CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60581 of 2023

[Arising out of Order-in-Original No. COMMR/VG/LDH/CUSTOMS/04-05/2023 dated 16.06.2023 passed by the Commissioner of Customs, Ludhiana]

M/s Findoc Impex ......**Appellant**
B-XXV-539/A, 10, Karabara,
Opposite Kali Sadak, Near
Shivpuri Chowk, Ludhiana,
Punjab-141008

VERSUS

Commissioner of Customs, Ludhiana ......**Respondent**
ICD, GRFL, G.T. Road, Sahnewal,
Ludhiana, Punjab-141120

WITH

Customs Appeal No. 60580 of 2023

[Arising out of Order-in-Original No. COMMR/VG/LDH/CUSTOMS/04-05/2023 dated 16.06.2023 passed by the Commissioner of Customs, Ludhiana]

Vaneet Gupta ......**Appellant**
Partner, Findoc Impex
B-XXV-539/A, 10, Karabara,
Opposite Kali Sadak, Near
Shivpuri Chowk, Ludhiana,
Punjab-141008

VERSUS

Commissioner of Customs, Ludhiana ......**Respondent**
ICD, GRFL, G.T. Road, Sahnewal,
Ludhiana, Punjab-141120

APPEARANCE:

Shri Saurabh Kapoor, Ms. Muskaan Gupta and Ms. Tanya Kumar, Advocates for the Appellants

Shri Naman Jain, Senior Standing Counsel and Ms. Vaishali Jain, Authorized Representative for the Respondent

AND

Customs Appeal No. 60272 of 2025

[Arising out of Order-in-Original No. COMMR/VG/LDH/CUSTOMS/08-09/2024 dated 07.05.2024 passed by the Commissioner of Customs, Ludhiana]

M/s TRB International **......Appellant**
R-72, Phase-V, Focal Point,
Ludhiana, Punjab-141010

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
ICD, GRFL, G.T. Road, Sahnewal,
Ludhiana, Punjab-141120

APPEARANCE:

Shri Naveen Bindal and Shri Bharat Jain, Advocates for the Appellant
Shri Naman Jain, Senior Standing Counsel and Ms. Vaishali Jain, Authorized Representative for the Respondent

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

FINAL ORDER NO. 60488-60490/2026

DATE OF HEARING: 20.03.2026
DATE OF DECISION: 05.08.2026

P. ANJANI KUMAR:

M/s Findoc Impex (Appeal No. C/60581/2023), Shri Vineet Gupta (Appeal No. C/60580/2023) Partner of M/s Findoc Impex and M/s TRB International (Appeal No. C/60272/2025) have filed these appeals against the impugned orders dated 16.06.2023 and dated 07.05.2024 respectively. The issues involved in the appeals being common, the cases are heard together and taken up for decision together.

Brief facts of the cases:

M/s FINDOC

2. Officers of the Directorate of Revenue Intelligence conducted searches at the premises of the appellant as well as N K Impex (buyer of imported Dry Dates) on 18.03.2020;59650 Kgs of Dry Dates, imported vide Bill of Entry No. 6596563 dated 23.01.2020, were detained; examination of import documents revealed that the requisite Phytosanitary Certificate, issued by exporting country i.e. Saudi Arabia, was not submitted for clearance, in contravention to the provisions of Para 10 (2) of the Chapter III of Plant & Quarantine (regulation of Import Into India) Order 2003.A Show Cause Notice dated 30.06.2021was issued proposing absolute confiscation of the imported goods and for imposing penalty under Section 112 (a) (i) of the Customs Act,1962, 1962.

2.1. Further enquiries revealed that the Appellant had imported 3 consignments of Dry Dates vide 3 BE Nos. 6387411 Dated 07.01.2020, 6506996 Dated 17.01.2020 and 6596563 Dated 23.01.2020 and in all the cases required Phytosanitary Certificate was not produced. On a request made by the appellant, dry dates imported, vide Bills of Entries Nos. 6387411 Dated 07.01.2020, 6506996 Dated 17.01.2020, were allowed to be released, on payment of Penalty/Fee, in terms of clause 14 of the Plant Quarantine (Regulation of Import into India) Order 2003. However, request made, in respect of goods imported vide BE No. 6596563 Dated 23.01.2020, was rejected on 28.08.2020. Commissioner (Appeals), vide order dated 20.10.2020, upheld such rejection; on an appeal filed by the appellants, this Bench, vide final order dated 13.01.2021, remanded the matter back for re-consideration; vide order dated

27.01.2022, the appeal was again rejected by the Commissioner (Appeals).

2.2. Meanwhile, the investigations were conducted and statements, i.e. of Shri Chander Shekhar on 12.10.2020 and of Shri Vaneet Gupta. On 06.11.2020, were recorded. On completion of the investigation and overseas enquiry, it appeared to the revenue that M/s Findoc Impex was importing dry dates of Pakistani origin into India through UAE by falsely declaring the country of origin as Saudi Arabia, with an intent to evade payment of 200% Basic Customs Duty imposed vide Notification No. 05/2019-Customs dated 16.02.2019. A Show Cause Notice, dated 30.06.2021, was issued proposing confiscation of impugned goods; demanding Customs Duty of Rs. 4,95,93,955, on the dry dates imported vide Bill of Entry Nos. 6387411 dated 07.01.2020, 6506996 dated 17.01.2020 and 6596563 dated 23.01.2020 and seeking to impose penalties on M/s Findoc and Shri Vineet Gupta, was issued. The proposals in the Show Cause Notice were confirmed by the impugned Order-in-Original dated 16.06.2023 passed by Commissioner of Customs, Ludhiana.

M/s TRB International

3. The Appellant is a proprietorship concern engaged in import of various goods, including dry dates; the Appellant imported nine (09) consignments of dry dates and filed the following bills of entry, declaring the country of origin to be Saudi Arabia and the exporter be Manchester Shipping LLC, Dubai

Sl. No.	B/e No.	Date	Quantity (Kg)	Released/ seized on
1.	6397102	08.01.2020	55550	05.02.2020
2.	6392966	08.01.2020	26512	05.02.2020

3.	6396602	08.01.2020	539642.5	28.01.2020
4.	6392101	08.01.2020	26512	05.02.2020
5.	6612442	24.01.2020	53025	-
6.	6531457	18.01.2020	55550	02.03.2020
7.	6924057	18.02.2020	54540	Seized on 04.05.2020
8.	6922118	18.02.2020	80721	Do
9.	6923771	18.02.2020	53025	Do

3.1. Searches were conducted on 18/19.03.2020 at the premises of the Appellant; on the basis of investigation and overseas enquiries department formed an opinion that the goods were of Pakistan origin, allegedly routed via Dubai and falsely declared as of Saudi origin to evade payment of customs duty @200%; two show cause notices, both dated 28.01.2022, were issued proposing to confiscate the goods; confirm differential duty and impose penalties. The proceedings culminated by the impugned order-in-Original, dated 07.05.2024, confirming the proposals in the show cause notices.

4. Shri Sourabh Kapoor, learned Counsel for M/s Findoc and Shri Vaneet Gupta contested the impugned orders. Gist of his arguments/submissions are as under.

- Bill of Entry No. 6596563, dated 23.01.2020, was referred to SIIB Ludhiana for verification; on enquiry it was concluded that the Origin of "Dry Dates" was Saudi Arabia.
- the authenticity of the documents, on the basis of which the impugned order concludes that the goods are of Pakistani origin, is questionable; documents alleged to have been obtained from Overseas Enquiry, do not indicate that the same have been filed at DUBAI; they do not bear any marking of UAE Customs; they have not been certified the Customs Office Overseas; documents do not bear signatures of any of the Officer of Federal Customs Authority

UAE; documents on the basis of which it was concluded that goods are of Pakistan origin mention that the goods were for transit to Iran.

