CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. III

Customs Appeal No. 40037 of 2021
with
Customs Miscellaneous Application Nos. 41127 and 41144 of 2025

(Arising out of Order-in-Original No. 66/SA(66)ADG(ADJ.)/DRI, Mumbai / 2020-21 dated 11.11.2020 passed by Additional Director General (Adj.), DRI, 2nd Floor, Old Building, New Custom House, Ballard Estate, Mumbai – 400 001)

M/s. Suraj Impex **...Appellant**
Adinath Trade Complex,
No. 77, 200 Feet Ring Road,
Madhavaram,
Chennai – 600 060.

Versus

Commissioner of Customs **...Respondent**
Chennai II Commissionerate,
No. 60, Custom House,
Rajaji Salai,
Chennai – 600 001.

With

Customs Appeal No. 40038 of 2021
with
Customs Miscellaneous Application Nos. 41126 and 41143 of 2025

(Arising out of Order-in-Original No. 66/SA(66)ADG(ADJ.)/DRI, Mumbai / 2020-21 dated 11.11.2020 passed by Additional Director General (Adj.), DRI, 2nd Floor, Old Building, New Custom House, Ballard Estate, Mumbai – 400 001)

M/s. Spark Lites **...Appellant**
No. 152/6, 2nd Floor,
Govindappa Naicken Street,
Chennai – 600 001.

Versus

Commissioner of Customs **...Respondent**
Chennai II Commissionerate,
No. 60, Custom House,
Rajaji Salai,
Chennai – 600 001.

And

Customs Appeal No. 40040 of 2021

(Arising out of Order-in-Original No. 66/SA(66)ADG(ADJ.)/DRI, Mumbai / 2020-21 dated 11.11.2020 passed by Additional Director General (Adj.), DRI, 2nd Floor, Old Building, New Custom House, Ballard Estate, Mumbai – 400 001)

M/s. Rajesh Jain **...Appellant**
No. 152/6, 2nd Floor,
Govindappa Naicken Street,
Chennai – 600 001.

Versus

Commissioner of Customs **...Respondent**
Chennai II Commissionerate,
No. 60, Custom House,
Rajaji Salai,
Chennai – 600 001.

APPEARANCE:

For the Appellants : Mr. P.R. Renganath, Advocate
For the Respondent : Mr. Anoop Singh, Authorised Representative

CORAM:
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER Nos. 40718-40720 / 2026

DATE OF HEARING : 07.01.2026
DATE OF DECISION : 11.06.2026

Per Mr. VASA SESHAGIRI RAO

The present 3 appeals arise out of a common Order-in-Original No. 66/SA(66)/ADG(Adj)/DRI.Mumbai/20-21dated11.11.2020 passed by the Additional Director General (Adjudication), Mumbai(hereinafter referred to as "Impugned Order"), whereby the declared transaction value of imported goods was rejected, re-determined under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and consequential demands of duty, interest, confiscation and penalties were confirmed against the appellants as detailed below: -

Particulars	**(Appellant No. 1 – Spark Lites)**	**(Appellant No. 2 –Suraj Impex)**
No. of Appeals	2 Appeals	1 Appeal
Duty Demand	₹ 8,10,11,638/- (approx.)	₹ 3,14,05,030/-
Redemption Fine	₹ 15,00,000/-	₹ 5,00,000/-
Penalty u/s 114A	Equal to duty u/s 114A	Equal to duty u/s 114A
Other Penalties	Rs 1,00,000/- u/s 112(a), Rs 1,00,000/- u/s 112(b) & Rs 25,00,000 u/s 114AA	Rs 30,000/-u/s 112(a), Rs 30,000/- u/s 112(b) & Rs 15,00,000 u/s 114AA
Period of Demand	Sept 2013 to January 2015	Nov 2013 to January 2015

Penalties of Rs 10,00,000/_ each were imposed on Shri Rajesh Jain (Hereinafter referred to as "Appellant No 3") u/s 112(a) and 114 AA of Customs Act 1962.

2. The appellants, M/s. Spark Lites, M/s. Suraj Impex and Shri Rajesh Jain, are engaged in the import of lighting fixtures and allied goods from China through Chennai Seaport over multiple consignments. The imports were effected under various Bills of Entry, assessed by Customs (in many cases after examination and value enhancement), and cleared for home consumption upon payment of duty. In January 2015, the Directorate of Revenue Intelligence

initiated investigation and conducted searches at the appellants' premises, resulting in seizure of electronic devices such as pen drives and hard disks, and recording of statements under Section 108 of the Customs Act, 1962. Based on the alleged data retrieved from such devices and the statements recorded, it was alleged that the appellants had undervalued the imported goods. Accordingly, a show cause notice dated 15.11.2018 was issued invoking the extended period under Section 28, proposing demand of differential duty, confiscation under Section 111(m), redemption fine under Section 125, and penalties under Sections 112, 114A and 114AA. The adjudicating authority confirmed the demands and imposed fines and penalties vide the impugned order, which is under challenge in the present appeals. Since all three appeals arise from a common investigation and involve identical issues, so are being disposed of by this common order.

3. The Ld. Advocate Shri P.R. Renganath for the appellants, reiterated the grounds urged in the appeal memoranda and the written submissions placed on record. The Ld. Authorized Representative Shri Anoop Singh for the Revenue, defended the impugned order and relied upon the written submissions filed on behalf of the Department.

