 01.06.2011, exempts goods specified in column (3) of the table appended to the notification and falling under tariff item specified in column (2) of table, from so much of duty of customs leviable thereon as is in excess of the amount calculated in column (4) of the said table, when imported into the Republic of India from a country listed in Appendix-I; or column (5) of the said table when imported into the Republic of India from a country listed in Appendix-II. However, exemption is subject to the condition that the importer proves to the satisfaction of the Deputy Commissioner or Assistant Commissioner of Customs, that the goods in respect of which benefit of exemption is claimed are of the origin of the countries as mentioned in Appendix-I, in accordance with the provisions of the Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Government of Member States of the Association of Southeast Asian Nations[3] and the Republic of India Rules, 2009. On the basis of some information received by the officers of Directorate of Revenue Intelligence[4] that the Appellant is indulged in wrong availment of benefit of preferential rate of duty under Notification No.46/2011-Cus dated 01.06.2011 by producing fake Certificates of Origin at the time of import of CRSS Coils of various grades and thickness, the officers of DRI conducted search at the premises of Appellant on 13.05.2023. During the course of search proceedings, certain documents and electronic gadgets i.e. HP Laptop and iPhone belonging to director of Appellant and a hard disk belonging to his brother, were resumed under Panchnama dated 13.05.2023**[RUD-1]**. Forensic examination of electronic gadgets resumed from the premises of

[3] ASEAN
[4] DRI

the Appellant was done on 13.06.2023 in the absence of director of the Appellant on 13.06.2023 under Panchnama dated 13.06.2023**[RUD-2]**. Though the panchnama was got signed by the Appellant's director, however he was asked to sit in a separate room, hence he was not aware as to whether data relied upon by Revenue has been actually extracted from the laptop, hard disk and iPhone or not.

3. Learned Advocate Shri Abhinav Kalra and Shri Nishant Mishra appeared on behalf the Appellant submitted that during the course of recording of statement of Shri Puneet Kumar, Director of Appellant dated 08.08.2023 **[RUD-3]** he was shown printouts of WhatsApp chat between him and one Shri Sanjay Jain, alleged to be extracted from his iPhone. Though he had some chats with Shri Sanjay Jain and the same were also explained by him, remaining chats could not be explained and he was asked to make statement tutored by the officers.

3.1 During the course of recording statement dated 11.01.2024 **[RUD-4]**, he was again shown pages of some WhatsApp chats, alleged to be extracted from his iPhone and was asked to make tutored statement to the effect that the same relates to import of CRSS Coils from China through Malaysian routes.

3.2 During the course of recording statement dated 16.01.2024 **[RUD-5]**, he was shown copy of an e-mail dated 15.04.2021 sent by one Mr. K. Kipgen, Attache' (Commerce), High Commission of India, Kuala Lumpur, Malaysia and addressed to an e-mail address of CBEC, Government of India, confirming that 87 out of 4143 copies of Certificate of Origin[5] certificates sent for verification are not authentic and were not issued by the Ministry of International Trade and Industry[6], Malaysia. He was further shown list containing 87 un-authentic COO certificates including COO certificates mentioned at Serial No.65 to 86 issued to M/s Pioneer ULT Enterprises, Malaysia, from which company the Appellant had made imports. During the course of recording of statement, he was also shown printouts of some documents i.e. invoices and packing lists,

[5] COO
[6] MITI

alleged to be extracted from hard disk resumed from Appellant's premises and was coerced to state that the same are commercial invoices and packing list of supply made by Shangdong Mengyin, China to M/s Pioneer ULT Enterprise, Malaysia.

3.3 During the course of recording statement dated 05.02.2024 **[RUD-6],** he was shown printouts of documents i.e. commercial invoice, packing list etc., allegedly extracted from hard disk resumed during search, in respect of which he was tutored to state that the goods imported from UAE from M/s Sky Emirates General Trading, Dubai, UAE were of Indonesian origin and related COO certificates were also provided by overseas supplier. On being asked as to why invoices and other documents related to overseas suppliers were in the hard disk, he stated that since goods were purchased from M/s Sky Emirates General Trading, UAE, the said company might have sent these documents as attachment. On being asked to explain whether the goods imported from M/s Sky Emirates General Trading, UAE were of Chinese origin, he stated that the overseas supplier informed that the goods were of Indonesian origin and certificate of origin were also provided by the overseas suppliers.

3.4 During the course of recording statement dated 26.02.2024 **[RUD-7],** he was again shown printouts of pages alleged to be extracted from the hard disk resumed during search dated 13.05.2023 and was asked whether he had visited any manufacturing unit of M/s Pioneer ULT Enterprises, Malaysia, in respect of which he politely informed that he has never visited manufacturing unit of M/s Pioneer ULT Enterprises, Malaysia. His statements were again recorded on 15.04.2024 **[RUD-8]** and 19.04.2024 [RUD-9] during which he was shown printouts of documents allegedly extracted from gadgets resumed during search dated 13.05.2023 and was asked questions and was made to give tutored answers.

3.5 From the enquiries subsequently made by the Appellant, it appears that in some other case of evasion of customs duty by way of routing Chinese origin CRSS Coils via Malaysia, statement of Mr. Sanjay Jain was recorded on 02.02.2023 **[RUD-10]**, during which he stated that he established a company M/s EVG

Metals Industries, in Malaysia, in which he used to purchase CRSS Coils from China and containers were then being changed in Malaysia after preparing documents of Malaysian company.