- the Container Numbers declared to Customs Dubai are available given; however, no seal numbers are mentioned; seal Numbers as mentioned in documents claimed to have been filed in Dubai are different from one found on documents in India;
- Request for supply of the copies of the correspondence, vide which data was received through overseas customs enquiry, was not acceded to; copy of the statement of the representative of Shipping Company also not supplied though relied upon.
- Phytosanitary Certificate issued have not been disputed by the Department; admittedly Phytosanitary Certificates issued by Country of Re Export has been accepted.

5. Shri Naveen Bindal, learned Counsel for the M/s TRB International adopt the arguments put forth by the counsel for M/s Findoc Impex and further submits that:

- The entire case rests upon alleged overseas enquiry from Federal Customs Authority, UAE; however, no primary document evidencing such enquiry, nor the mode of enquiry, has been placed on record or supplied to the Appellant; the documents allegedly obtained from Federal Customs, Dubai are unsigned, unstamped from undisclosed sources, render them wholly unreliable.
- in the absence of proper authentication of documents obtained from outside India, the same cannot be relied upon as substantive evidence; no presumption under Section 138 of the

Customs Act can be raised as the documents do not bear signatures or authentication of the executing or attesting authority; their authenticity becomes suspect.

- The transshipment declarations and screenshots said to have been obtained from UAE Customs, are nothing but images/computer screen shots, outputs; they don't indicate any source except being marked "Agent Office" in the document column; not even at one instance the container numbers match with container numbers mentioned in bills of lading and other documents;
- no certificate or compliance with section 138C of the Customs Act and Section 65B of the Indian Evidence Act, 1872 has been produced to make these electronic records admissible; the Appellant was never confronted with these documents during investigation.
- mandatory procedure laid down in Rule 6 of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 for verification of Certificate of Origin, was not followed.
- Burden of proof regarding country of origin to be from Pakistan is not discharged.
- adjudicating authority has referred to alleged email correspondence between Today Global Forwarders (India) and Dubai-based freight forwarders discussing "rate requests" for consignments from Karachi via Jebel Ali and issues of Phytosanitary and origin certificates; these alleged emails were, at best, recovered from a third party; the said emails were not

sent by the Appellant; supplier in the present case is different and period is also different; therefore, no inference can be drawn from said alleged emails; interestingly, the same have not been relied upon in the show cause notices.

6. Learned Counsels for the appellants rely on the following cases in defense of their arguments.

- *Agarwal Metals & Alloys Vs Commissioner of Customs Kandla 2021 (378) ELT 155 (Tri-Ahm)*
- *Bussa Overseas Properties Ltd Vs Commissioner of Customs Mumbai 2001 (137) ELT 637 (Tri-Bom.)*
- *Chandra Impex P Ltd. Vs Commissioner of Customs New Delhi 2008 (224) ELT 583 (Tri-Del)*
- *Deepak Enterprises Vs Commissioner of Customs Kolkatta 2003 (159) ELT 851*
- *Commissioner of Customs Vs Kalsi Machinery Co P Ltd. 2015 (325) ELT 572 (P & H).*
- *Kemtech International P Ltd. Vs Commr of Customs (I & G) New Delhi 2013 (292) ELT 336 (Tri-Del)*
- *National Fruits Agency Vs Commissioner of Cus. (Exports) Chennai 2016 (337) ELT 232 (Tri-Mad).*
- *CC Vs South India Television (P) Ltd. 2001 (136) ELT 243 (Tri-Del)*
- *Shree Ganesh Steel Rolling Mills Ltd. Vs Commr. Of Customs Chennai 2015 (322) ELT 550 (Tri-Chennai)*
- *Tele Brands (India) Pvt. Ltd. Vs Commissioner of Cus (Import) Mumbai 2016 (336) ELT 97 (Tri-Mum)*
- *Truwoods P Ltd. vs Commissioner of Customs Vishakapatnam 2005 (186) ELT 135 (Tri-Del)*
- *Collector of Customs, Bombay v. East Punjab Traders, (1998) 9 SCC 115 (Supreme Court)*
- *Jain Engineering Co. v. Enforcement Directorate, 2014 SCC Online Del 1118 (Delhi High Court)*
- *Agarvanshi Aluminium Ltd., 2014 (299) ELT 83 (Tri-Mumbai) (Page 120 Para 12 of compilation)*
- *Commissioner of Customs (Imports), Mumbai v/s Ganpati Overseas 2023 (386) ELT 802(SC)*

- *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, AIR 2020 SC 4908,*
- *Omega Packwell Pvt. Ltd. V.s Pr. Commissioner of Custom, Noida 2024 (6) TMI 455- CESTAT Allahbad (Page 47- 49 Para 17)*
- *S.S Overseas v/s The Principal Commissioner 2025 (1) TMI 688 (Page 59- Para 2, 4, 16-19, 24)*
- *Mr. Anil Agarwal v/s Commissioner of Customs, Noida 2025 (7) TMI 421*
- *Mr. Anil Agarwal v/s Commissioner of Customs, Noida 2025 (7) TMI 421 (Page 83 Para 4.5 & 4.6)*
- *Caliber International V/s Commissioner of Customs, Nhava Sheva-I (CESTAT- Mumbai)*

Revenue submissions

M/s Findoc Impex

7. Shri Naman Jain, Senior Standing Counsel, Learned Authorised Representative for the Revenue reiterates the findings of the impugned orders and submits that the plea of limitation raised by the Appellant is not tenable; the Show Cause Notice dated 30.06.2021 falls within the period, 15.03.2020 till 28.02.2022, excluded by the orders passed by the Hon'ble Supreme Court; appellant's reliance upon CBIC Circular No. 157/13/2021-GST dated 20.07.2021 is misconceived; in any event, the present case being one of willful misstatement, suppression and fraud, the extended period under Section 28(4) of the Customs Act, 1962 is invocable. He submits that reliance on G.S. Chatha Rice Mills, 2020 (374) ELT 289 (SC), for classification, is wholly misplaced; the issue before the Hon'ble Supreme Court pertained to the point of time at which a Bill of Entry could be treated as filed and not about classification.

8. Learned Authorised Representative submits that the objection on the authenticity and admissibility of the Transshipment Import

Declaration documents obtained from the Federal Customs Authority, UAE, is entirely meritless; the records shows that the documents were procured through official channels from the customs authority of a sovereign foreign jurisdiction under a covering letter; such documents cannot be equated with unauthenticated photocopies obtained from private parties; commissioner correctly relied on Chandra Impex Pvt Ltd 2008 (224) ELT 583 (Tri.-Del.); the cases, of Bussa Overseas & Properties Pvt Ltd 2001 (137) ELT 637 (Tri. - Mumbai) (affirmed in 2007 (216) ELT A659 (S.C.) and East Punjab Traders, 1997 (89) ELT 11 (S.C.), relied upon by the appellant dealt with documents obtained from private or un-authenticated sources and hence are distinguishable.