4.1 The Ld. Advocate for the Appellant have assailed the impugned order as being contrary to law and facts. It is contended that the entire foundation of the case rests upon electronic data allegedly retrieved from pen drives and hard disks, which has not been established in accordance with the statutory requirements of Section 138C of the Customs Act. It is submitted that there is no evidence regarding the manner of extraction, preservation or certification of such data and that the chain of custody has not been established, rendering such evidence unreliable. The appellants further submitted that the statements recorded during investigation were not voluntary and were obtained under coercion, and that despite specific requests, cross-examination of the persons whose statements were relied upon was not granted, thereby violating principles of natural justice.

4.2 On the issue of valuation, the appellants contended that the declared transaction value has not been rejected in accordance with Rule 12, and that the adjudicating authority has failed to follow the mandatory sequential application of Rules 4 to 9 of Customs Valuation Rules. It was submitted that the law laid down by the Hon'ble Supreme Court in *Eicher Tractors Ltd 2000(122) ELT 321 (SC)* and *South India Television Pvt. Ltd 2007(214) ELT 3 (SC)* mandates strict adherence to the valuation rules, and

that the impugned order, by jumping directly to alternative methods, is contrary to law. It is further submitted that the goods were examined and assessed by Customs authorities at the time of import and that value enhancement, wherever made, was accepted and duty paid, thereby negating any allegation of suppression. The appellants also submitted that there is no evidence of extra remittance or flow-back of funds and that reliance on alleged contemporaneous imports without proper comparability is unsustainable.

5. The Revenue supported the impugned order and submitted that the investigation has brought out clear evidence of undervaluation through electronic records and statements. It was contended that Rule 12 empowers the department to reject the declared value where reasonable doubt exists, and that the data retrieved from electronic devices clearly establishes that the declared values were not genuine. The Revenue further submits that statements recorded under Section 108 are admissible evidence and that denial of cross-examination does not vitiate proceedings where sufficient corroborative evidence exists. It is also contended that the re-determination of value has been carried out based on contemporaneous imports and that the extended period has been rightly invoked in view of suppression of facts.

6. Heard both sides and have carefully considered the submissions and case laws relied upon.

7. Upon consideration of the records and rival submissions, the following issues arise for determination in these appeals: -

i. Whether the rejection of the declared transaction value under Rule 12 of the Customs Valuation Rules, 2007 is legally sustainable;

ii. If the rejection of transaction value is held to be justified, whether the consequent re-determination of value has been carried out in accordance with the sequential scheme prescribed under the Valuation Rules.

iii. Whether the reliance placed on electronic evidence and statements recorded under Section 108 of the Customs Act is legally admissible and sufficient to sustain the allegations.

iv. Whether the demand of duty, including invocation of the extended period of limitation, is sustainable on facts and in law. and,

v. Whether confiscation of goods and imposition of penalties under the Customs Act are justified in the circumstances of the case.

8. Having considered the rival submissions and the material on record, we now proceed to examine the issues arising for determination, seriatim.

Issue No. 1 Whether rejection of transaction value under Rule 12 is legally sustainable

9. The first and most fundamental issue that arises for determination is whether the rejection of the declared transaction value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is legally sustainable in the facts and circumstances of the present case. This issue assumes central importance because the entire edifice of the demand confirmed in the impugned order rests upon the displacement of the transaction value declared by the appellants. It is therefore necessary to examine the statutory framework governing valuation, the scope of Rule 12, and the judicial principles laid down by the Hon'ble Supreme Court and Tribunal in this regard, while simultaneously evaluating the evidentiary material relied upon by the Revenue.

10. We note that Section 14 of the Customs Act, 1962, which governs valuation of imported goods, provides that the value of imported goods shall be the transaction value, that is to say, the price actually paid or payable for the goods when sold for export to India, adjusted in

accordance with the rules. This statutory provision embodies the internationally accepted principle of transaction value as the primary basis of valuation, as reflected in the WTO Valuation Agreement. Rule 3(1) of the Valuation Rules reiterates this principle and mandates that the transaction value shall be accepted except in circumstances specified under Rule 12. Thus, the legislative scheme clearly establishes a presumption in favour of the correctness of the declared transaction value, and any departure therefrom must be strictly justified.

11. We further observe that Rule 12 provides that where the proper officer has reason to doubt the truth or accuracy of the declared value, he may seek further information from the importer and, if not satisfied, reject the declared value. The expression "reason to doubt" has been subject to judicial interpretation and cannot be equated with mere suspicion or conjecture. It requires the existence of objective material giving rise to a reasonable doubt as to the correctness of the declared value. The burden of establishing such doubt lies squarely on the Department, and the rule cannot be invoked mechanically or routinely.

12. The scope of Rule 12 of the Valuation Rules and the primacy of transaction value have been authoritatively

laid down by the Hon'ble Supreme Court in *Eicher Tractors Ltd. v. Commissioner of Customs [2000 (122) E.L.T. 321 (S.C.)],* wherein it was held that the price actually paid or payable must be accepted unless it is shown that the buyer and seller are related or that the price is not the sole consideration. The Court categorically rejected the notion that valuation can be based on notional or hypothetical prices and emphasized that transaction value is sacrosanct unless the conditions specified in the rules are not satisfied.

13. The above principle has been consistently followed and elaborated in *Commissioner of Customs v. South India Television Pvt. Ltd. [2007 (214) E.L.T. 3 (S.C.)],* wherein the Hon'ble Supreme Court reaffirmed that the burden of proving undervaluation lies entirely on the Department and must be discharged through cogent and reliable evidence. It was further held that contemporaneous imports can be relied upon only when strict comparability is established in terms of quality, quantity, commercial level and other relevant factors, and that mere price variation or reliance on general data cannot justify rejection of transaction value.