4. Learned Advocate contended that in the meanwhile, acting on the email of MITI and list of unauthentic COO certificates prepared on the said basis, wherein serial No.65 to 86 related to the imports made against COO certificates issued to M/s Pioneer ULT Enterprises, Malaysia, Show Cause Notice[7] No.06/2022 dated 22.07.2022 was issued for demand of customs duty amounting to Rs.31,25,847/- in respect of 17 bills of entry, for which the COO certificates were found to be not authentic. Once the Appellant became aware of the said company, the Appellant deposited entire duty, which was accepted in Order-in-Original dated 30.11.2023. On the basis of the aforesaid investigation, the Principal Commissioner, Noida Customs Commissionerate issued SCN No.04/PC/NOIDA/CUS/2024-25 dated 23.07.2024 alleging that the Appellant has wrongly availed benefit of Notification No.46/2011 dated 01.06.2011 by importing CRSS Coils of various grades and thickness from seven overseas suppliers by submitting COO certificates, whereas the imported goods are of Chinese origin and therefore liable to Basic Customs Duty, Surcharge, CVD, Anti-Dumping duty and IGST. The details of overseas suppliers, no. of Bills of Entry, reasons for demand and the duty amount are as under:-

Sl. No.	**Overseas Supplier**	**BoE Nos.**	**Reason**	**Duty**
1.	Pioneer ULT Enterprises, Malaysia	24	(i) Rejection of value declared in BoE (ii) Denial of benefit of notification (iii) Demand of CVD & ADD	3,19,04,140.67
2.	EVG Metal Industries, Malaysia Excel Vantage Global (HK) Limited, Hong	1 2	(i)Rejection of value declared in BoE (ii) Demand of CVD & ADD --Do-	55,60,647.92

[7] SCN

	Kong			
3.	Sky Emirates General Trading, Dubai	41	(i) Rejection of value declared in BoE (ii) Demand of CVD & ADD	5,63,58,854.99
4.	Ruking International Company Ltd., Hang Kong	6	(i) Rejection of value declared in BoE (ii) Denial of benefit of notification (iii) Demand of CVD & ADD	96,29,708.62
5.	PT Best Stainless Steel, Indonesia	1	i) Rejection of value declared in BoE (ii) Demand of CVD & ADD	91,546.61
6.	Shandong Mengyin Huarun, China	4	(i) Rejection of value declared in BoE (ii) Demand of CVD & ADD	17,92,005
			Total:-	**10,53,36,903.41**

The SCN extensively relied on the documents allegedly extracted from the laptop, hard disk & iPhone resumed during search dated 13.05.2023. In addition thereto, the SCN relied upon the statement dated 02.02.2023 of Shri Sanjay Jain recorded in some other case and also on the statements of Shri Punit Kumar recorded on various dates.

5. Learned Advocate appearing for the Appellant submitted that the Appellant filed written reply on 05.05.2025, submitting that:-

(i) Forensic examination of electronic gadgets was not carried out in presence of Mr. Punit Kumar and he was only made to sign on the panchnama prepared by the officers;

(ii) Printouts of documents alleged to be extracted from laptop, hard disk and iPhone cannot be read as evidence in absence of certificate under Section 65B of the Indian Evidence Act, 1872 and Section 138C of the Customs Act, 1962;

(iii) Authenticity of some COO certificates, for which separate SCN dated 22.07.2022 has been issued, is not relevant for the purpose of the present show cause notice;

(iv) In absence of any defect found in COO certificates or its authenticity found to be in dispute, benefit of valid COO certificates cannot be denied;

(v) There is no evidence to the effect that the goods imported by Pioneer ULT Enterprises, Malaysia were the same goods which were exported by it to the Appellant. There is no information that COO certificates submitted in respect of the imports made from Ruking International Company Limited, Hang Kong are not authentic;

(vi) Imports made from Sky Emirates General Trading, Dubai, UAE were having country of origin Indonesia, Vietnam, Taiwan and there is no evidence that COO certificates submitted in respect of such goods were not authentic;

(vii) Import made from M/s EVG Metals Industries, Malaysia, COO certificates are genuine and authenticity of the same have not been doubted in show cause notice;

(viii) Imports made from Excel Vantage Global (HK) Limited, Hong Kong were of Chinese origin and the same duly disclosed in BoE and no benefit of preferential from PT Best Steel, Indonesia were not of Chinese origin and there is no evidence on record that price of goods was undervalued or extra payment was made to overseas suppliers and in absence of any such suppliers transaction value cannot be rejected;

(ix) COO certificates cannot be discarded without verification and in absence of any contemporaneous import being considered, value of goods cannot be re-determined at higher side;

(x) Requested for opportunity of cross-examination of Mr. Sanjay Jain and further submitted that the statements of Shri Punit Kumar were not voluntary and therefore cannot be relied upon in absence of any corroborative evidence.

6. Learned Advocate further submitted that the SCN dated 23.07.2024 was thereafter adjudicated vide impugned Order-in-Original dated 22.07.2025, by which proposals made in SCN were confirmed, except that relating to confiscation of goods. As regards objection taken by the Appellant regarding admissibility of printouts allegedly taken from laptop, hard disk and iPhone for want of certificate under Section 65B of the Evidence Act and/or Section 138C of the Customs Act, the Adjudicating Authority has held that:-

(i) Panchnama dated 13.06.2023 indicates that all conditions and certifications required under Section 138C are complied with **[Para 32]**,

(ii) Once genuineness of retrieved documents is authenticated by Shri Puneet Kumar such documents cannot be disregarded only on account of non-availability of certificate under Section 138C(4) **[Para 33]**; &

(iii) In **Laxmi Enterprises vs. Commissioner of Customs (Prev.) 2018 (361) E.L.T. 1054 (Tri-Del)** and **S.R. Bristle Products Pvt. Ltd. [2024 (6) TMI 202 – (T)**], it has been held that documents recovered from computer and duly admitted cannot be rejected on the ground that requisite certificate not furnished **[Para 34]**.

7. By rejecting the aforesaid objection, the Adjudicating Authority proceeded to rely on such documents by recording the following findings in respect of imports from the following overseas suppliers **[Para 38.3]**: -

(i) **Shandong MenyinHuarun Import & Export Co. Ltd., China –** Goods imported against 4 BoE from

the said overseas supplier was admittedly of Chinese origin and was also declared by the Appellant;

(ii) **Ruking International Co. Ltd., Hongkong : -** Goods imported against 6 BoE were same as supplied by Shandong to Ruking as is clear from WhatsApp chats and documents retrieved from the hard disk and iPhone during search dated 13.05.2023;

(iii) **EVG Metal Industries, Malaysia & Excelvantage Global (HK) Ltd., Hongkong** – Goods imported against 1 & 2 BoE respectively from the said overseas suppliers are of Chinese origin as is clear from statement dated 02.02.2023 of Shri Sanjay Jain and since he was the owner of Excelvantage Global (HK) Ltd., Hongkong;