9. Learned Authorised Representative submits also that the submission on discrepancy is likewise misconceived; the Transshipment Export Reference Documents bear seal numbers which correspond exactly with those appearing on the Bills of Lading filed before Indian Customs; the matching constitutes a vital and clinching evidence linking the goods imported into India with the cargo earlier transshipped from Karachi, Pakistan. He submits that the claim that SIIB clearance exonerated the Appellant is unsustainable; SIIB inquiry was limited to the documents furnished; thorough investigation by DRI and the overseas inquiry, revealed the true position; it is settled law that fraud vitiates all acts and proceedings; clearance procured on the basis of false or manipulated documents does not legalise the transaction as held in S.P. Chengalvaraya Naidu v. Jagannath (1994) 1 SCC 1. He submits that the adjudicating authority rightly relied upon Chandra **Impex Pvt. Ltd. v.**

Commissioner of Customs, New Delhi, 2008 (224) ELT 583 (Tri. -Del.)

10. Learned Authorised Representative submits in addition the Appellant's plea of "substantial compliance" with Clause 10(2) of the Plant Quarantine (Regulation of Import into India) Order, 2003 is contrary to the plain language of the provision; where the country of origin and the country of re-export are different, the production of the phytosanitary certificate for re-export along with an attested copy of the phytosanitary certificate from the country of origin is mandatory; Appellant's partner admitted that the certified copy of the phytosanitary certificate from the declared country of origin, Saudi Arabia, was not available.

11. Learned Authorised Representative submits further that the submission that goods, once cleared for home consumption, cease to be "imported goods" and cannot thereafter be confiscated, is also inapplicable; provisions of confiscation, under Section 111, are attracted by the act of improper importation; power to impose redemption fine under Section 125 does not depend on physical availability of the goods as held in Visteon Automotive Systems India Ltd 2018 (9) GSTL 142 (Mad.). he also relies on **V.K. Mohammad Ali v. Commissioner of Customs, Cochin, 2019 (369) ELT 1538 (Tri. -Bang.).** He also submits that issuance of two Show Cause Notices issued in relation to Bill of Entry No. 6596563 dated 23.01.2020 does not suffer from any legal infirmity; one was for confiscation and the other was for recovery of duty evaded; both were adjudicated together by a common order. The notices thus

operated in different though related fields and the objection raised by the Appellant is merely technical.

12. Learned Authorised Representative submits that absolute confiscation of 59.650 MTs is fully justified; these are food articles are imported in violation of plant quarantine requirements and on the basis of a false declaration of country of origin; the adjudicating authority was fully justified in treating the goods as prohibited for the purpose of Section 125; the discretion exercised is neither arbitrary nor excessive, but is rooted in the concerns of bio-security, public health and deliberate customs fraud. He submits that penalties, under Sections 112(a)(i), 114A and 114AA , have been correctly invoked; the material on record establishes deliberate misdeclaration of the country of origin, use of false documents and suppression of material particulars with intent to evade duty; Penalty under Section 114A necessarily follows once duty is found recoverable under Section 28(4); as the Appellant knowingly used declarations and documents false in material particulars, penalty under Section 114AA is leviable. The Appellant's reliance on **G.S. Chatha Rice Mills, 2020 (374) E.L.T. 289 (S.C.)** is also misconceived; the case relates to the applicability of enhanced duty where the Bill of Entry had been filed prior to the issuance of the relevant notification.

13. He submits that penalty was rightly imposed on Shri Vaneet Gupta, for his active role in managing the day-to-day affairs, customs documentation and import operations which were admitted and duly proved. The reliance placed on **Jairath International v. Union of India, 2019 (370) E.L.T. 116 (P&H)** is misplaced.

M/s TRB International

14. Learned Authorised Representative reiterates the findings of impugned Order-in-Original dated 07.05.2024, submits that the submissions made on legal points, in case of M/s Findoc as above, are equally applicable to this case and submits that commissioner has correctly confirmed customs duty of Rs. 9,22,53,588; held that goods are liable to confiscation and imposed penalties under Sections 114A, 114AA and 112(a)(i) of the Customs Act, 1962. He submits further that

- The case of the Revenue is not founded upon any isolated or stray document; matching of the particulars across these records leave no manner of doubt that the goods originated in Karachi, Pakistan, were transshipped through Jebel Ali, Dubai, and were thereafter presented to Indian Customs on the false declaration that the country of origin was Saudi Arabia. the documents in question are not private papers of doubtful origin; they are official customs declarations obtained from a statutory authority of a foreign sovereign country; the appellant failed to produce any material to discredit the authenticity of the documents;
- The contention regarding minor discrepancy in the number of digits in certain container numbers is a wholly peripheral objection raised in an attempt to deflect from the substantive material on record. When the transshipment reference particulars, Bills of Lading, seal numbers, consignee details, shipment pattern and quantity particulars all match, a minor numerical variation cannot destroy the continuity of the evidentiary chain.

- seal numbers appearing in the transshipment documents correspond to those reflected in the Bills of Lading filed before Indian Customs; the consignee is the Appellant; the quantities tally; the routing pattern is consistent; and the entire trail points unerringly to Karachi as the place from where the goods commenced their journey.
- emails recovered during search proceedings, from the premises of M/s Today Logistics, the Customs Broker of the Appellant, and M/s Today Global Forwarders (India), functioning from the same address, corroborate to establish knowledge, participation and intent behind the routing of consignments from Karachi via Jebel Ali;
- Invoking principles relating to inadmissibility of electronic evidence under Section 138C of the Customs Act and Section 65B of the Evidence Act is untenable; the transshipment declarations relied upon herein are not in the nature of printouts taken from a device seized from the Appellant or any private third party in India; reliance on Agarvanshi Aluminum Ltd 2014 (299) ELT 83 (Tri.-Mumbai) and Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1 is of no avail as facts are different. It was held in D. Bhoormull, (1974) 2 SCC 544: 1974 AIR 859, that the Department is not required to prove its case with the precision of a criminal trial and that adjudicatory findings can validly rest on circumstances and reasonable inferences drawn therefrom. Appellant's submission that country of origin cannot be inferred from

transshipment declarations is not valid in the absence of a Phytosanitary Certificate from Saudi Arabia;

- The argument that corresponding transshipment documents were not received for some consignments is of no help to the appellant as the investigation could show the trail in majority of consignments;
- invocation of Rule 6 of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 is inappropriate as this is not a case of verification of a preferential certificate under a trade agreement;
- extended period has been rightly invoked; the Appellant falsely declared Saudi Arabia as the country of origin, furnished undertakings to obtain relaxation from mandatory phytosanitary requirements, and in certain instances even bypassed the full plant quarantine process; these acts constitute willful misstatement, suppression of material facts, and deliberate evasion squarely attracting Section 28(4); the plea that the original assessment had attained finality is misconceived; ITC Ltd (2019) 17 SCC 46 is not applicable; it was held, in Venus Enterprises 2006 (199) ELT 405 (Mad.) [affirmed 2007 (209) ELT A61 (S.C.), that, subsequent investigation can validly lead to proceedings under Section 28.
- plea for relinquishment under Section 23(2) is not acceptable; proviso thereto, prohibits relinquishment where an offence appears to have been committed.