14. The appellants have relied upon the decision of the Tribunal in *Shimnit Machine Tools & Equipment Ltd. v.*

Commissioner of Customs [2006 (204) E.L.T. 630 (Tri.-Mumbai)] to contend that enhancement of value based on selective or unverified data is impermissible in law. It was submitted that the Department is required to disclose the complete material relied upon and establish proper comparability before rejecting the declared transaction value. The appellants further submit that valuation cannot be based on isolated instances or incomplete data, and that the principles of natural justice mandate full disclosure and opportunity to rebut the evidence. This Tribunal finds merit in the said submission, as the enhancement in the present case is based on selective electronic data and unverified documents without disclosure of complete material or establishment of comparability.

15. Applying the above principles, that the rejection of transaction value in the present case is not supported by legally admissible or reliable evidence. The Revenue has relied upon electronic data allegedly retrieved from pen drives and hard disks and statements recorded under Section 108. However, as will be discussed in detail in Issue No. 3, such electronic evidence suffers from non-compliance with statutory requirements and lack of authentication. Even otherwise, the mere existence of figures in private records, without linkage to actual transactions, cannot establish

undervaluation. At best, such data reflects indicative or tentative pricing during negotiations and cannot be equated with the price actually paid or payable.

16. The appellants have also relied upon *Dee Kay Exports v. Commissioner of Customs [2012 (285) E.L.T. 109 (Tri.-Del.)],* wherein it has been held that in the absence of evidence of extra consideration, undervaluation cannot be established merely on the basis of assumptions or comparison with unrelated imports. This Tribunal finds that the said principle squarely applies, as no evidence of extra remittance or additional consideration has been brought on record in the present case.

17. The appellants have further relied upon the principle laid down in *CIT v. Vegetable Products Ltd. [(1973) 1 SCC 442]* and *K. Subramanian v. Siemens India Ltd. [1983 (4) TMI 3 (Bom.)],* that where two interpretations are possible, the one favourable to the assessee must be adopted. In the present case, the material relied upon by the Department, at the highest, gives rise to suspicion but does not conclusively establish undervaluation, and therefore the benefit of doubt must go in favour of the appellants.

18. The appellants have also relied upon *Keyur Shah & Ors. [2025 (6) TMI 546 – CESTAT Mumbai]* to contend that in the absence of legally admissible evidence and proper procedure, the burden cannot be shifted upon the importer and rejection of declared value based on untested material is unsustainable. This Tribunal finds that the said principle reinforces the requirement of strict adherence to evidentiary standards before rejecting transaction value.

19. The Revenue has also relied upon statements recorded under Section 108. In response, the appellants have relied upon *K.I. Pavunny v. Asst. Collector [1997 (90) E.L.T. 241 (S.C.)]* and *Ramesh Chander Mehta v. State of W.B. [AIR 1970 S.C. 940]* to contend that such statements must be voluntary and corroborated and cannot be treated as conclusive proof. The Revenue has, on the other hand, relied upon *Surjeet Singh Chhabra v. Union of India [1997 (89) E.L.T. 646 (S.C.)]* to contend that statements are admissible evidence. This Tribunal accepts the proposition of admissibility; however, such statements must be corroborated by independent evidence. In the present case, the statements are not supported by any independent material and therefore cannot form the sole basis for rejection of transaction value.

20. The Revenue has further invoked the principle of preponderance of probability, placing reliance on *D. Bhoormull v. Commissioner of Customs [1983 (13) E.L.T. 1546 (S.C.)].* The appellants have countered this by relying upon *Poonam Plastic Industries v. Commissioner of Customs [1989 (39) E.L.T. 634 (Tri.)]* to contend that suspicion cannot substitute proof. We find that the decision in D. Bhoormull case pertains to smuggling cases involving clandestine activities and cannot be mechanically applied to valuation disputes governed by Section 14. In such cases, valuation must be based on evidence and not on inference or probability alone.

21. Another significant aspect is that the imports were effected through regular channels and assessed by Customs authorities at the time of clearance. In several instances, the value was enhanced by the Department itself and duty was paid accordingly, indicating that valuation was examined contemporaneously. In such circumstances, any subsequent rejection of transaction value must be supported by strong and convincing evidence demonstrating that the earlier assessment was erroneous. The impugned order fails to provide any such evidence.

22. The cumulative effect of the above analysis is that the Revenue has failed to establish any objective basis for doubting the declared value. There is no evidence of additional consideration, no corroborated documentary evidence, and no reliable comparison with contemporaneous imports. The entire case rests on unverified electronic data and uncorroborated statements, which do not meet the legal threshold required under Rule 12. The reliance on probability and inference cannot substitute the requirement of proof. Undervaluation in the instant case has clearly relied upon electronic evidence in the form of price lists and not any parallel invoices.

23. Accordingly, we are of the view that the rejection of transaction value is based on suspicion rather than evidence and does not satisfy the statutory requirements of Rule 12. The appellants' submissions, supported by judicial precedents, are found to be legally sound, whereas the reliance placed by the Revenue on its case laws is either distinguishable or of limited applicability. The Department has thus failed to discharge the burden cast upon it, and the rejection of the declared transaction value is held to be legally unsustainable. Consequently, the issue is decided in favour of the appellants.