(iv) Pioneer ULT Enterprises, Malaysia – Goods imported against 24 BoE from the said overseas supplier were of Chinese origin as is clear from the documents retrieved from the Hard Disk recovered during search dated 13.05.2023;

(v) PT Best Stainless Steel Corporation, Indonesia – Goods imported against 1 BoE from this overseas supplier were of Chinese origin as is clear from the chat where Shri Puneet Kumar asked Ms. Mimosa and Gaurav to arrange COO and she replied that she was not getting COO and also that it was found from WhatsApp chat this overseas supplier was importing coil from China and exporting the same as such from Singapore port and was managing COO showing country of origin as Indonesia;

(vi) Sky Emirates General Trading Co. LLC, Dubai – Goods imported against 41 BoE were of Chinese origin as documents retrieved from Hard Disk shows that description of goods and quantity shown in invoices issued by Shandong to Nimbus Logistics Cargo LLC were the same as shown in invoices issued by overseas supplier to the Appellant. Further

WhatsApp chat shows that Shri Puneet Kumar was purchasing goods from Shandong through Shri Payne which were to be supplied to Nimbus, Dubai and then such goods were imported by Appellant from the overseas supplier, which fact is also supported by statement of Shri Puneet Kumar, printouts of WhatsApp chats, documents retrieved from Hard Disk etc.

8. Learned Advocate submitted that in respect of COO certificates submitted by Appellant, the Adjudicating Authority held that the same were obtained fraudulently **[Para 39]**, for which he relied on statement of Shri Sanjay Jain in respect of EVG Metal Industries and Excelvantage Global and also on the fact that during verification some COO certificates issued to Pioneer ULT Enterprises were not found to be authentic (for which separate SCN has been issued and Appellant already deposited entire duty). On the aforesaid grounds, the Adjudicating Authority held that the Appellant wrongly availed benefit of Notification No.46/2011-Cus dated 01.10.2011 **[Para 40]**. On the basis of documents retrieved from iPhone of Shri Puneet Kumar, in the form of some proforma invoices issued by Shandong and the involuntary statement of Shri Puneet Kumar, the Adjudicating Authority held the Appellant has resorted to under valuation **[Para 41]** and re-determined the same under Rule 9 of the Valuation Rules **[Para 41.13]**. The Adjudicating Authority further upheld invocation of extended period of limitation **[Para 43]**, imposition of penalty under Section 114A on the Appellant **[Para 44]**, penalty under Section 112 & 114AA on the director **[Para 45]**, however he dropped proposal of confiscation of goods **[Para 42]**. Hence the present appeal before the Tribunal.

9. Learned Advocate appearing for the Appellant submitted that the impugned order dated 22.07.2025, to the extent challenged, is completely without jurisdiction, without authority of law and illegal. The entire case of the Revenue is based on the following materials:-

(i) Printouts of documents and WhatsApp chats, allegedly retrieved from the laptop, hard disk and iPhone resumed during search dated 13.05.2023 and thereafter printed;

(ii) Statement of Shri Sanjay Jain;

(iii) Statements of director of the Appellant Shri Puneet Kumar.

10. Learned Advocate further submitted that so far as the printouts of documents and WhatsApp chats allegedly retrieved from laptop, hard disk and iPhone relied upon by the Revenue are not an admissible evidence in absence of certificate issued under Section 138C(4) of the Act. The fact that no such certificate was issued has been admitted in Para 33 of the impugned order. Reliance in this regard is placed on **Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal (2020) 7 SCC 1**, which after considering *pari-materia* provision under Section 65B of the Evidence Act held as under:-

> ***"61.*** *We may reiterate, therefore, that the certificate required under Section 65-B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in Anvar P.V. [Anvar P.V.v. P.K. Basheer, (2014) 10 SCC 473 : (2015) 1 SCC (Civ) 27 : (2015) 1 SCC (Cri) 24 : (2015) 1 SCC (L&S) 108] , and incorrectly "clarified" in Shafhi Mohammad [Shafhi Mohammad v. State of H.P., (2018) 2 SCC 801 : (2018) 2 SCC 807 : (2018) 2 SCC (Civ) 346 : (2018) 2 SCC (Civ) 351 : (2018) 1 SCC (Cri) 860 : (2018) 1 SCC (Cri) 865] . Oral evidence in the place of such certificate cannot possibly suffice as Section 65-B(4) is a mandatory requirement of the law. Indeed, the hallowed principle in Taylor v. Taylor [Taylor v. Taylor, (1875) LR 1 Ch D 426], which has been followed in a number of the judgments of this Court, can also be applied. Section 65-B(4) of the Evidence Act clearly states that secondary evidence is admissible only if led in the manner stated and not otherwise. To hold otherwise would render Section 65-B(4) otiose."*

10.1 Reliance in this regard is also held on **Principal Commissioner of Customs vs. Sachdev Overseas Fitness**

Pvt. Ltd. (2024) 14 Centax 123 (Tri.-Hyd.) wherein the certificate under Section 138C is held to be mandatory:-

> ***"33.*** *There is nothing on record to show that the procedure prescribed under section 65B of the Evidence Act, section 3 of the Information Technology Act, 2000 or section 138C of the Customs Act were followed. Learned Departmental representative could not also produce anything on record to show that these were followed. Therefore, the pen-drive is inadmissible as evidence despite the vital information which it contained and which was relied upon by the Revenue."*

10.2 Reliance in this regard is also placed on **Kuber Impex Ltd. vs. Commissioner of Customs (2023) 4 Centax 266 (Tri-Bom),** wherein the following has been held:-

> ***"6.*** *In view of above facts and judgment we are of the view that the printouts from electronic devices relied upon to make allegation against the Appellant and are not admissible as evidence. Similarly in case of Premier Instruments & Controls Ltd. v CCE - 2005 (183) E.L.T. 65, M/s Ambica Organics v. CC - 2016 (334) E.L.T. 97, M/s Agarvanshi Aluminium Ltd. v CC - 2014 (299) E.L.T. 83 and M/s Sunrise Stainless Steel P. Ltd v. CCE - 2019 (12) TMI 280-CESTAT-AHD in absence of compliance to the provisions of Section 138C the evidence produced in the form of electronic evidence were held as not reliable."*