15. Heard both sides and perused the records of the case. The brief issue involved in the case is whether the Customs could establish the allegation that the appellants mis-declared the origin of imported dry dates to be Saudi Arabia whereas, the consignments were from Pakistan. The main defense of the appellants is that

- The entire case rests upon alleged overseas enquiry from Federal Customs Authority, UAE; however, no primary document evidencing such enquiry, nor the mode of enquiry, has been placed on record or supplied to the Appellant; documents alleged to have been obtained from Overseas Enquiry, do not indicate that the same have been filed at DUBAI; the documents do not bear any marking of UAE Customs; the documents have not been certified by the Customs Office Overseas; documents do not bear signatures of any of the Officer of Federal Customs Authority UAE; the documents allegedly obtained from Federal Customs, Dubai are unsigned, unstamped from undisclosed sources and hence, are bot reliable.
- documents on the basis of which it was concluded that goods are of Pakistan origin mention that the goods were for transit to Iran; though the Container Numbers declared to Customs Dubai tally, no seal numbers are mentioned; seal Numbers as mentioned in documents claimed to have been filed in Dubai are different from one found on documents in India;
- Request for supply of the copies of the correspondence, vide which data was received through overseas customs enquiry, was not acceded to; copy of the statement of the

representative of Shipping Company also not supplied though relied upon.

- in the absence of proper authentication of documents obtained from outside India, the same cannot be relied upon as substantive evidence; no presumption under Section 138 of the Customs Act; presumption cannot be raised as the documents do not bear signatures or authentication of the executing or attesting authority; their authenticity becomes suspect.
- The transshipment declarations and screenshots said to have been obtained from UAE Customs, are nothing but images/computer screen shots, outputs; they don't indicate any source except being marked "Agent Office" in the document column; not even at one instance the container numbers match with container numbers mentioned in bills of lading and other documents;
- no certificate or compliance with section 138C of the Customs Act and Section 65B of the Indian Evidence Act, 1872 has been produced to make these electronic records admissible; the Appellant was never confronted with these documents during investigation.
- Burden of proof regarding country of origin to be from Pakistan is not discharged; mandatory procedure laid down in Rule 6 of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 for verification of Certificate of Origin, was not followed.

- adjudicating authority has referred to alleged email correspondence between Today Global Forwarders (India) and Dubai-based freight forwarders discussing "rate requests" for consignments from Karachi via Jebel Ali and issues of Phytosanitary and origin certificates; these alleged emails were, at best, recovered from a third party; the said emails were not sent by the Appellant; supplier in the present case is different and period is also different; therefore, no inference can be drawn from said alleged emails; interestingly, the same have not been relied upon in the show cause notices.

16. Further, during the course of hearing, learned counsels for the appellants submitted and demonstrated, showing the copies of the documents relied upon, that the so-called transshipment documents appear to have been down loaded from or screen shots obtained from dpwdt.dubaitrade.ae/ Export; The Container Nos provided therein, in the documents showing transshipment from Pakistan to Iran do not match with the Container Nos given in bills of lading meant for the impugned import; Whereas, the container numbers usually have 11 digits, the numbers mentioned in the transshipment documents have only 10 numbers in respect of all the bills of entry, but, the Bill of Lading for import into India provide 11 digit Container numbers; further, the Bill of Entry Filed at Dubai Customs, do not mention Seal Nos. They submit further that these documents do not contain any endorsement/stamp/seal of Customs Dubai; thus, the authenticity of the documents is in question; copy of the forwarding letter claimed to have been sent by COIN Dubai, was also not supplied to the appellants.

17. We find that the argument of the learned commissioner, in the impugned orders is that the appellant failed to produce any material to discredit the authenticity of the documents; when the transshipment reference particulars, Bills of Lading, seal numbers, consignee details, shipment pattern and quantity particulars all match, a minor numerical variation cannot destroy the continuity of the evidentiary chain; emails recovered during search proceedings, from the premises of M/s Today Logistics, the Customs Broker of the Appellant, and M/s Today Global Forwarders (India), functioning from the same address, corroborate to establish knowledge, participation and intent behind the routing of consignments from Karachi via Jebel Ali; the argument that corresponding transshipment documents were not received for some consignments is of no help to the appellant as the investigation could show the trail in majority of consignments.

18. We are afraid that the logic given in the impugned order is not correct. It is not for the appellant to disprove the allegations of the department. It is for the revenue to prove all the allegations with reasonable proof. The appellants have a right to question the authenticity of the documents relied upon and the manner in which they have been obtained and transmitted. The fact that the documents are not authenticated by the Customs authorities in Dubai is not disputed. Under the circumstances, it is incumbent upon the revenue to prove the authenticity and veracity of the documents. It is also important to note that the said documents, if obtained from a computer, should have been done so following the procedure prescribed under the provisions of Section 138/139 of the Customs

Act,1962. It is not the case of the department that the same are followed.

19. We find that the evidentiary value of intelligence inputs, sent by Customs officers posted outside India, remain heavily scrutinized as per the jurisprudence evolved in the field of Indian customs taxation. The legal status of COIN reports and information forwarded by foreign authorities have been evaluated in multiple cases. CESTAT, New Delhi, in the case of M/s Shubhlaxmi Textile & Suraj Mahendra Kumar Desai [2019 (2) TMI 1572 CESTAT New Delhi], examined the evidentiary value of a report obtained from the Customs Overseas Intelligence Network, regarding export data supplied by Chinese Customs Officials. The tribunal observed that "*the report received from the COIN would have been the starting point of the investigation but not the conclusive proof regarding the alleged mis-declaration*". It was further held that mere simple reliance on those letters without giving the opportunity of cross-examination of the concerned officers who compiled the report would be in complete defiance of principles of natural justice and the provisions of Section 138B of the Customs Act. The tribunal ruled that unauthenticated copies of declarations are not conclusive, noting that there could be various reasons for declaring a higher value to foreign customs, which may itself be a cause of inquiry by the concerned foreign authority, and that revenue is not permitted to re-agitate the issue of classification and mis-declaration of the value based on such a report.

20. We also find that the information forwarded by foreign customs authorities has been evaluated by Indian Courts by setting strict

procedural safeguards before they can be admitted into evidence. In the case of South India Television (P) Ltd [2007 (7) TMI 9 Supreme Court], Hon'ble Supreme Court observed that the revenue cannot sustain an enhancement of assessable value solely by placing reliance on uncertified photocopies of export declarations obtained from foreign custom jurisdictions. The Apex Court held that casting suspicion on the invoice produced by the importer is not sufficient to reject it as evidence of the value of imported goods, mandating that if the department relies on a declaration made in the exporting country, it has to show how such a declaration was procured. The court clarified that before rejecting the invoice price, the department must find out whether there are any imports of identical goods or similar goods at a higher price at around the same time, and if the charge of under-valuation cannot be supported either by evidence or information about comparable imports, the benefit of doubt must go to the importer.

21. Hon'ble Supreme Court reinforced this strict evidentiary requirement in M/s Ganpati Overseas [2023 (10) TMI 364 Supreme Court]. In this case, the revenue attempted to load the transaction value of imported electronic components by using unattested photocopies of initial export declarations procured from the Hong Kong Customs and Excise Department. The supreme court upheld the tribunal's finding that the price shown in the initial export declarations could not form the basis for enhancing the value of the goods because those declarations were unattested photocopies. The court noted that unattested photocopies used as the principal evidence, without proof or ownership, lack probative force, especially where the

exporter itself amended its declarations and the competent foreign authority accepted the amended declarations. Similar principles were applied in V.K. Impex [2002 (141) E.L.T. 564 (Tri. -Kolkata)], and Ajay Exports & Ors [2016 (2) TMI 8 - CESTAT MUMBAI], where tribunal observed that photocopies of such unsigned documents cannot be held to be proper evidence, and their authenticity is suspected when neither the originals have been produced nor the signatures of the officers making enquiries are appearing on the photocopies.