Issue No. 2 Whether re-determination of value is in accordance with the valuation rules

Without prejudice to the above finding that rejection of transaction value is unsustainable, the validity of the re-determination of value undertaken by the adjudicating authority is independently examined as herein below: -

24. The second question that arises for determination is whether, assuming arguendo that the declared transaction value was liable to be rejected under Rule 12, the re-determination of value undertaken by the adjudicating authority is in accordance with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. This issue is analytically distinct, for even where rejection of transaction value is upheld, the statute mandates a structured, rule-bound and sequential methodology for determination of value. The Valuation Rules constitute a complete code designed to ensure uniformity, predictability and fairness, and Rule 3(2) unequivocally provides that where value cannot be determined under Rule 3(1), it shall be determined by proceeding sequentially through Rules 4 to 9. The use of the expression "shall" imposes a mandatory obligation, leaving no scope for selective or discretionary application. Thus, any departure from the prescribed sequence strikes at the root of the valuation exercise and renders it legally unsustainable.

25. We note that Rules 4 and 5 require determination based on transaction value of identical or similar goods, with strict comparability in terms of quality, characteristics, quantity, commercial level and country of origin. Rules 7 and 8 provide alternative mechanisms based on deductive value and computed value respectively, while Rule 9 is a residual method to be invoked only when all preceding rules fail. In the present case, a careful examination of the impugned order reveals that no attempt has been made to apply Rules 4 or Rule 5, nor is there any analysis of contemporaneous imports of identical or similar goods. There is equally no attempt to apply Rules 7 or Rule 8. Instead, the adjudicating authority has bypassed the entire statutory framework and adopted a hybrid and impermissible method based on selective data and assumptions, without establishing comparability or providing any cogent reasoning. This constitutes not a procedural irregularity but a substantive illegality, as the very foundation of valuation under the Rules lies in strict adherence to the prescribed sequence.

26. The appellant has rightly relied upon the settled law laid down by the Hon'ble Supreme Court in *Eicher Tractors Ltd. v. Commissioner of Customs, Mumbai [2000 (122) E.L.T. 321 (S.C.)]* and *Commissioner of Customs,*

Calcutta v. South India Television (P) Ltd. [2007 (214) E.L.T. 3 (S.C.)], wherein it has been authoritatively held that the transaction value is the primary basis of assessment and can be rejected only if the conditions specified under Section 14 read with the Valuation Rules are not satisfied, and that undervaluation cannot be presumed but must be supported by contemporaneous imports of identical or similar goods properly comparable in all material respects. The appellant has further relied upon *Shimnit Machine Tools & Equipment Ltd. v. Commissioner of Customs [2006 (204) E.L.T. 630 (Tri.-Mumbai)],* wherein it has been categorically held that once the transaction value is rejected, valuation must proceed strictly in accordance with Rule 3(2) by sequential application of Rules 4 to 9, and any deviation from this statutory sequence vitiates the valuation.

The Revenue has placed reliance on *M/s Goldland Overseas Company v. Commissioner of Customs, Chennai [2025 (10) TMI 462 (CESTAT Chennai), Final Order No. 41120/2025 dated 07.02.2025],* however, a close examination of the said decision reveals that the Tribunal, in fact, found serious procedural and evidentiary deficiencies including reliance on uncorroborated statements, denial of cross-examination, and improper valuation methodology, and remanded the matter for fresh adjudication. Thus, the said decision does not support the case of the Revenue but reinforces the

requirement of strict adherence to valuation rules and principles of natural justice.

27. We note that the central feature of the impugned order is the adoption of standardized rates of ₹110 per kg and ₹225 per kg for different periods, which have been applied uniformly across multiple consignments. These rates are not derived from contemporaneous import data or any recognized valuation source, but are extrapolated from unverified electronic records such as excel sheets and internal documents allegedly reflecting prices in RMB. The impugned order does not disclose any objective basis for arriving at these figures, nor does it establish any nexus between such rates and the specific goods imported. The adoption of a uniform rate per kilogram across varying products, consignments, suppliers and commercial conditions is fundamentally inconsistent with Section 14, which mandates transaction-specific valuation, and effectively substitutes the statutory framework with an arbitrary standardization having no sanction in law.

28. The evidentiary foundation of these rates is itself deeply flawed. The electronic records relied upon are neither authenticated nor certified, lack statutory compliance, and have not been correlated with specific consignments. Even otherwise, such records at best indicate tentative or indicative prices arising during negotiation and cannot be

equated with final transaction values. The conversion of such assumed values from RMB into USD and thereafter into INR has also not been shown to follow any notified exchange rate or consistent methodology, thereby introducing further arbitrariness. The absence of any contemporaneous imports and absence of any comparative analysis renders the adopted rates speculative and devoid of legal foundation.

29. The appellant has also rightly contended that if such rates represented true market value, they would have been uniformly applicable to all importers of similar goods, which is not demonstrated in the impugned order. The Department has not shown that other importers were importing identical or similar goods at such values, nor has it disclosed any comparable data. The principles of uniformity and consistency, which are integral to valuation, stand completely violated. Further, the absence of any evidence of parallel invoicing and regarding additional consideration is fatal, as valuation enhancement cannot be based on notional or inferred values without adequate proof.

30. The Appellants submitted that the impugned order also fails to consider critical commercial realities. The appellants have demonstrated that bulk imports (57 consignments in the case of M/s Spark Lites and 62

consignments in the case of M/s Suraj Impex) enabled negotiation of competitive prices and reduced ocean freight. The rejection of such commercial factors without any contrary evidence reflects a reversal of burden of proof, as it is for the Department to establish undervaluation and not for the importer to justify lower pricing.