11. Learned Advocate contended that the finding in Para 32 of the impugned order that Panchnama dated 13.06.2023 indicates that all conditions and certifications required under Section 138C are complied with, is incorrect and in any case in teeth of **Trikoot Iron & Steel Casting Ltd. vs. Additional Director General in Excise Appeal No.55779/2023 Final Order No.58546/2024 dated 09.09.2024 (Tri.-Del.)**, wherein the following has been held:-

> ***"33.*** *The Adjudicating Authority, on its own, examined the oral evidence on the points required to be stated in the certificate. This is not permissible in law. The confirmation of demand is based only on the printouts taken after connecting the hard disk and the pen drive to the computer.*

> ***34.*** *It is, therefore, not possible to accept the contention advanced by the Learned Authorized Representative appearing for the department that panchnama itself should be treated as a certificate or that the Adjudicating Authority was justified in itself examining whether the conditions set out in Section 36B(4) of the Central Excise Act had been satisfied."*

12. Learned Advocate further submitted that the finding in Para 33 of the impugned order that retrieved documents were authenticated by Shri Puneet Kumar such documents cannot be disregarded only on account of non-availability of certificate under Section 138C(4), also perverse and contrary to record. Merely on signing of Panchnama dated 13.06.2023 does not mean that the director approved or authenticated the genuineness of such printouts. As a matter of fact, the director was asked to sit in a separate room and thereafter asked to sign Panchnama. Further, in none of the statement the director made any statement regarding authenticity, acceptance or genuineness of such printouts. Hence finding to the contrary recorded in impugned order are clearly perverse. Reliance placed on **Laxmi Enterprises (supra)** and **S.R. Bristle (supra)** is entirely misplaced as both these decisions have been rendered without referring to **Arjun Panditrao Khotkar(supra)**.

13. Learned Advocate further submitted that additionally, these electronic gadgets were never produced before the Adjudicating Authority and therefore these gadgets or data contained therein cannot be termed as primary evidence. Additionally, the clarification given in **Arjun Panditrao Khotkar (supra)** also does not apply, as original documents were never produced nor the director was ever directed to testify the contents of printouts. Statement dated 02.02.2023 of Shri Sanjay Jain cannot be read as evidence, for non-compliance of Section 138B and also for want of opportunity of cross-examination. Admittedly, Shri Sanjay Jain was never examined as witness and therefore his statement cannot be admitted as evidence under Section 138B. Additionally, he was also never offered for cross-examination. Reliance in this regard is placed on **Jindal Drugs Pvt. Ltd. vs. Union of India [2016 (340)**

E.L.T. 67 (P&H)] wherein the following has been held in respect of *pari-materia* provision under the Excise Act:-

> **"22.** Clearly, if this procedure, which is statutorily prescribed by plenary Parliamentary legislation, is not followed, it has to be regarded, that the Revenue has given up the said witnesses, so that the reliance by the CCE, on the said statements, has to be regarded as misguided, and the said statements have to be eschewed from consideration, as they would not be relevant for proving the truth of the contents thereof."

14. Learned Advocate further placed reliance on **Andaman Timber Industries vs. Commissioner of Central Excise, Kolkata-II [2017 (50) S.T.R 93 (SC)]** wherein the following has been held:-

> ***"7.*** *As mentioned above, the appellant had contested the truthfulness of the statements of these two witnesses and wanted to discredit their testimony for which purpose it wanted to avail the opportunity of cross-examination. That apart, the Adjudicating Authority simply relied upon the price list as maintained at the depot to determine the price for the purpose of levy of excise duty. Whether the goods were, in fact, sold to the said dealers/witnesses at the price which is mentioned in the price list itself could be the subject matter of cross-examination. Therefore, it was not for the Adjudicating Authority to presuppose as to what could be the subject matter of the cross-examination and make the remarks as mentioned above."*

15. Learned Advocate further submitted that even the statements of Shri Puneet Kumar does not takes the case of Revenue further, as the same were not voluntary, since no person will self-incriminate himself. The Adjudicating Authority was therefore required to find out whether there was any duress or coercion, as held by Supreme Court in **Commissioner of Customs (Imports), Mumbai vs. Ganpati Overseas [2023 (386) E.L.T. 802 (SC)]**, wherein the Hon'ble Supreme Court after considering the catena of judgments on the subject has held as under:-

> ***"28.*** *Thus, what is deducible from an analysis of the relevant legal provisions and the corresponding judicial*

pronouncements is that a customs officer is not a police officer. Further, the person summoned and who makes a statement under Section 108 is not an accused. However, a statement made by a person under Section 108 of the Customs Act before the concerned customs officer is admissible in evidence and can be used against such a person. Object underlying Section 108 is to elicit the truth from the person who is being examined regarding the incident of customs infringement. Since the objective is to ascertain the truth, the customs officer must ensure the truthfulness of the statement so recorded. If the statement recorded is not correct, then, the very utility of recording such a statement would get lost. It is in this context that the customs officer who is empowered under Section 108 to record statement etc. has the onerous responsibility to see to it that the statement is recorded in a fair and judicious manner providing for procedural safeguards to the concerned person to ensure that the statement so recorded, which is admissible in evidence, can meet the standard of basic judicial principles and natural justice. It is axiomatic that when a statement is admissible as a piece of evidence, the same has to conform to minimum judicial standards. Certainly a statement recorded under duress or coercion cannot be used against the person making the statement. It is for the adjudicating authority to find out whether there was any duress or coercion in the recording of such a statement since the adjudicating authority exercises quasi-judicial powers."