22. While uncorroborated intelligence inputs are disregarded, courts have taken a different approach when the information supplied by foreign authorities is the direct outcome of a formal, document-linked investigation. In Konia Trading Co [2006 (1) TMI 387 CESTAT New Delhi], the custom authorities received information which was on the basis of a formal investigation conducted by the custom authorities at Hong Kong. The tribunal noted that the foreign customs department verified the specific invoices, and distinguished this from cases relying on mere photocopies, stating that the contents of the official letter showed that the actual price of the goods was other than what was mentioned in the invoices produced by the appellant. The legal distinction between general raw intelligence and specific, verified investigative reports is also demonstrated in Mahalaxmi International Exports [2004 (3) TMI 164 CESTAT, New Delhi]. In this matter, the tribunal accepted the evidentiary value of an official report from the Hong Kong Customs. The tribunal observed that the foreign authority had conducted a detailed inquiry into the depth of the transaction, reporting that the foreign supplier issued false invoices for customs

clearance purposes and genuine invoices for the collection of payments. The tribunal was convinced that the values reported by the foreign customs authorities constituted the correct transaction values of the goods under import, and therefore was reliable evidence to justify the rejection of the declared value, even in the absence of live goods. In Craft Studio [2003 (7) TMI 239 – CESTAT New Delhi], the customs authorities enhanced the value of imported goods based on enquiries made with the Hong Kong Customs Department. The tribunal noted that the investigations by the foreign authorities clearly brought out the modus operandi adopted by the appellant and its supplier to un-declare the price in invoices for evasion of customs duty.

23. Thus, we find that whether COIN /foreign intelligence reports can be used as reliable evidence depends entirely on the strength of their facts and how well they are corroborated. Courts and tribunals follow the principle that raw, unverified intelligence or unauthenticated photocopies are not enough to reject a declared transaction value. Without solid supporting evidence, these reports are treated merely as a starting point for an investigation, not as final proof of a violation. However, when foreign authorities provide a specific, verified investigative report, backed by strong, independent facts and completely corroborated, the evidence becomes reliable and admissible. In the instant case, we find that the documents are not authenticated. We are not able to appreciate that the photo copies forwarded by the officer posted in Dubai be treated as Gospel truth as is attempted by the learned Commissioner.

24. We find that the adjudicating authority decides the issue on three major points. He refers to Plant Quarantine (Regulation of Import into India) Order, 2003 and finds that both the conditions that (i). where the country of origin and export is the same, Original Phytosanitary Certificate issued by the authorized officer at country of origin is required and where the country of origin and the Country of Export (re-export) are different, Phytosanitary Certificate for re-export issued by the country of re-export along with attested copy of phytosanitary certificate from country of origin is required, are not complied with. He also finds that the plea of time bar is not acceptable in view of the extension, given by Hon'ble Supreme Court in a *suo moto* petition, due to Covid Pandemic. On the merits of the case, we find that the impugned order gives similar findings in both the cases. We extract the findings in the case of Findoc, which are as follows.

> *23. I find that investigations have discussed in detail the results/outcome of the investigation/overseas inquiry. The same is summarised by me here-in-under:*
>
> *(A) From the above Transshipment Bill of Entry (Image 1 in Para 5.2 of the show cause notice), it is forthcoming and evident that the dry dates were shipped from Karachi, Pakistan in the vessel Coral Star with final destination 'India' and the Exit Port being 'Jebel Ali'*
>
> *i. As per the House Bill No. 0589106507A, the quantity declared is 3120 bags having weight 156312 Kgs.*
>
> *iii. The said vessel arrived at the Jebel Ali port on 13.12.2019 from Karachi and upon arrival at the Jebel Ali port, the Transshipment Bill of Entry was filed by the Shipping Agent M/s. Manchester Shipping LLC. Further, against goods details, description 'Dried Dates' is given and Country of Origin is 'Pakistan'. iv From Images-2 to 7 supra, against the Transshipment Bill of Entry, the Transshipment Export reference documents bearing no. ST 126979, ST 126977.*

ST_126976, ST_127082, ST 126980, ST 127081all dated 31.12.2019 covering containers No. GESU679555, GESU560474, CAXU929497, CAXU913315. CAIU810320, BLJU425084 sealed with Seal No. MP0244320, MP0238305, MPO241222, MPO248405, MP0238137 & MP0241324 respectively, it is evident that these were filed for the dry dates shipped to India.

The Bill of Lading No. JEA/LUH/19/23165 dated 3.1.2020 was thereafter filled by M/s. Avana Global FZE from the said Bill of Lading it is evident that 3120 bags of dry dates having gross weight 1,56,312 Kgs, stuffed in containers No. BLJU4250840, CAIU8103202, CAXU9133158, CAXU9294975, GESU5607449 & GESU6795552, were shipped in the vessel X PRESS GUERNSEY/ 20001 from the port of Loading Jebel All' to port of Discharge 'Mundra' with final destination Ludhiana' and the consignee as 'Findoc Impex'

Further the fact that Seal Nos, of all 06 containers in the above Bill of Lading filed before the Indian Customs are same as that declared in the corresponding Transshipment Export reference documents (related to Pakistan origin consignment of dry dates) filed before the Dubai Customs, leaves not even an iota of doubt rather corroborates that the consignment/containers/dry dates had origin of Pakistan only. Bill of Entry filed substantiates and confirms all details once again except that with an intention to evade 200% duty on dry dates originating from Karachi, the country of origin of dry dates has been intentionally declared as Saudi Arabia

25. Further, we find that the adjudicating authority finds that

27. As regards the contention of the Noticee No.1 that the there is no documentary evidence in the show cause notice to substantiate the source of procurement of overseas documents rolled upon in the show cause notice, I observe that the show cause dated 16.11.2021 clearly mentions that the Transshipment Import declarations were obtained by the DRI from Federal Customs Authority, UAE. Once, the documents are obtained under signed letter, it is not mandatory that each and every enclosed document so received as enclosure is signed. Reliance is placed on the judgment in the case of Chandra Impex Pvt. Ltd. Vs Commissioner of Customs New Delhi

26. Further, the adjudicating authority finds that:

As is evident from the above the container number and the seal number mentioned on the above document is the one which is mentioned in the bill of Lading No. JEA/LUH/19/22801 showing the Port of discharge to be MUNDRA and final destination as ICD Ludhiana. Most importantly, the transshipment Bill of Entry mentioned is 14-1-3-02827315. This transshipment Bill of Entry mentions the Country of Origin to be 'Pakistan'. Thus, what is explicit from the documents read and analyzed in tandem is that the said container/consignment had Country of Origin as 'Pakistan' having transshipped at Jabel Ali for onward journey to India without change in the cargo with all the bags and quantity being the same and with the original seals appended at the port in Pakistan, intact. Though it has been mentioned under Column 'Marks Nos' it is mentioned/declared as 'Cargo Transit into IRAN', however, under the Head 'Destination' the same has been mentioned as 'India'. This clearly shows that the consignment is meant for 'India' only. I further, observe that mere mentioning the 'Cargo Transit Into IRAN' under the House Bill No. entries, is to manipulate the document so as to hoodwink the apparent tracking of the consignment and points towards the fraud which has been committed by the Noticees along with their C&F agents to create and illusion that the consignment has been stuffed Saudi Arabi when all other documents discussed by me supra point towards the unquestionable fact that the consignment has originated from 'Pakistan' only. From the Chart figuring at Table No.2 to the show cause notice dated 16.11.2021, it is evident that this modus operandi of mentioning the wrong Container numbers in the Transshipment Bill of Entry and the mention of 'CARGO TRANSIT INTO IRAN' is to commit fraud in a very planned manner to evade appropriate payment of duties of Customs. It may be pertinent to mention here that in the remaining two Transshipment Bills of Entry it is clearly mentioned 'CARGO TRANSIT INTO INDIA' Thus, this plea of the Noticees is of no use to them.