31. We also find that the inclusion of buying agent commission is equally unsustainable. The record shows that such commission was paid to agents engaged in procurement, and there is no evidence that such agents acted on behalf of the suppliers or that the commission formed part of the price actually paid or payable. Under Rule 10(1)(a)(i), buying commission is specifically excludible, and the burden lies on the Department to establish otherwise. In the absence of evidence of flow-back or linkage with the sale transaction, the inclusion of such commission is contrary to law. The reliance placed on electronic records and statements further weakens the case of the Revenue. Such records lack authentication and statutory compliance, and the statements recorded under Section 108 have been disputed and remain uncorroborated.

32. On a cumulative consideration, we find that from the statutory provisions, judicial precedents and factual

deficiencies discussed above, it is evident that the re-determination of value suffers from fundamental legal infirmities. The adjudicating authority has failed to follow the mandatory sequential application of Rules 4 to 9, has adopted arbitrary standardized rates without evidentiary basis, has relied on unverified electronic records and uncorroborated statements, has ignored commercial realities, and has included elements not permissible under the Rules. These defects are not isolated but go to the root of the valuation exercise. Accordingly, it is held that the re-determination of value is not in accordance with the Customs Valuation Rules, 2007 and is liable to be set aside. The demand therefore fails not only at the stage of rejection of transaction value but also at the stage of re-determination.

Issue No. 3 Whether reliance on electronic evidence and statements is legally admissible and sufficient

33. The third question that arises for determination concerns the admissibility and evidentiary value of the electronic records and statements relied upon by the Revenue to establish the allegation of undervaluation. This issue assumes determinative significance, as the entire foundation of the impugned order rests substantially upon data allegedly retrieved from electronic devices such as pen drives and hard disks, and statements recorded under Section 108 of the Customs Act. It is therefore necessary to

examine whether such material satisfies the statutory requirements governing admissibility and whether it can legally displace the declared transaction value. Section 138C of the Customs Act, 1962, which governs admissibility of electronic records, is analogous in structure and intent to Section 65B of the Indian Evidence Act, 1872, and incorporates stringent safeguards to ensure authenticity, reliability and integrity of electronic evidence. The provision mandates certification regarding the manner of production, particulars of the device and authenticity of contents, reflecting the legislative recognition that electronic records are inherently susceptible to manipulation.

34. The Appellants have relied upon the Hon'ble Supreme Court in *Anvar P.V. v. P.K. Basheer [(2014) 10 SCC 473]* and reaffirmed in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal [(2020) 7 SCC 1],* wherein it has been categorically held that electronic evidence is inadmissible unless accompanied by the mandatory certificate under Section 65B, a requirement *pari materia* to Section 138C. The Hon'ble Supreme Court has further clarified that such certification is not procedural but a condition precedent, and cannot be dispensed with. This position has been reiterated in *ADG, DRI v. Suresh Kumar & Co. Impex Pvt. Ltd. [2025 (9) TMI 76 (S.C.) / 2025 INSC 1050],* where it was

specifically held that compliance with Section 138C (4) is mandatory for admissibility of electronic evidence in customs proceedings and that the integrity, source and manner of extraction must be established. In the present case, it is an admitted position that no certificate under Section 138C (4) has been produced, nor has the Department established the chain of custody, authenticity or integrity of the devices and data. Consequently, the entire electronic evidence relied upon is rendered inadmissible in law.

35. Without prejudice, the Appellants have contended that the evidentiary value of such electronic data is fundamentally weak in the absence of corroboration. The Hon'ble Gujarat High Court in *Principal Commissioner v. Shah Foils Ltd. [2020 (372) E.L.T. 632 (Guj.)],* affirmed by the Hon'ble Supreme Court *[2021 (377) E.L.T. A87 (S.C.)],* has categorically held: -

> *"The Tribunal analysed the pen drive material, handwritten sheets and statements and recorded that the department relied primarily on the pen drive data and on statements which were contradictory or not corroborated. Relying on established authorities and its own scrutiny, the Tribunal held that data extracted from pen drives and the secret ledgers, without independent corroborative material (such as receipt/transportation/consumption records, supplier investigations or receipts from buyers), do not constitute sufficient cogent and unimpeachable evidence to prove clandestine removals. The High Court noted these findings of the Tribunal and accepted that the Tribunal considered the material before it and reached a fact-based conclusion that the pen drive data alone was not sustainable to make a demand. [Paras 6, 7, 8]"*

The Court emphasized that electronic data, in the absence of corroboration, does not constitute substantive evidence. Applying this ratio, it is evident that the present case rests entirely on unverified electronic data without any independent evidence of extra remittance, thereby rendering the demand unsustainable on this ground alone.

36. This Tribunal finds that a fundamental grievance raised by the appellants pertains to non-supply of relied upon documents and denial of access to material forming the basis of the demand. The appellants have contended that the entire case of the Department is founded upon alleged electronic data retrieved from pen drives, hard disks and other digital sources, along with "order lists", working sheets and internal documents, copies of which were not furnished in entirety. It is specifically submitted that complete electronic records, including mirror images, extraction reports, hash values and full data sets, were not supplied, and only selective extracts were relied upon in the show cause notice, thereby depriving them of the ability to verify authenticity or context. It is further contended that statements relied upon were either not furnished in full or were used without granting cross-examination. The Revenue, on the other hand, has contended that sufficient documents

were supplied and that the appellants were aware of the material relied upon and had participated in the proceedings.