16. Learned Advocate further contended that in the present case, the adjudication authority has, without even discussing the circumstances in which statements were recorded has held in Para 41.11 'In the present, there is matter of recording of statement under pressure or duress', which clearly does not satisfy the requirement of **Ganpati Overseas (supra)**. Without prejudice, the statements of Shri Puneet Kumar cannot sustain the Revenue's case, since what he stated was explanation of contents of printouts and once the printouts itself are not admissible in evidence, then any statement explaining the inadmissible evidence cannot form the basis of demand. At any rate, mere statement in absence of any corroborative evidence does not form the basis of demand. Further, in none of the statements, it was admitted that the goods were of Chinese origin, except that 4 BoE. On the contrary, director tried to

explain that import of goods was on the strength of authentic and genuine COO certificates, which was not found to be fake after any investigation. Once no enquiry from issuing Authority has been conducted in respect of COO certificates submitted by the Appellant and the same were also not found to be not authentic or defective, Revenue cannot be allowed to go behind the COO certificates for rejecting the Country of Origin of imported goods. Even on merits, the finding that the imports made by Appellant was of CRSS Coils of Chinese origin, is incorrect, perverse and based on irrelevant material, as under:-

(i). M/s Pioneer ULT Enterprises, Malaysia in respect of imports made from 6 overseas suppliers, the allegation of the revenue is that the said overseas supplier has imported goods from China and dispatched the same to the Appellant. The Appellant submits that there is no evidence on record to show that the same goods were imported and exported by these overseas suppliers and in absence of any such evidence on record, the allegation made is clearly primitive and not based on any cogent material;

(ii). M/s Ruking International Company Limited, Hang Kong, in respect of imports made from this overseas supplier, the Appellant submits that no adverse information is available on record, to the extent that COO certificates are not genuine or authenticity. In absence of any such information, the revenue cannot be permitted to go behind COO certificates and doubt the transaction;

(iii). M/s Sky Emirates General Trading, Dubai, in respect of imports made from this overseas supplier, the Appellant submitted that COO certificates certified country of origin such as Indonesia, Vietnam and Taiwan, despite the detailed enquiry, there is no evidence on record to the effect that COO certificates were not authentic and therefore, the revenue cannot go behind the COO certificates. The allegation

that this overseas supplier imports goods from China and thereafter exported the same to the Appellant, merely based on import and export of some documents, which are not admissible as evidence and at any rate contains different weight and hence it cannot be concluded or presumed that the same goods were dispatched to the Appellant;

(iv). M/s PT Best Steel, Indonesia & M/s EVG Metals, Malaysia, in respect of the imports this two overseas suppliers, there is also no evidence, which conclusively proved that the goods were of Chinese origin and were diverted through some other countries, however no defect has been found in COO certificate submitted by the Appellant, which conclusively proves the country of origin;

(v). M/s Excel Vantage Global (HK) Limited, Hong Kong, in respect of imports made from this overseas suppliers, the country of origin was China, which was duly disclosed in the bill of entry and therefore, allegation to the contrary, is completely incorrect.

17. Learned Advocate further submitted that the findings in the impugned order that transaction value disclosed by the Appellant, is not correct and has been under-valued, is also incorrect, in as much as there is no evidence on record to even remotely suggests that the Appellant has made some excess payments to the overseas suppliers over and above the value disclosed in the commercial invoice. In absence of any such evidence, any material to show under valuation, including any contemporaneous import of goods at higher value, the allegation of incorrect transaction value and under-value, is without any basis and therefore, the impugned order to the extent, is clearly without jurisdiction. Once the demand is not maintainable on merits, no penalty can be imposed on the Appellant under Section 114AA and therefore, the penalty is also liable to be set aside. Learned Advocate appearing for the Appellant prayed that in view of the aforesaid submissions and pleadings as well as

grounds stated in the memo of appeal, the impugned order dated 22.07.2025, to the extent challenged by the Appellant, is liable to be set aside with consequential reliefs to the Appellant.

18. Learned Departmental Authorised Representative appearing for the Revenue reiterated the findings given in the impugned order and stated that there of huge evidence discussed in the impugned order to prove charges of mis-declaration. He contended that Shri Puneet Kumar in his statement clearly admitted the allegations made against his company. He argued that the impugned order is valid and sustainable.

19. Heard both the sides and perused the appeal records.

20. We have carefully heard both sides. On the issue of admissibility of printout taken from hard disc and whatsapp chats of the mobile phone of Shri Puneet Kumar, the Commissioner has given his findings as below:-

> *"31……..In the present case, three electronic devices as mentioned herein above have been resumed from the premises of the Noticee before Shri Puneet Kumar, Director of the Company under proper Panchnama dated 13.05.2023. The ownership of said devices and its users' name were confirmed vide the Panchnama by Shri Puneet Kumar himself. The resumed devices were subjected to forensic examination for deriving information stored therein vide Panchnama dated 13.06.23 before Shri Puneet Kumar. Vide the Panchnama duly signed by Shri Puneet Kumar, it has been certified the manner in which data was obtained. Particulars of devices have also certified by Shri Punnet Kumar. Shri Puneet Kumar being a Director of the Noticee's company is a responsible person. Manner of taking data is detailed in Panchnama dated 13.06.2023. From the Panchnama, it is apparent that-*
>
> *i. Resumed electronic devices were opened for forensic examination before two independent Panchas, Shri Puneet Kumar and Shri Vishal Digital Forensic Expert,*

ii. After preliminary examination, Mobile Phone which was protected by password was opened on the basis of password informed by Shri Puneet Kumar,

iii. Shri Vishal informed panchas and Shri Puneet that he us using UFED Celebrite 7.60 forensic software installed in his laptop for back up of data of the Mobile Phone and for imaging back up data he will be using FTK software,

iv. He further informed that he is using FTK imager software for imaging data of resumed laptop and Hard Disk,

v. After completion of imaging and cloning process of data of three resumed electronic devices, the data was saved in an external Hard Disk also,

vi. All resumed devices were then sealed with paper seals duly signed by panchas and Puneet Kumar.

32. The above Panchnama clearly indicates that all conditions and certification as required under Section 138C of the Customs Act,62 are complied with. Identifying the relevant electronic records relating to the certificate and describing the manner in which it was produced is clearly narrated in the above cited Panchnama. Similarly, details of the device producing it is also clearly mentioned. Satisfying the conditions of 138C(4), i.e., the computer from which the output was produced was used regularly to store or process information during its regular course of activities and throughout the material part of the said period and the computer was operating properly is also described. The officer in charge of the operation or management of the related activities of the company Shri Puneet Kumar has signed that said Panchnama. The objection of the Noticee that certificate as required under Sub-section (4) of Section 138C is not obtained is completely baseless and have no weightage. I do not find any force in such objection.