27. To sum up, we find that the learned Commissioner confirms the allegations on the basis of the arguments that:

- show cause dated 16.11.2021 clearly mentions that the Transshipment Import declarations were obtained by the DRI from Federal Customs Authority, UAE' Once, the documents are obtained under signed letter, it is not mandatory that each and every enclosed document so received as enclosure is signed; he relies on the case of Chandra Impex Pvt. Ltd. Vs Commissioner of Customs New Delhi
- All the consignments are supplied by M/s Manchester Shipping LLC, Dubai only who is not even an exporter but only a C&F agent.
- all the above consignments have been got cleared in violations of the provisions of the PQO, 2003 and are prohibited goods under the Customs Act, 1962 in terms of Section 2(33) of the Act
- fraud vitiates all proceedings and having committed fraud the appellants have lost credibility to believe their conations.
- investigations have clearly proved that container numbers and seal numbers mentioned in the Transshipment Export Reference documents are the same as have been appended on the containers received in India; seal numbers are duly mentioned on the Transshipment export release documents duly relied upon in the show cause notice; the said documents also

mention the Transshipment Bills of Entry; documents have to be read in conjunction and not in isolation.

- documents filed with Customs Ludhiana and Transshipment Export reference when read in conjunction corroborate the fact that country of origin was Pakistan.
- mandatory procedure laid down in Rule 6 of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 for verification of Certificate of Origin, was not required as the imports were not under any treaty.
- the appellant failed to produce any material to discredit the authenticity of the documents;
- When the transshipment reference particulars, Bills of Lading, seal numbers, consignee details, shipment pattern and quantity particulars all match, a minor numerical variation cannot destroy the continuity of the evidentiary chain.
- seal numbers appearing in the transshipment documents correspond to those reflected in the Bills of Lading filed before Indian Customs; the consignee is the Appellant; the quantities tally; the routing pattern is consistent; and the entire trail points unerringly to Karachi as the place from where the goods commenced their journey.
- emails recovered during search proceedings, from the premises of M/s Today Logistics, the Customs Broker of the Appellant, and M/s Today Global Forwarders (India),

functioning from the same address, corroborate to establish knowledge, participation and intent behind the routing of consignments from Karachi via Jebel Ali;

28. We find that the Tribunal has discussed the issue relating to the admissibility of evidence obtained from the Customs Overseas Intelligence Network (COIN). We find that Tribunal and Courts have been holding that unauthenticated documents cannot be relied upon and that the documents must be obtained following due procedure. Tribunal held in the case of Agarwal Metals and Alloys 2021(378) ELT 155 (Tri-Ahm)

> *11.8 In respect of report given by First Secretary (Trade), Embassy of India, Brussels is concerned we are of the view that the adjudicating authority has wrongly placed reliance on the same. We are in agreement with submission of Appellant that the invoices and supporting documents with the report has no relevance as the same were not authenticated and relates to transaction between two different parties of which the Appellant is not a party of. The department through the First Secretary (Trade), Embassy of India, Brussels had obtained a report of the Belgium Customs Authorities along with its enclosures. We note that the enclosure contains a proforma invoice dated 15-4-2003 issued by M/s. Huron Valley Europe NV on M/s. Ni-Met, New York and the document is in Dutch. It is a document of a sales transaction of a European Company selling goods to an American Company in which Appellant is not involved. The same goods has been sold to the Appellant by Ni-Met under a separate independent business transaction, hence the aforesaid report cannot be applied to present import. In any we observe that supplier i.e. M/s. Ni-met had subsequently issued a specific letter stating that the goods have been sold to the Appellant at a much lower price than the price that it was purchased and the contents of the said letter have not been disputed in the order. Hence, the aforesaid report cannot be relied upon.*

29. It was held in Chandra Impex P Ltd Vs Commissioner of Customs New Delhi 2008 (224) ELT 583 (Tri-Del) that

> *23. Before us there was a contention that the documents recorded by the Revenue had not been authenticated as per the procedure laid down under Section 3(2) of Diplomatic and Consular Officers (Oaths and Fees) Act, 1948. We have examined the provisions under this Act as appearing in the judgment of Vimal Chand (supra). It is obvious that Section 3 of this Act confers powers on Indian Diplomatic and Consular officers in foreign countries to administer any oath and do notarial act. As regards the objective of the said Act, it aims at providing "the administration of oath by diplomatic and consular officers and to prescribe the fees leviable in respect of certain officials of their duties". In our view, the said Act is just a mechanism available so that notarial act, as available through notary public in India, could also be available abroad. The availability of such mechanism cannot be made into a mandate under the Customs law. If co-relatable documents were obtained independently from foreign countries from reliable sources (such as Customs) under their covering letter duly authenticated and signed by the said authorities, we do not find anything wrong in relying upon them. Further, the provisions under the Act of 1948 especially Section 3(2) does not require every document to be attested. From the perusal of the record and the statements made during the Investigation, It appears to us that the fax messages cannot be brushed aside lightly mainly since their exchange was never contested by the appellants. The argument that the fax messages cannot be relied upon as they do not bear any signature does not, in our opinion, hold water.*

30. It was held in Deepak Enterprises Vs Commissioner of Customs Kolkata 2003 (159) ELT 851 that photocopies of documents which are unsigned and unauthenticated cannot be relied upon as evidence and no charge of under-valuation can be sustained on the basis of such evidence. The ratio of the following decisions binds us to conclude that no material exists to accept the values as proposed in the notice.

Hon'ble High Court of Punjab and Haryana held in the case of Commissioner of Customs Vs Kalsi Machinery Co P Ltd. 2015 (325) ELT 572 (P & H) that

> *The Commissioner of Customs has filed the instant appeal against the view taken by the Customs Excise and Service Tax Appellate Tribunal, New Delhi (for brevity 'the Tribunal') In its order dated 22-9-2010 [2011 (264) E.L.T. 318 (T)] (A.4) upholding the view of the Commissioner (Appeals). A perusal of the order would show that the importer-respondent had claimed that they paid only 10,000 Euros and there was no advance payment of any amount in Euros currency as mentioned in the invoice produced and relied by the Customs Department. It has been found that there was no investigation regarding the actual payment in respect of the transaction. The Tribunal has also pointed out glaring discrepancy in the document relied upon by the department. The Commissioner (Appeals) in his order has specifically mentioned that the invoice relied upon by the appellant to show the price as 19,000 Euros was not a signed invoice and could not have been relied upon. On that basis, the Commissioner (Appeals) had set aside the order-in-original passed by the adjudicating authority. In fact there was no evidence sustainable in law to Initiate proceedings against the importer-respondent. The view taken by the Commissioner (Appeals) has been accepted by the Tribunal and we find no ground to interfere in the same as these are pure findings of fact. It is thus patent that no question of law much less a substantive question of law would arise for adjudication of this Court. Accordingly, the appeal falls and the same is dismissed.*

31. It was held in CC Vs South India Television (P) Ltd. 2001 (136) ELT 243 (Tri-Del) that

> *7. After considering the submissions made from both the sides, we find that the only basis for enhancing the assessable value of the imported goods is the export declaration furnished by the importers/suppliers at Hong*