37. We have perused pages 144–155 of Volume I of the Appeal Paper Book of M/s. Spark Lites and pages 135–147 of Volume I of the Appeal Paper Book of M/s. Suraj Impex, forming part of the annexures to the replies dated 26.12.2019 and 30.12.2019 addressed to the Adjudicating Authority. These annexures contain detailed tabulations of Bills of Entry highlighting discrepancies such as absence of currency details, variation in declared currency (USD/RMB), and instances of incomplete or missing invoice particulars. It is observed that the appellants had specifically raised grievances regarding non-supply of complete and legible documents and had sought clarification on these inconsistencies. However, the Department has neither furnished complete/correct copies nor addressed these submissions in the impugned order. The adjudicating authority has failed to deal with these material contentions altogether. As such, we have to hold that the impugned order suffers from non-consideration of vital evidence and is a non-speaking order, passed in violation of the principles of natural justice.

These discrepancies demonstrate that the very data relied upon by the Department is internally inconsistent,

incomplete and lacking in essential particulars such as currency and invoice linkage. In the absence of uniform, verifiable and disclosed data, the rejection of transaction value cannot be sustained.

38. In continuation of the above, we find that the right to defend cannot be reduced to supply of selective extracts or summaries; rather, it requires full disclosure of all relied upon material. Where the case is founded on electronic evidence, it is incumbent upon the Department to supply complete data, including the manner of extraction, certification under Section 138C and all foundational records. Failure to do so renders the evidence both unreliable and legally inadmissible. The Hon'ble Supreme Court in *Andaman Timber Industries v. CCE [2015 (324) E.L.T. 641 (S.C.)]* and the Hon'ble Punjab & Haryana High Court in *Jindal Drugs Pvt. Ltd. v. Union of India [2016 (340) E.L.T. 67 (P&H)]* have categorically held that denial of cross-examination and reliance on incomplete material vitiate adjudication. In the present case, the absence of complete electronic data, lack of certification, and non-supply of technical details such as hash values and extraction methodology create serious doubt about the authenticity and reliability of the evidence itself.

39. Further, it appears that the appellants have suffered serious prejudice, as they were denied access to the complete material necessary to effectively rebut the allegations. The entire case being based on such undisclosed and partially supplied material, the prejudice goes to the root of the matter and is not merely procedural. The cumulative effect of non-supply of relied upon documents, selective disclosure of electronic records and denial of cross-examination is a clear violation of principles of natural justice. Accordingly, we are to hold that the impugned proceedings stand vitiated on this ground alone and are liable to be set aside.

40. The reliance placed by the Revenue on statements recorded under Section 108 is equally unsustainable. While such statements are admissible, it is well settled that they must be voluntary, tested and corroborated by independent evidence. The Hon'ble Supreme Court in *Andaman Timber Industries v. CCE [2015 (324) E.L.T. 641 (S.C.)]* has held that denial of cross-examination of witnesses whose statements are relied upon constitutes a serious violation of principles of natural justice and renders the proceedings a nullity. This principle has been reiterated in *Jindal Drugs Pvt. Ltd. v. Union of India [2016 (340) E.L.T. 67 (P&H)],* wherein it was held that statements cannot be

relied upon unless the maker is examined and subjected to cross-examination. In the present case, despite specific request, cross-examination has not been granted, and no valid reason for such denial has been recorded, thereby vitiating the entire adjudication.

41. The appellants have further relied upon the recent decision in *Keyur Shah, Marvel Products & Exim Pvt. Ltd. & Ors. v. Commissioner of Customs, Mumbai [2025 (6) TMI 546 – CESTAT Mumbai],* wherein it has been held that statements of co-noticees cannot be relied upon unless they satisfy the requirements of Section 138B and are subjected to proper evidentiary scrutiny. The Tribunal has further held that the burden lies on the Department to disprove the genuineness of documents produced by the assessee, and such burden cannot be discharged through assumptions or untested statements. Applying the said ratio, it is evident that the statements relied upon in the present case have neither been subjected to statutory scrutiny nor corroborated by independent evidence, and therefore cannot form the basis of the demand.

42. The issue of disputed statements further weakens the case of the Revenue. The Hon’ble Supreme Court in *K.I. Pavunny v. Assistant Collector [1997 (90) E.L.T.*

241 (S.C.)] and *Ram Bihari Yadav v. State of Bihar [(1998) 4 SCC 517]* has held that a retracted confession cannot be relied upon unless it is corroborated by independent and reliable evidence, and that the burden lies on the Department to establish voluntariness. In the present case, the statements have been disputed as involuntary, and there is no independent corroboration. Since the electronic data itself is inadmissible, it cannot be used as corroboration, and therefore the statements lose all evidentiary value.

43. We find another critical infirmity is the complete absence of linkage between the alleged electronic data and the imports in question. Even assuming arguendo that such data were admissible, it must be shown to have a direct nexus with specific transactions. The material relied upon by the Revenue is general, uncorrelated and not mapped to individual Bills of Entry. In the absence of such linkage, it cannot form the basis for rejecting the declared value. Further, the absence of any evidence of extra remittance or flow of funds from the appellants to the suppliers is fatal, as proof of additional consideration is a sine qua non in cases of alleged undervaluation.

44. The cumulative effect of the above analysis is that the entire evidentiary foundation of the Revenue’s case

collapses. The electronic records are inadmissible due to non-compliance with Section 138C; the statements are unreliable due to denial of cross-examination, lack of voluntariness and absence of corroboration; and there is no independent evidence such as parallel invoices, supplier confirmation or proof of additional consideration. It is well settled that defective evidence cannot corroborate another defective piece of evidence. Accordingly, it is held that the electronic evidence and statements relied upon by the Revenue are neither legally admissible nor sufficient to sustain the allegation of undervaluation, and the demand fails on this ground as well.

