CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 41620 of 2016

(Arising out of Order-in-Original No.47467/2016 dated 31.05.2016 passed by Commissioner of Customs, Chennai-II, Custom House, 60, Rajaji Salai, Chennai 600 001.)

M/s.Valeo Friction Materials India Ltd. **.... Appellant**
16A, Sengundram Industrial Area,
Melsopuram via Singaperumal Koil,
Kancheepuram District,
Tamil Nadu 603 204.

VERSUS

The Commissioner of Customs **... Respondent**
Chennai-II, Custom House,
60, Rajaji Salai,
Chennai 600 001.

APPEARANCE :

Shri S. Ganesh Aravindh, Advocate for the Appellant
Shri Sanjay Kakkar, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No.40857/2026

DATE OF HEARING : 22.06.2026
DATE OF DECISION :07.07.2026

Per: Shri P. Dinesha

Brief and relevant facts as could be gathered from impugned order are that M/s. Valeo Friction Materials India Ltd., Kancheepuram (the Appellant herein) claims to be importing raw materials viz. textured yarn, technical yarn semi-finished clutch facings since inception of the Appellant-company from M/s. Valeo Materriaux De Friction, France (M/s. Valeo, France-for short) and their associate companies. It appears that the issue of relationship between the Indian company and the Foreign suppliers and its influence on the transaction value were examined by Special Valuation Branch Custom House, Chennai in the year 2000. After thorough investigation, the Original Authority *vide* Order-in-Original No.1153/2000-SVB dated 14.12.2000 held that both the Indian Company and the Foreign Suppliers are related to each other in terms of Rule 2 (2) of Customs Valuation (Determination of price of Imported Goods) Rules, 1988 (CVR, 1988 for short) and ordered for acceptance of the declared invoice value as transaction value under Rule 4 of the CVR. In so far as royalty was concerned, it was held that the royalty payable to their related supplier @ 3.75%

on Net Sale Value of the finished goods was not addable to the transaction value of the imported goods.

2. Facts reveal that the said order was periodically reviewed *vide* Order-in-Original No.2931/2004 dated 28.09.2004, Order-in-Original No.6884/2007 dated 23.11.2007 and Order-in-Original No.13788/2010 dated 10.12.2010 wherein the declared transaction value under Rule 4 (3) (a) of CVR was sustained.

3. As the things stood thus, the Deputy Commissioner of Customs (SVB) reconsidered the very same issue for the later year and *vide* Order-in-Original No.23474 dated 17.01.2014 held that in terms of the Agreement, royalty should have been calculated on Net Sales Value without excluding the value of the raw materials imported and hence, the exclusion thereof was clearly in violation of the said clause in the Agreement. The officer thus calculated the royalty that should have been paid by the Appellant for the 13-year period by holding that such amount should be included in the transaction value. The said order was passed under Section 28 (4) of the Customs Act, 1962 demanding the differential duty for the period 2001 to 2013 along with applicable interest. Seriously aggrieved, it

appears that the Appellant preferred an Appeal before the Commissioner (Appeals) who also having rejected their Appeal thereby upholding the demand of differential duty as confirmed in the Order-in-Original (*supra*), the Appellant appears to have preferred second Appeal before this forum. The Chennai Bench *vide* its Final Order No.40589/2024 dated 31.05.2024 as reported in **2024 (6) TMI 61-CESTAT Chennai** has considered the issue in the context of the statutory provisions and the interpretation as drawn by various judicial Fora and thereafter held as under :

> "4. In Article 8 of the Agreement, it is clearly indicated that at the appellant's request, VALEO shall supply the parts and raw materials necessary to the manufacture of the products on the basis of the terms to be determined by the appellant and VALEO. All this indicate that payment of royalty is not entirely related to import of raw materials. Even, the value of other products like copper wire, resins, semi-finished clutch facings, etc., required for manufacture of finished goods i.e., Clutch Facings from the associate companies of M/s. VALEO Materiaux De friction, France are to be deducted from the net sales value.
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> 15. From the above, it can be safely inferred that payment of royalty is not completely relatable to import of raw materials as there is no condition of sale attached for their import. Distinction which exists between an amount payable as the condition of import and amount payable in respect of sale of manufactured goods using the brand name has to be understood properly. Rule 10(1)(c) of the Customs Valuation Rules, 2007 states that royalties and licence fees related to the import goods that the buyer is required to pay directly or indirectly as a condition of sale of the goods have to be added to the transaction value of the imported goods. We find that there is no such condition that emerges from the agreement between the appellant and the VALEO, France which provides that royalty payment is a pre-condition for sale /