33. Other objection of the Noticee is that Hard Disk does not find place in definition of 'computer' as given under Explanation (a) of Section 138C. I find that a computer Hard Disk is a device that stores digital data using magnetic storage technology. Definition of 'computer' as given above encompasses storage device. In view of the above I, therefore, hold that evidences obtained from resumed electronic devices are legally valid evidences. It is also significant to note that every document and printout taken from said electronic devices have been authenticated by Shri Puneet Kumar. Once genuineness of retrieved documents is authenticated by Shri Puneet Kumar Director of the Noticee- Company, such documents cannot be disregarded only on account of non-availability of certificate as required under Section 138C (4) of the Customs Act,62."

21. A bare perusal of Section 138C of the Customs Act reveals that a computer print-out is admissible as direct evidence under the Customs Act if the condition mentioned in sub-section (2) is satisfied. Section 138C(4) deals with cases where any document is required to be produced as an evidence in proceedings under the Customs Act and the Rules framed thereunder. It specifically mandates production of a certificate containing the following:-

> "In any proceedings under this Act and the rules made (4) thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, -
>
> (a) identifying the document containing the statement and describing the manner in which it was produced;
>
> (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;
>
> (c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,
>
> and purporting to be signed by a person occupying a responsible official position in relation to the operation of

> the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it."

22. The Customs Act contains a specific provision that describes the manner in which the admissibility of computer print outs will be accepted as evidence in proceedings initiated under the Customs Act. When law requires a thing to be done in a particular manner it should be done in that manner alone. The Directorate of Revenue Intelligence had obtained the documents from hard disc which was not property of the Appellant but was owned by Shri Gaurav brother Shri Puneet who does not have any *locus standii* in the affairs the Appellant. The conditions prescribed under Section 138C(4) of the Customs Act were not fulfilled as the certificate giving the details was not produced. Thus, as the provisions of Section 138C(4) of the Customs Act have not been satisfied for the reason that the certificate prescribed therein has not been furnished, the documents obtained by DRI from various banks outside India cannot be admitted as evidence. Reliance cannot, therefore, be placed on these documents for this reason. In the case of **Kuber Impex Ltd. [2023 4 Centax 266 (Tri.-Bom.),** it has been held by the Tribunal that:-

> *"16. It is further clarified that the person need only to state in the certificate that the same is to the best of his knowledge and belief. Most importantly, such a certificate must accompany the electronic record like computer printout, compact disc (CD), video compact disc (VCD), pen drive, etc., pertaining to which a statement is sought to be given in evidence, when the same is produced in evidence. All these safeguards are taken to ensure the source and authenticity, which are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tampering, alteration, transposition, excision, etc., without such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice.*
> *17. Only if the electronic record, is duly produced in terms of Section 65B of the Evidence Act, would the question arise as to the genuineness thereof and in that situation,*

resort can be made to Section 45A - opinion of Examiner of Electronic Evidence.

18. The Evidence Act does not contemplate or permit the proof of an electronic record by oral evidence if requirements under section 65B of the Evidence Act are not complied with, as the law now stands in India."

23. In the case of **Anvar P.V. vs. P.K. Basheer [2017 (352) E.L.T. 416 (SC)],** Hon'ble Supreme Court has held as :-

> ***"22.*** *The evidence relating to electronic record, as noted herein before, being a special provision, the general law on secondary evidence under Section 63 read with Section 65 of the Evidence Act shall yield to the same. Generalia specialibus non derogant, special law will always prevail over the general law. It appears, the court omitted to take note of Sections 59 and 65A dealing with the admissibility of electronic record. Sections 63 and 65 have no application in the case of secondary evidence by way of electronic record; the same is wholly governed by Sections 65A and 65B. To that extent, the statement of law on admissibility of secondary evidence pertaining to electronic record, as stated by this court in Navjot Sandhu case (supra), does not lay down the correct legal position. It requires to be overruled and we do so. An electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65B are satisfied. Thus, in the case of CD, VCD, chip, etc., the same shall be accompanied by the certificate in terms of Section 65B obtained at the time of taking the document, without which, the secondary evidence pertaining to that electronic record, is inadmissible."*

24. In the case of **Jeen Bhawani International [(2023) 6 Centax 11(Tri.-Bom.)],** the Tribunal has ruled as under:-

> ***"12.1*** *Section 138C ibid deals with the situation, where the computer printouts cannot be considered having evidentiary value in certain circumstances. Various conditions have been prescribed under the statute. Admittedly, in this case, the prescribed conditions have not at all been complied with by the department. More particularly, the required certificate in terms of sub-section (4) of Section 138C ibid has not been furnished by the department. In this context, the Tribunal in the case of S.N. Agrotech (supra) has held that in absence of certificate required under section 138C ibid, the electronic documents in the form of computer printouts cannot be*

relied upon by Revenue for confirmation of the adjudged demands."

25. In view of above facts and judgment, we are of the view that the printouts from electronic devices relied upon to make allegation against the Appellant and are not admissible as evidence. In absence of compliance to the provisions of Section 138C the evidence produced in the form of electronic evidence were held as not reliable. We also find that since all the above exercise right from the seizure of hard disks. Even otherwise we find that apart from relying upon the electronic evidence, no independent enquiry was made. However, we find that there is no investigation or enquiry from the persons whose name are appearing in alleged documents and thus the printouts are not corroborated by any evidence or investigation and hence not reliable.

26. On the issue of country of origin, we find that in all documents *viz.,* invoice, country of origin certificate, etc. country of origin of CRSS Coils was shown from where goods were originating. No enquiry was conducted by the Department to prove that country of origin certificate duly issued by the Competent Authority of the exporting country to be fake. As per the country of origin certificate, the same was issued by the Competent Authority only after due verification of goods. As per COO, it has been certified by the Competent Authority only when evidences were produced before them to satisfy that the said goods originate in the country shown in the certificate. It shows that the said certificate was issued after proper verification of origin of goods. Authenticity of the said certificate was never challenged by way of any enquiry from the exporting country. No evidence was brought out to infer that country of origin shown in the said certificate was incorrect. Rule 6 of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 provide as under:-

"RULE 6. Verification request. *- (1) The proper officer may, during the course of customs clearance or thereafter, request for verification of [proof] of origin from Verification Authority where :*

(a) there is a doubt regarding genuineness or authenticity of the [proof] of origin for reasons such as mismatch of signatures or seal when compared with specimens of seals and signatures received from the exporting country in terms of the trade agreement;

(b) there is reason to believe that the country of origin criterion stated in the [proof] of origin has not been met or the claim of preferential rate of duty made by importer is invalid; or

(c) verification is being undertaken on random basis, as a measure of due diligence to verify whether the goods meet the origin criteria as claimed :

Provided that a verification request in terms of clause (b) may be made only where the importer fails to provide the requisite information sought under rule 5 by the prescribed due date or the information provided by importer is found to be insufficient. Such a request shall seek specific information from the Verification Authority as may be necessary to determine the origin of goods.

