CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60722 of 2017

[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-55-60-17-18 dated 31.05.2017 passed by the Commissioner of C. Ex. & Cus. (Appeals), Chandigarh]

Gian Castings Pvt Ltd ......**Appellant**
Grain Market, 66 KV Sub Station,
Mandi Gobindgarh, Punjab

VERSUS

Commissioner of Customs, Ludhiana ......**Respondent**
ICD GRFL, GT Road,
Sahnewal, Ludhiana, Punjab

WITH

Customs Appeal No. 60735 of 2017 (Gian Castings Pvt Ltd)
[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-55-60-17-18 dated 31.05.2017 passed by the Commissioner of C. Ex. & Cus. (Appeals), Chandigarh]

Customs Appeal No. 60736 of 2017 (Gian Castings Pvt Ltd)
[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-55-60-17-18 dated 31.05.2017 passed by the Commissioner of C. Ex. & Cus. (Appeals), Chandigarh]

Customs Appeal No. 60737 of 2017 (Gian Castings Pvt Ltd)
[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-55-60-17-18 dated 31.05.2017 passed by the Commissioner of C. Ex. & Cus. (Appeals), Chandigarh]

Customs Appeal No. 60738 of 2017 (Gian Castings Pvt Ltd)
[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-55-60-17-18 dated 31.05.2017 passed by the Commissioner of C. Ex. & Cus. (Appeals), Chandigarh]

Customs Appeal No. 60739 of 2017 (Gian Castings Pvt Ltd)
[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-55-60-17-18 dated 31.05.2017 passed by the Commissioner of C. Ex. & Cus. (Appeals), Chandigarh]

APPEARANCE:

Mr. Kamaljeet Singh, Advocate for the Appellant

Mr. Anurag Kumar and Mr. Varun Sharma, Authorized Representatives for the Respondent

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

FINAL ORDER NO. 60369-60374/2026

DATE OF HEARING: 03.02.2026
DATE OF DECISION: 26.05.2026

S. S. GARG :

These 6 appeals are directed against a common impugned order i.e. Order-in-Appeal No. CHD-EXCUS-001-APP-55-60-17-18 dated 31.05.2017 passed by the Commissioner of C. Ex. & Cus. (Appeals), Chandigarh, whereby the learned Commissioner (Appeals) has upheld the order passed by the original authority and rejected the appeals of the appellant. Since the issue involved in all the appeals is identical and there is a common impugned order vide which 6 appeals, against assessment of 6 Bills-of-Entry, have been decided by the learned Commissioner (Appeals), therefore, all 6 appeals are taken up together for discussion and decision vide this order. The details of Bills-of-Entry and differential duty are given herein below:

S. No.	Bill of Entry No. & Date	Differential duty (Rs.)
1	2042960 dt. 27.07.2015	106121
2	2069165 dt. 29.07.2015	91016
3	2042525 dt. 27.07.2015	35886
4	2017129 dt. 24.07.2015	170430
5	2052442 dt. 28.07.2015	201054
6	2043020 dt. 27.07.2015	153365

2. Briefly stated facts of the case are that the appellant had imported Light Melting Scrap Bundles and Heavy Melting Scrap ('the impugned goods') and filed the Bills-of-Entry for seeking clearance of the impugned goods imported from Singapore. The appellant self assessed the duty leviable on the impugned goods and paid duty accordingly. However, the Assessing Authority found the declared value to be significantly lower compared to the contemporaneous value available in NIBD data. A query was raised in the EDI System wherein the appellant was asked to explain the lower price of the impugned goods. The appellant did not provide any satisfactory reply to the query and rather mentioned in the EDI System that they were willing to pay the enhanced value under protest. Accordingly, the declared value of the impugned goods was re-assessed and the differential duty was recovered, and vide the Orders-in-Original, the Original Authority enhanced the declared value. Aggrieved by the said Orders-in-Original, the appellant filed appeals before the learned Commissioner (Appeals), who has dismissed the appeals of the appellant. Hence, the present appeals.

3. Heard both the parties and perused the material on record.

4. Mr. Kamaljeet Singh, the learned Counsel appears on behalf of the appellant and submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts and the law, and binding judicial precedents on identical issue. He further submits that this issue in no more *res integra* and has

been decided by this Tribunal vide **Final Order Nos. 60396-60420/2025 dated 10.03.2025** in the **appellant's own case** for the earlier period, wherein this Tribunal, after considering the various decisions of the Tribunal & the High Courts, has allowed the appeals of the appellant. He further submits that the present appeals are related to subsequent period involving the same issue, therefore, the present appeals may also be allowed on the same terms as the appellant's earlier appeals were allowed.

5. On the other hand, the learned Authorized Representative for the Revenue reiterates the findings of the impugned order.

6. After considering the submissions made by both the parties and perusal of the material on record, we find that the issue involved in the present appeals is no more *res integra* as in the **appellant's own** case for the earlier period, this Tribunal vide **Final Order Nos. 60396-60420/2025 dated 10.03.2025**, has allowed the appeals of the appellant. Here, it is pertinent to reproduce the relevant findings of the Tribunal recorded in *para 6* to *para 11* of the said Final Order:

> "**6.** We have considered the rival submissions made by both the parties and perused the material on record as well as various judgments relied upon by the both the parties as cited above.
>
> **7.** We find that the only issue to be decided in this case is whether enhancement based on NIDB data as well as based on contemporaneous import of identical goods and also based

on the guidelines issued by the Directorate of Valuation, is legally correct or not?