> import of raw materials. There is no evidence to establish as to how the royalty payment is linked to the import of raw materials."
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> .. …. …..
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> 22. On the issue of invoking extended period, we note that the appellant has placed the same copy of Technology Assistance Agreement before the SVB authority from 1999-2000 onwards to 2013-2014. There was no change as to computation of Net Sales value but its interpretation. The Audit team of appellant's accounts has pointed out that for computation of royalty, the cost of imported raw materials was to be added in terms of correct interpretation of the same agreement. The appellant have produced evidence that VALEO, France has waived additional royalty payable if the cost of raw materials were to be included in the Net Sales Value for period from 2000-2001 to 2011-2012. We find that the Department was well aware of the issue all along and the Appellants have provided all documents and clarifications and nothing prevented the Department from launching an investigation against the appellant from 2000 to 2012. Instead, from 2000- 2012, the department was of the view that that Royalty payments were not includible in the transaction value as held in four Orders-in-Original and further, the Department never preferred to consider filing an appeal against the impugned orders. Having not done so, the department cannot invoke the extended period at a later date to demand duty on the grounds of suppression of facts by the Appellant. Hence, we do not find it legally sustainable to invoke the extended period in this case. We find that the Original Adjudicating Authority has demanded differential customs duty by including the royalty payment in transaction value of imported raw materials for the period from 2000-2001 to 2012-2013. The appellant's declared transaction values of various imported goods including raw materials have been accepted from time to time vide Orders-in-Original dated 14.12.2000, 23.11.2007 and 10.12.2010. Even by invoking the extended period, how the differential customs duty could be demanded for 13 years which is blatantly illegal and against the provisions of customs law. It is also on record that these Orders-in-Original have been accepted and not challenged in Review proceedings. On this account only, the differential duty demand has to be set aside."

4. Pending above Appeal, it appears that a Show Cause Notice was issued [dt. 30.11.2015] on the similar grounds, proposing to demand differential duty, to which

record reveals that the Appellant filed detailed reply. The Adjudicating Authority-Commissioner Customs, Chennai-II having considered the reply, *vide* Order-in-Original No.47467/2016 dated 31.05.2016 however, confirmed the proposed demand along with applicable interest and penalty. It is against this order that the present Appeal has been filed before this forum.

5. Heard Shri S. Ganesh Aravindh, learned Advocate for the Appellant and Shri Sanjay Kakkar, learned Departmental Representative, we have carefully perused the documents placed on record, synopsis, written submissions including decisions / orders relied upon by both sides during the course of arguments. The main issue that arises for determination in this Appeal is :-

> "Whether the demand of differential customs duties by such addition of royalty payment for the period in dispute to the value of imported raw materials is justified ?

6. We have carefully perused the facts of the present case in the light of the Final Order No.40589/2024 dated 31.05.2024 passed by this Bench (*supra*) and we find that the issue regarding demand of differential duty by

adding royalty has been considered, analysed and laid to rest in the said order, relevant portion of which has been extracted *supra*. Further, the Revenue has not demonstrated that there was any factual changes nor any new document has been referred to in the impugned order nor has the Revenue established that there was a change in law. Hence, we are of the clear view that as of now the ratio laid down in Final Order No.40589/2024 dated 31.05.2024 (*supra*) has settled the issue involved in this Appeal.

7. Following the above order, we set aside the impugned order and allow the Appeal with consequential benefits, if any, as per law.

(Order pronounced in open court on 07.07.2026)

sd/-	sd/-
(M. AJIT KUMAR)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

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