(2) Where information received in terms of sub-rule (1) is incomplete or non-specific, request for additional information or verification visit may be made to the Verification Authority, in such manner as provided in the Rules of Origin of the specific trade agreement, under which the importer has sought preferential tariff treatment.

(3) When a verification request is made in terms of this rule, the following timeline for furnishing the response shall be brought to the notice of the Verification Authority while sending the request :

(a) timeline as prescribed in the respective trade agreement; or

(b) in absence of such timeline in the agreement, sixty days from the request having been communicated.

(4) Where verification in terms of clause (a) or (b) of sub-rule (1) is initiated during the course of customs clearance of imported goods,

(a) the preferential tariff treatment of such goods may be suspended till conclusion of the verification;

(b) the Verification Authority shall be informed of reasons for suspension of preferential tariff treatment while making request of verification; and

(c) the proper officer may, on the request of the importer, provisionally assess and clear the goods, subject to importer furnishing a security amount equal to the difference between the duty provisionally assessed under section 18 of the Act and the preferential duty claimed.

(5) All requests for verification under this rule shall be made through a nodal office as designated by the Board.

(6) Where the information requested in this rule is received within the prescribed timeline, the proper officer shall conclude the verification within forty five days of receipt of the information, or within such extended period as the Principal Commissioner of Customs or the Commissioner of Customs may allow :

Provided that where a timeline to finalize verification is prescribed in the respective Rules of Origin, the proper officer shall finalize the verification within such timeline.

(7) The proper officer may deny claim of preferential rate of duty without further verification where :

(a) the Verification Authority fails to respond to verification request within prescribed timelines;

(b) the Verification Authority does not provide the requested information in the manner as provided in this rule read with the Rules of Origin; or

(c) the information and documents furnished by the Verification Authority and available on record provide sufficient evidence to prove that goods do not meet the origin criteria prescribed in the respective Rules of Origin."

27. We find that nothing has been placed on record by which it can be said any verification request has been made by the Customs Authorities with concerned Authorities of exporting country to verify the genuineness and correctness of the Certificate of Origin issued by them. In view of the above concrete proofs regarding country of origin, we hold that said goods were not of China origin. We find that in the case of **Chalissery Kirana Merchant vs. UOI [2015 (323) E.L.T.**

556 (Ker.)] the Hon'ble Kerala High Court has held that for determination of country of origin due weightage should be given on the country of origin certificate in case of any suspicion. In the case of **Yellamma Da Sappa vs. Commissioner of Customs, Bangalore [2000 (120) E.L.T. 67 (Kar.)],** the Hon'ble Karnataka High Court has observed as follows:-

> ***"9.*** *A valid certificate has been issued and the said certificate, even as on date, has not been withdrawn or cancelled for any alleged violation of the condition by the appellant. Unless the said certificate is cancelled, the Customs Authorities cannot impose customs duty. The seizure of the equipment is only a consequential act that would follow the cancellation of the certificate issued in favour of the appellant. So long as the certificate is not cancelled, the respondents could not, in our opinion, have initiated seizure proceedings in the case on hand. Petitioner-appellant was sent only a questionnaire and the said questionnaire has been answered by the appellant herein. No further action has been taken by the respondents. The Director General of Health Services has also not issued any cancellation of certificate as on date. In these circumstances, we are clearly of the view that without withdrawing or cancelling the certificate already issued, the present seizure cannot stand. Therefore we hold that the seizure effected by the respondents is not in accordance with law. The impugned order of the learned Single Judge, in these circumstances, requires to be set aside and accordingly the same is set aside."*

28. The Tribunal in the case of **Alfakrina Exports vide Final Order No.11759/2023 dated 23.08.2023 (Tri.–Ahmd)** on the issue of non-acceptability of Country of Origin Certificate for deciding origin of goods held that the Certificate of country of origin cannot be discarded without checking its authenticity and benefit if any cannot be denied.

29. We further find that the case of undervaluation is made only on the basis of proforma invoices recovered from the hard disc. The Appellant has submitted that the declared value is the actual price paid or payable, supported by a commercial invoice and bank remittance. The Appellant argued that a proforma invoice is a mere quotation or offer for sale, not a final commercial invoice, and cannot be used for enhancement under Customs Valuation Rules. It is found that the Department failed

to provide contemporaneous data of identical or similar goods placed reliance solely on value shown in proforma invoices. It has already been held that proforma invoices recovered from hard disc cannot be treated valid evidence in lack of certificate as required under Section 138 (4) of the Customs Act. Further, in the present case, no evidence has been produced to show that the importer actually paid or is required to pay the higher value mentioned in the proforma invoice. Therefore, the sole reliance on the proforma invoice for enhancement of value is not legally sustainable. In the case **Commissioner of Customs, Chennai Vs. Sahara Enterprises [2006 (206) E.L.T. 548 (Tri.-Chennai)]**, it has been held that a proforma invoice is in the nature of a quotation or offer and hence does not constitute valid basis for enhancement of value of the imported goods. It has been held as under:-

> ***"3.*** *After careful consideration of the submissions, we find that, admittedly, value of the goods was enhanced by the original authority on the basis of proforma invoice issued in December 2001 by the supplier of the goods, to another party. The subject import was made in July 2002. There is a gap of more than six months between the two. Even otherwise, as rightly noted by the Commissioner (Appeals), a proforma invoice is in the nature of a quotation or offer and hence does not constitute valid basis for enhancement of value of the imported goods. This finding of the lower appellate authority is squarely supported by the Tribunal's decision in the case of Mahavir Spinning Mills Ltd. reported in 1992 (61) E.L.T. 730 and the Hon'ble Supreme Court's judement in Civil appeal No. 5263/92 in the case of M/s Sai Impex - 1996 (84) E.L.T. A47 (S.C.). In the circumstances, we do not think that it is necessary to look into the issue whether it was open to the lower appellate authority to admit additional evidence. Valuation done by the original authority on the basis of quotation was not on any legally sustainable basis. Learned Commissioner (Appeals) has set things right. The impugned order does not call for interference. The appeal stands dismissed."*

30. In the case of **Chirag Enterprises Vs. Commissioner of Customs (EP), Mumbai [2008 (232) E.L.T. 730 (Tri.-Mum.)]** it has been held that enhancement in value on the basis

quotation is not justified. Enhancement can be made only on the basis of contemporaneous data.