Issue No. 4: Whether the demand of duty and invocation of extended period are sustainable

45. The fourth question that arises for determination is whether the demand of duty confirmed in the impugned Order-in-Original is sustainable on the grounds of limitation, and more particularly, whether the invocation of the extended period under the proviso to Section 28 of the Customs Act, 1962 is legally justified. It is not in dispute that the imports in question pertain to the period September 2013 to January 2015and were effected through duly filed Bills of Entry declaring the description, quantity and value of the goods, and that the Show Cause Notice has been issued only on 15.11.2018, i.e., well beyond the normal period of

limitation. The statutory scheme of Section 28 draws a clear distinction between the normal period and the extended period, the latter being invocable only upon strict proof of fraud, collusion, wilful misstatement or suppression of facts with intent to evade duty. These ingredients are not matters of presumption but must be established by the Department through cogent and positive evidence, and the burden in this regard lies squarely upon the Revenue.

46. In the present case, the Appellants have contended that the entire basis for invoking the extended period is the allegation of undervaluation founded upon electronic records and statements recorded during investigation. However, as already held in the findings on earlier issues, such evidence has been found to be legally inadmissible, lacking statutory compliance under Section 138C, and devoid of corroboration. When the very foundation of the allegation fails, the consequential invocation of extended limitation cannot survive. The law is well settled that extended period cannot be invoked on the basis of assumptions, suspicion or inferential reasoning, and requires clear evidence of deliberate intent to evade duty, which is conspicuously absent in the present case.

47. The Appellants have further submitted that it is on record that all imports were effected through proper Bills of Entry, and the goods were examined and assessed by Customs authorities at the time of clearance, with values being enhanced wherever considered necessary. This factual position is of decisive significance, as it demonstrates that the Department was fully aware of the transactions and had applied its mind to the issue of valuation contemporaneously. In such circumstances, the allegation of suppression is legally untenable, as suppression necessarily implies a deliberate act of withholding information not otherwise available to the Department. Where all material particulars are disclosed and are within the knowledge of the assessing authority, the extended period cannot be invoked.

48. The Revenue's contention that undervaluation itself justifies invocation of extended period cannot be accepted. Mere allegation of undervaluation does not ipso facto establish suppression or intent to evade duty unless it is supported by evidence of additional consideration, parallel invoicing or deliberate misrepresentation. In the present case, there is no evidence of flow of funds, no supplier confirmation, and no corroborative material to support such allegation and therefore extended limitation cannot be invoked.

49. The Appellants have submitted that there is another critical aspect is the delay in issuance of the Show Cause Notice. The investigation commenced on 05.01.2015 with search, seizure of electronic devices and recording of statements, and all primary material was admittedly available with the Department at that stage itself. However, the Show Cause Notice came to be issued only on 15.11.2018, after a lapse of nearly three to four years. The record does not disclose any satisfactory explanation for this delay, nor does it indicate any sustained or meaningful investigative activity during the intervening period, except for recording of one or two statements. No overseas verification, supplier enquiry, or banking trail analysis has been undertaken, and no new evidence has been brought on record subsequent to the initial investigation.

50. The explanation offered by the Department, namely that the investigation involved analysis of electronic data and was complex in nature, does not withstand scrutiny. While such cases may require some time, the record does not demonstrate continuous or substantive investigative effort over the prolonged period. The mere existence of electronic data cannot justify an inordinate delay of several years, particularly when the core material was already in the possession of the Department in 2015. The

delay thus appears to be attributable to administrative inaction rather than any ongoing investigation.

51. It is observed the extended period is an exception to the normal rule and must be invoked strictly in accordance with statutory conditions. It cannot be used as a tool to compensate for delay or inefficiency on the part of the Department. Once the Department is in possession of all relevant facts, the limitation clock begins to run, and any delay in issuance of the notice must be properly explained. In the present case, the Department has failed to discharge this burden, and the invocation of extended period appears to be mechanical and not based on any independent analysis of suppression or intent.

52. The reliance placed by the Revenue on statements recorded under Section 108 also does not advance the case of the Revenue, as such statements have been found to be unreliable, uncorroborated and obtained in questionable circumstances, apart from the denial of cross-examination. In law, statements alone, particularly when disputed, cannot form the sole basis for invoking extended period unless supported by independent evidence. In the absence of such evidence, the allegation of wilful misstatement or suppression cannot be sustained.

53. We further find that the distinction between a bona fide valuation dispute and deliberate evasion must be maintained. Where the dispute arises from differences in valuation and all material facts have been disclosed, the extended period cannot be invoked. The present case clearly falls within the realm of valuation dispute, particularly when the Department itself has examined and, in some cases, enhanced the value at the time of assessment. There is no positive act indicating intent to evade duty, nor any evidence of concealment or misrepresentation.

54. The cumulative effect of the above analysis, we find that the Department has failed to establish the existence of any of the statutory conditions required for invoking the extended period under Section 28. The demand has been raised beyond the normal period, is based on inadmissible and uncorroborated evidence, and is further vitiated by unexplained delay attributable to administrative inaction. Accordingly, it is held that the invocation of extended period is unsustainable, and the demand is barred by limitation. Consequently, the demand is liable to be set aside on this ground alone, apart from failing on merits, and the penalties and redemption fine, being consequential in nature, also cannot survive.

Issue No. (v). Whether confiscation and penalties are justified

55. The fifth and final question that arises for determination is whether the confiscation of goods under Section 111(m) of the Customs Act, 1962, the imposition of redemption fine, and the penalties imposed under Sections 112, 114A and 114AA upon the appellants, including Shri Rajesh Jain, are sustainable in law. While these consequences arise from the findings on valuation and limitation, they require independent and rigorous examination, as confiscation and penalties are serious civil consequences carrying quasi-criminal implications. The statutory framework makes it clear that confiscation under Section 111(m) can be invoked only where there is misdeclaration of value, quantity or other material particulars, and such misdeclaration must be deliberate, conscious and supported by cogent evidence.