Kong. The appellants have strongly contended that it is the photocopies of the said declaration and the signature bearing on them do not reflect upon the authority of the persons signing them and as such the same cannot be made the basis for rejecting the transaction value. As against this, the Commissioner has observed that the said export declarations have been obtained through Hong Kong Customs and as such he has rejected the appellants' contention that this export declaration being only xerox copies cannot be considered as authenticated documents. We agree with the submissions of the appellants that these xerox copies of the said documents, even though procured by the Hong Kong Customs and forwarded to the Commission for India in Hong Kong which in turn has forwarded them to India; will not make them genuine documents. This was so held by the Tribunal in the case of Indian Optics Pvt. Ltd. v. Commissioner of Customs, New Delhi reported in 2000 (123) E.L.T. 1022 (Tri.) = 2000 (39) RLT 381 (CEGAT)

32. It was held in Truwoods P Ltd 2005 (186) ELT 135 (Tri-Del) that

9. The Tribunal in South India Television case has also found force in the Appellants' submission that there is a possibility of the export declaration price being on the higher in order to claim higher export incentive and in such circumstances, the transaction value has to be accepted. Shri Sanjeev Agarwal, Chief Executive of the appellant Company, has clearly deposed in his statement dated 16-5-2001 that there might be a possibility of some kind of export/Import benefits or adjustment in taxation in those countries. The Revenue also does not seem to have checked up the genuineness of the manufacturers' Invoice from the Customs/Revenue Authorities of the respective countries or from the manufacturers themselves. No basis has been mentioned in the Report received from USA for reporting that the invoice submitted by the Appellants was tampered with. The Supreme Court in the case of East Punjab Traders, supra, besides the fact of source of obtaining the document, has held that the presumption under Section 139(II) of the Customs Act cannot be raised *because the document did not bear any signature. The Court has held as under:*

"In order to raise the Presumption under the said Provision; the basic facts had to be laid. Even though they bear a serial number and stamp of Japan Customs, the fact remains that they are copies of copies and indisputably bear no signatures of the exporter, the forwarding agent, the stevedore or the Customs Officer, no signature at all or any of them."

In the present matters also, the documents are unsigned. The Revenue, after finding in Order-in-Original No. 19/2003 that the contemporaneous evidences are equally tilted on both the sides, cannot disregard the transaction value. In the case of Ramkhazana Electronic relied upon by the learned Senior Departmental Representative, the judgment of the Apex Court in East Punjab Traders regarding unsigned nature of the document was not cited before the Tribunal. In Diary Den case, the photocopies of the documents had been attested by the customs officer who signed the report of the Italian Customs whereas in the present matters the export declarations are unsigned and unattested one. In CC, Jaipur v. Indian Watch Parts Mfg., relied upon by the learned Senior Departmental Representative, the transaction value was not accepted as the manufacturer's Invoice or other documents to support value shown in import invoices were not produced and comparable import price was found to be closer to export declaration than price declared in import invoices. Similarly, in R.J.S. Studio case, the Appellants misdeclared the origin of goods and no agreement or any document was produced by them to prima facie show that the price declared by them was the one which was agreed upon on negotiation before importing the goods. In Craft Studio case, the Investigation was conducted by the Hong Kong Authorities which had clearly brought out the modus operandi adopted by the Appellant therein and its supplier and the payment of undeclared portion of the value of the goods on telegraphic transfer brought out the deliberate nature of the offence. Thus, the decisions relied upon by the learned Senior Departmental Representative are not applicable to the facts of the present matters. We, therefore, set aside all the impugned *orders and allow all the appeals with consequential relief, if any.*

32.1. Apex Court affirmed the above decision Truwoods Pvt Ltd 2016 (331) ELT 15 (S.C.)

4. It would be pertinent to observe that in support of its case, the Revenue had produced certain documents purported to have been issued by Italian customs authorities as per which the price of these very goods was shown higher by the manufacturer of these goods through whom the goods were purchased by M/s. Pargan Singapore for sale to the assessee. The assessee had challenged the admissibility of these documents in evidence on the ground that they are not authenticated. This argument has been accepted by the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as 'CESTAT'). CESTAT has found that the documents procured by the Revenue do not bear any signatures and are photocopies which are not even attested and accordingly, the assessable value could not be enhanced on the basis of such documents. In arriving at this conclusion, while doubting the genuineness of those documents, the CESTAT has kept in mind the provisions of Section 139 of the Customs Act and has relied upon various judgments of the Tribunal on this issue.

33. Further, we find that Tribunal has been consistently holding that in the absence of verification from the country of declared origin, the allegation of misdeclaration of country of origin does not survive. We find that Allahabad Bench of the tribunal, had an occasion to go into a case, having similar facts involving import of dry dates allegedly from Pakistan and mis declaring the country of origin and the issue of Phytosanitary Certificates. The Bench held in the case of M/s Shakti Traders, vide final order No. 70548-70553/2024 dated 30-8-2024, that

4.*5 Before we further take up the matter for discussion, we are constrained on plain reading of the impugned order that the same has been passed with a pre conceived mind, without application of judicial* *mind to the facts and law in the matter. Impugned order records in respect of an affidavit filed by the revenue in case of M/s Raghunath Laxminarayan Agarwal, in writ petition No 11283 M/B of 20202 challenging the seizure made (still pending in High Court) stating as follows:*

> *"5. Further enquiry regarding genuineness of the Certificate of Origin submitted by the petitioner at ICD Kanpur for clearance of is underway."*

Without waiting for the outcome of enquiry which was being made by the revenue same authority proceeds to adjudicate the case. Further no explanation has been given in respect of such enquiry. Even the show cause notices are dated 28.09.2020 and the in-counter affidavit filed on28.01.2021 certain enquiries being made in respect of "Certificate of Origin" has been mentioned. In our view either revenue was itself not sure of sufficiency of evidences or was misleading the Hon'ble High Court by way of this submission. The enquiry that we can contemplate could have been made only with the certificate of origin issuing authority UAE as per Rule 6 of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020. However, if any such enquiry was being made the outcome of the said enquiry should have been part of the impugned order, for the reason that the only case is in respect of the said Certificate of Country of origin.

34. We find that though in this case, there is no mention of any pending verification, regarding the country-of-origin certificate, the ratio is applicable to the facts of the present case as there is no mention of any verification regarding the country of origin and the certificates submitted by the appellant were rejected without causing any overseas verification or enquiry regarding the country of origin and phytosanitary certificates. Allahabad Bench held in the above case that

The Adjudicating authorities straightway rejected the Country of Origin without even taking note of the evidences in available on the record in form of Phyto Sanitary Certificate and Fumigation Certificate. If the certificate was to be rejected the same should have been done in consultation with the Certificate issuing authority. Thus, the Custom

Authorities under Custom Act, 1962, have no jurisdiction to challenge the documents issued by the Government Authorities of the other Country as has been held in the following cases:

- *Pradip Polyfils Pvt. Ltd. [2001(173) E.L.T. 3 (BOM.)]*
- *Khanna Paper Mills Ltd. [2011(273) E.L.T 149 (Trib.-Del.)]*
  S. Chandra Sekhran [2011 (132) E.L.T 751 (Trib-Chennai)]
- *Titan Medical Systems Pvt. Ltd. [2003 (151) E.L.T 254 (S.C)]*
- *Symphony International [Final Order No A/10194/2024 dated 23.01.2024}*

35. We further find that Allahabad Bench, relying on the need to follow the procedure under Rule 6 of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020, also held in the case of in case of Omega Pack well [Final Order No 70331-70336/2024 dated 07.06.2024] that

"17. On the issue of country of origin, we find that in all documents viz., invoice, country of origin certificate, phytosanitary certificate etc. country of origin of dry dates in present case was shown UAE. Slips tagged with bags of dry dates were showing country of origin of the goods UAE. No enquiry was conducted by the Department to prove that country of origin certificate duly issued by the Competent Authority of the exporting country was fake. As per the country-of-origin certificate, the same was issued by Ajman Chamber of commerce after verification of goods. At Sl.No.12 of the certificate, it has been certified by the Competent Authority of Ajman Chamber of Commerce, UAE that evidences produced before them satisfy that the said goods originate in the country shown in the certificate which is UAE in the present case. 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. We further notice that phytosanitary certificate which was issued by National Plant Protection Organization of exporting country also indicates country of origin UAE. No evidence was brought out to infer that country of origin shown in the said phytosanitary certificate was incorrect. Bags of dry dates were found, during physical verification, carrying slips on

which country of origin was mentioned as UAE. Mere suspicion is not enough to discard aforesaid documents.