31. As regards the contention of the Appellant that Section 14 of the Customs Act, 1962 and Customs Valuation Rules are applicable only on imported goods. Once goods are cleared on final assessment, such goods are no more imported goods. Section 14 reads as :–

> ***"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:"*

32. It may be seen from the above that Section 14 is applicable for determination of value of only imported goods. It is further provided that the value of imported goods would be determined in accordance with the provisions of Rules made under the said section. If the goods are not imported goods, provisions of Section 14 would not be applicable. Under the said section, the Customs Valuation (Determination of the Value of Imported Goods) Rules, 2007 has been framed. Rule 1(3) of the Customs Valuation Rules, 2007 specifies that the said rules shall apply to imported goods. The relevant provision is reproduced below:-

> "1. Short title, commencement and application.-
>
> (1)…….
>
> (2)……..
>
> (3) They shall apply to imported goods."

33. The above provisions make it absolutely clear that the Customs Valuation Rules, 2007 are applicable on imported goods only. A combined reading of Section 14 and the Customs Valuation Rules, 2007 clearly indicates that they would be

applicable only on the imported goods. As per the definition of 'imported goods', as given in Section 2(25) of the Customs Act, 1962, any goods which are brought from outside India remain as 'imported goods' for the period till their clearance for home consumption. They will cease the character of the imported goods after clearance by the customs for home consumption. Once goods brought from outside India are allowed to be cleared by the customs, they cease to be imported goods. In the present case, the goods for which the value has been proposed to be re-determined by applying provisions of the Customs Valuation Rules, 2007 are not 'imported goods' as they have already been cleared by the customs for home consumption. Hence, the said rule cannot be applied for redetermination of declared value. In a series of judgments, the Supreme Court has held that in case words in a statute are clear and plain and only one meaning can be inferred, one is bound to give effect to the said meaning irrespective of consequences. In the support of the above contention, reliance is placed on the decision of the Hon'ble Supreme Court in **Dilip Kumar & Company [2018 (361) E.L.T. 577 (SC)].** The Court has observed thus:-

> ***"19.*** *The well-settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the Courts are bound to give effect to the said meaning irrespective of consequences. If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the Legislature."*

34. When it is clearly given that the Customs Valuation Rules, 2007 would be applicable on imported goods and in the present case the goods are not 'imported goods', the declared value of such goods cannot be re-determined by applying the Customs Valuation Rules, 2007. When the value of the goods which were already cleared by the Customs cannot be enhanced by way of reassessment, there would obviously be no demand of differential duty. The demand of duty by enhancing value of the

said goods is, therefore, not sustainable. In this context reliance is placed on the decision of the Hon'ble Punjab & Haryana High Court in the case of **Jairath International vs. UOI [2019 (370) E.L.T. 116 (P & H)]** where the Court has dealt the issue relating to reassessment of already exported goods and held that the goods already exported are not covered under the definition of 'export goods', hence, the Department cannot invoke Valuation Rules for re-assessment. The Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 are *pari-materia*. It is provided under Rule 1(3) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 that they shall apply to export goods. In the case of **Famina Knit Fabs vs. UOI [2020 (371) E.L.T. 97 (P & H)],** the High Court has expressed the same view. Similar provision is also available in the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007. Under Rule 1(3) the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 it is specified that they shall be applied to imported goods. The ratio of aforesaid decision is unequivocally applicable in the present case also. Hence, enhancement of value of goods already cleared is not legally justified.

35. The Department has placed reliance on the statement of Shri Puneet Kumar and Shri Sanjay Jain to prove allegations. However, it is a settled position of law that confessional statements, in the absence of corroborative documentary evidence, cannot be relied upon for confirming demand or imposing penalty. Reliance in this regard is placed on the judgments of the Hon'ble Supreme Court in **Vinod Solanki vs. Union of India [2009 (233) E.L.T. 157 (SC)]** and **CCE, Delhi-II vs. Balajee Perfumes [2017 (358) E.L.T. 87 (Del.)],** wherein it has been held that statements must be supported by independent corroborative evidence. In the present case, no such corroborative evidence has been brought on record. Therefore, reliance solely on the statements is not legally sustainable.

36. So far as penalty is concerned, we find that demand of duty is not sustainable, no penalty is imposable. In this context, reference is made to the decision of the Supreme Court in the case of **H.M.M. Ltd. [1995 (76) E.L.T. 497 (SC)]** where it has held in case main proceeding fail, the penalty imposed cannot stand independently. Similarly, in the case of **Akbar Badruddin Jiwani [1990 (47) E.L.T. 161 (SC)]** it has been ruled that Penalty under customs law cannot be imposed where the allegation itself fails. Since the allegations against the importing company have not been sustained and the proposal for imposition of penalty on the company has been dropped, the question of imposing penalty on the Director does not arise. It is a settled legal position that penalty on company officials cannot survive independently when the main case against the company fails, unless specific evidence of their individual involvement is brought on record. In the present case, no such independent evidence has been adduced. Accordingly, the penalty proposed on Shri Puneet Kumar and Shri Gaurav is also liable to be dropped.

37. In view of the above facts and circumstances, we set aside the impugned order and allow all the three appeals filed by the Appellant with consequential relief, if any, as per law.

(Order pronounced in open court on - **14.05.2026**)

Sd/-

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

Sd/-
(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

LKS