56. We find that in the present case, the entire foundation for invoking Section 111(m) rests upon the allegation of undervaluation. There is no dispute regarding the description of the goods imported. The goods were cleared through regular Bills of Entry, examined by Customs authorities, and assessments were finalized at the time of import, in some instances with enhancement of value by the Department itself. Thus, the allegation of misdeclaration is

confined solely to value. As already held in the findings on valuation and evidence, the allegation of undervaluation is not supported by legally admissible evidence, the electronic records being inadmissible for non-compliance with Section 138C and the statements being uncorroborated and unreliable. In such circumstances, the essential ingredient of "misdeclaration" under Section 111(m) is not satisfied.

57. It is well settled that a mere difference in valuation or subsequent re-determination of value does not automatically amount to misdeclaration. Valuation disputes often arise from differences in interpretation, commercial negotiations, or assessment practices, and cannot be equated with deliberate falsification. In the absence of proof of additional consideration, parallel invoices or flow-back of funds, undervaluation cannot be inferred as misdeclaration. The reliance placed by the Department on *D. Bhoormull v. Commissioner of Customs [1983 (13) E.L.T. 1546 (S.C.)]* is misplaced, as the said decision relates to smuggling cases based on preponderance of probability and cannot be applied to valuation disputes governed by Section 14 and the Valuation Rules. Applying these principles, the allegation of misdeclaration fails.

58. Once the foundation for confiscation under Section 111(m) fails, the confiscation itself cannot be sustained. Confiscation is not an automatic consequence of every valuation dispute but must be supported by clear evidence of deliberate misdeclaration. In the present case, the Department has failed to establish any such element, and the goods having been imported through regular channels with full disclosure in the Bills of Entry, the confiscation ordered in the impugned Orders-in-Original is legally unsustainable and liable to be set aside.

59. The imposition of redemption fine is purely consequential to confiscation. It is a settled principle that where confiscation is set aside, redemption fine cannot survive independently. Since the confiscation itself has been found to be unsustainable, the redemption fine imposed in lieu of confiscation automatically falls and is liable to be set aside in toto.

60. The imposition of penalty under Section 114A is also not sustainable. The said provision is attracted only where duty has not been levied or has been short-levied by reason of collusion, wilful misstatement or suppression of facts with intent to evade duty. As already held in the findings on limitation, the Department has failed to establish

any of these essential ingredients. The entire case rests on inadmissible electronic data and uncorroborated statements, and there is no evidence of deliberate suppression or intent to evade duty. In the absence of *mens rea*, which is a sine qua non for invoking Section 114A, the penalty imposed thereunder is liable to be set aside.

61. Similarly, penalty under Section 112 requires proof of acts or omissions rendering the goods liable to confiscation. Once it is held that confiscation itself is not sustainable, the very foundation for penalty under Section 112 disappears. It is well settled that penalty provisions cannot survive independently when the primary allegation of contravention fails. The same reasoning applies to penalty under Section 114AA, which requires proof of knowingly making, signing or using false or incorrect material. In the present case, no such evidence has been brought on record.

62. Insofar as the penalty imposed upon Shri Rajesh Jain is concerned, it is observed that no independent evidence has been brought on record to establish any separate or deliberate role attributable to him beyond the acts of the importing firm. The entire case against him is co-extensive with that of the firm, and there is no material to demonstrate any conscious involvement, *mens rea*, or

personal gain. It is a settled legal position that in the case of a proprietorship concern, the proprietor and the concern are not distinct legal entities, and separate penalties cannot be imposed in the absence of distinct acts or evidence. In the present case, in the absence of any independent evidence of culpability, the penalty imposed upon Shri Rajesh Jain is not sustainable.

63. It is a settled principle that penalty proceedings are quasi-criminal in nature and require strict proof of culpability. Suspicion, however strong, cannot take the place of proof. Where the demand itself fails on merits as well as on limitation, the penalties, being consequential in nature, cannot be sustained.

64. The cumulative effect of the above analysis is that the confiscation of goods under Section 111(m) is unsustainable for want of proof of misdeclaration, and consequently, the imposition of redemption fine and penalties under Sections 112, 114A and 114AA is also legally untenable. The Department has failed to establish any deliberate act, suppression or intent to evade duty, and the entire case being founded on inadmissible and uncorroborated evidence, the penal consequences cannot survive. Accordingly, it is held that the confiscation,

redemption fine and penalties imposed in the impugned orders are liable to be set aside in toto.

65. In view of the detailed findings recorded hereinabove on all the issues framed for determination, this Tribunal holds that the impugned Order-in-Original is not sustainable in law. Accordingly, the demands of differential duty confirmed against the appellants are set aside both on merits and on limitation. Consequently, the confiscation of goods under Section 111(m) of the Customs Act, 1962 is set aside, and the redemption fine imposed under Section 125 is also set aside in toto. The penalties imposed under Sections 112, 114A and 114AA of the Customs Act, 1962 upon the appellants, including Shri Rajesh Jain, are also set aside in entirety, there being no evidence of wilful misstatement, suppression or intent to evade duty.

66. The appeals filed by the appellants are allowed with consequential relief, if any, in accordance with law. Miscellaneous applications filed are also disposed of.

(Order pronounced in open court on 11.06.2026)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

MK