36. We find that principal Bench of the Tribunal followed the ratio of the above case in the case of S.S. Overseas 2025 (1) TMI 688 - CESTAT NEW DELHI. We find that the evidence produced therein is identical to the evidence produced in the impugned case. Principal Bench,

21. After reproducing rule 6 of the 2020 Valuation Rules, the Tribunal observed that since the procedure contemplated under the said rule had not been followed to verify the correctness of the certificate of origin, it would have to be held that the goods were of UAE origin. The relevant observations are as follows

"Nothing has been placed on record by which it can be said any verification request has been made by the custom authorities with concerned authorities in UAE 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 of UAE origin. We find that in the case of Challissari Kirana Merchant (supra), 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."*

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.

In view of the above settled legal position, we hold that goods, in question, were of UAE origin and confiscation of goods on the ground of mis- declaration of country of origin is not sustainable."

37. In all the cases cited above, particularly with reference to the import of dry dates tribunal has been consistently holding that a conclusion on the country of origin cannot be arrived at without causing an enquiry on the authenticity or otherwise of the certificate issued. In the instant case, the genuineness of the certificate was not enquired from the issuing country. Therefore, the allegation that the country of origin of the impugned goods is Pakistan is not established conclusively. The reports obtained from the customs officer posted in Dubai, may have at best raised a suspicion as to the veracity of the declarations submitted. However, the same cannot be concluded without a verification of country of origin in an authentic manner. Further, as per the discussion as above, when doubts have been raised on the authenticity of the documents, as the documents are

neither authenticated by the overseas customs authority nor do they bear stamps and seals of such authorities, the evidentiary value of such documents is lost. We also take note of the fact that the manner of obtaining/procuring such documents is also not explained satisfactorily.

38. In view of the above, we find that whether COIN /foreign intelligence reports can be used as reliable evidence depends entirely on the strength of their facts and how well they are corroborated. Courts and tribunals follow the principle that raw, unverified intelligence or unauthenticated photocopies are not enough to reject a declared transaction value. Without solid supporting evidence, these reports are treated merely as a starting point for an investigation, not as final proof of a violation. However, when foreign authorities provide a specific, verified investigative report, backed by strong, independent facts and completely corroborated, the evidence becomes reliable and admissible. Further, we find that that other than a print out from the website of dpwdt.dubaitrade.ae/ Export, discussed above, revenue could not produce any evidence. There too as discussed above, the authenticity, manner of procurement transmission etc. are not established. What is being passed off as strong evidence is nothing but a printout from the website of dpwdt.dubaitrade.ae/ Export which is not stamped or signed. Even the copy of letter by which the customs officer posted abroad is claimed to have sent the report was also not provided to the appellants. The financial trail to prove that the sale proceeds were sent to the Pakistani exporters or supplier, is not established. In the instant case, we find that the documents are not authenticated. We

are not able to appreciate that the photo copies forwarded by the officer posted in Dubai can be treated as evidence to establish the allegation against the appellants.

39. Coming to the issue of seizure/confiscation of goods imported by the appellants, we find that the goods imported and not cleared by the appellants were seized. Also, the goods already cleared by the Customs were proposed to be confiscated. The proposal for seizure and confiscation was on two counts, one, the alleged misdeclaration of country of origin and the absence of phytosanitary certificates in respect of the imported consignments. In view of the facts of the case and the decision of tribunal in identical cases, we are of the considered opinion that seizure/confiscation on account of misdeclaration of country of origin cannot be upheld.

40. We find that confiscation was also proposed for goods seized and goods which were imported and already cleared. We find that the impugned orders also propose to confiscate goods imported and cleared for home consumption. The appellants submit that such goods cannot be confiscated. Understandably, the goods were cleared after due examination by the officers. In some cases, the goods were cleared after due investigation by the SIIB of the Customs House. Learned Authorised Representative submits that the contention of the appellants that SIIB clearance exonerates the Appellant is equally unsustainable.; SIIB inquiry was undertaken on the basis of documents then furnished, which were themselves part of the manipulated documentary trail; the deeper investigation by DRI, coupled with the overseas inquiry, revealed the true position; fraud vitiates all acts and all proceedings founded thereon.

41. The contention of the department could be true, at least for the sake of argument, in respect of the issue of Country of Origin is considered. However, the allegation of misdeclaration was not established by credible, authentic evidence, as discussed above. However, the logic cannot be extended to the issue of Phytosanitary certificates. Having cleared the goods after due examination and after satisfying themselves as to whether the conditions which are required to be met for clearance of such goods, it is not open for the revenue to propose the confiscation of goods which have been imported and cleared by the authorities for home consumption. Moreover, such goods seize to be imported goods as per section 2(f) of the Customs Act, 1962.

42. However, it is not the same case with reference to goods which were seized for contravention of Plant & Quarantine (regulation of Import into India) Order 2003. As the phytosanitary certificates were not produced, the goods cannot be released to the appellant-importers. We are of the considered opinion that such goods are liable to be confiscated. The impugned orders require to be upheld to the extent of confiscation of seized goods. However, the redemption fine/penalty on this count needs to be imposed looking into the facts of the case, the profit margin and the detention and demurrage charges that may have to be borne by the appellants. We find that in the appeals filed by M/s Findoc Impex and M/s TRB International, penalty under Section 112 was not proposed against the appellants. Learned Commissioner, however, has imposed penalties under Section 112 which is beyond the purview of the show cause notices. To our considered opinion, the same is not permissible.

43. In view of the above, the following order is passed:

(I) Appeal No. C/60581/2023, filed by M/s FINDOC is allowed

(II) Appeal No. C/60580/20223 filed by Shri Vaneet Gupta is allowed.

(III) Appeal No. C/60272/2025, fled by TRB International Ltd is modified as follows:

(i) 1,86,411 Kg (gross Wt. 188286 kg as per BoEs) of dry dates valued at Rs. 50,89,077/- imported vide bills of entry Nos. 6924057, 6922118 & 3923771 all dated 18.02.2020 and seized on 18.03.2020 are ordered to be confiscated; however, an option to redeem the goods is given to the importer on payment of a fine in lieu of confiscation of Rs.5 Lakhs; the release of goods, however, shall be subject to submission of necessary Phytosanitary Certificate.

(ii) Other part of the impugned order relating to classification, confiscation, imposition of fine and penalties is, however, set aside.

(Order pronounced in the open court on 05/08/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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