8. We find that in the present case, when the Bills-of-entry were assessed, the Assessing Officer sought to enhance the values which were accepted by the appellant-importer and enhanced duty was paid and the goods were cleared. But thereafter, the appellant-importer challenged the enhancement being violative of the provisions of Customs Valuation Rules/Act made thereunder.

9. Further, we find that the appellant had accepted the enhanced duty and paid the same out of compulsion to clear their goods, but accepting the same, will not debar the appellant to challenge the same by filing the appeal. There is no estoppel in law and the appellant is entitled to challenge the enhancement of assessable value by way of filing the appeal. This issue has been considered in various cases by the Tribunal/High Courts/Supreme Court.

10. Further, we find that the Hon'ble High Court of Delhi, in a bunch of appeals, has considered the identical issue in detail after considering the various judgments of the Tribunal as well as of the Supreme Court. After considering all the judgments, the Hon'ble High Court of Delhi in the case of **Niraj Silk Mills Vs. Commr of Customs (ICD) Patparganj – CUSAA 26 of 2022** along with **Hanuman Prasad & Sons Vs Commissioner of Customs – CUSAA No. 27 of 2022** vide its **order dated 27.11.2024**, has decided the issue in favour of the importer-assessee. Here, it is pertinent to reproduce the relevant paras of the judgment of the Hon'ble Delhi High Court passed on 27.11.2024, which are reproduced herein below:

> *"**58**. Before we proceed to analyse Section 17 of the Act and its application to the appeals before us, it would be pertinent to preface the discussion by acknowledging the statutory position as it exists. An*

entity intending to import goods is firstly required to self-assess the duty which would be leviable. This obliges the importer to comply with the prescriptions set out in Section 46 of the Act. As that provision stands in its present avatar, the importer of any goods is required to electronically present on the customs automated system, the BoE for the consideration of the proper officer. The BoE is to include all particulars required in terms of the provisions made in the Act and corresponding rules. In addition to the presentation of a BoE, the importer is also statutorily obliged to submit a declaration as to the truthfulness of the contents of such BoE and in support thereof produce before the proper officer the invoice and other documents relating to the imported goods as may be prescribed. In terms of sub-section (4A) of Section 46, the importer who presents a BoE is to ensure that the said document is accurate and complete in respect of the information disclosed therein, the authenticity and validity of documents filed in support thereof and the import itself being compliant with any restriction or prohibition imposed in relation to those goods by law.

***59**. Upon the proper officer being satisfied that the goods entered for home consumption are not prohibited and import duty has been paid, it would pass an order permitting clearance of those goods for home consumption. This flows from a reading of Section 47 of the Act. In terms of Sections 48 and 49, an importer is also entitled to warehouse the imported goods after the same have been unloaded at a customs station or even transhipped within 30 days therefrom. The goods can thereafter remain in the warehouse pending clearance for removal.*

***60.** Undisputedly, a self-assessed BoE which is submitted by an importer, if accepted and endorsed by the proper officer, would be deemed to have been duly assessed. This clearly flows from the manner in which the word 'assessment' has been defined in Section 2(2) of the Act and is in any case, an issue that is no longer res integra, bearing in mind the decision of the Supreme Court rendered in the matter of ITC Ltd. vs. CCE – (2019) 17 SCC 46.*

***...**……*

....

71. *On an overall consideration of the statutory scheme governing the valuation of imports and reassessment, it becomes clear that the reasonable doubt which is spoken of in Rule 12 is indelibly connected to the aspect of the valuation of imported goods and the identification of the transaction value which is spoken of in Section 14. Section 14 introduces a deeming fiction when it provides that the value of the imported goods "shall be the transaction value" and which is ordained to be the price actually paid or is payable for the goods when sold. The 2007 Rules themselves owe their genesis to the identification of transaction value and which subject is principally regulated by Section 14 of the Act.*

...*...*

......

75. *The imperative of reasons being recorded in support of the doubt with respect to declared value and the same being communicated to the importer were aspects on which due emphasis was laid by the Supreme Court in Century Metal Recycling as is evident from a reading of para 25 of the report. In fact, the Supreme Court pertinently observed that the aforenoted mandate of Rule 12(2) cannot be "ignored or waived". The statutory obligations flowing from Rule 12 in this regard were reemphasized by the Supreme Court in that decision when their Lordships observed that the same would constitute the only manner in which the proper officer could proceed to make an assessment under Rules 4 to 9. The interplay between Sections 14 and 17, and the 2007 Rules was lucidly explained by the Supreme Court in Century Metal Recycling and where the Supreme Court was faced with a somewhat similar situation of an appellant who alleged that they had been coerced and intimidated into submitting a letter of consent conceding to the assessment and valuation exercise undertaken by the customs authorities compelled by the delay being caused in the clearance of imported articles and the continued levy of demurrage, warehousing charges and other liabilities. After noticing the language in which Rule 12 stood couched, the Supreme Court in Century Metal Recycling observed that while the expression "reason to doubt" may not be akin to a "reason to believe" or a subjective satisfaction being arrived at, it* *would clearly have to be reasonable and thus the doubt formed would have to be informed by a degree of objectivity.*

***...**….*

....

***78.** The key takeaways from the decision in Century Metal Recycling would thus be the reasonable doubt being based on empirical and legally justifiable factors illustratively spelt out in Rule 12, the mandate to record reasons in support of the formation of that opinion and the mandatory requirement of communicating that material to the importer upon request.*

***...**….*

....

***84.** We find ourselves unable to construe Rule 12(2) as contemplating any concession or waiver at least in explicit terms. All that Rule 12(2) stipulates is that the proper officer would intimate to the importer the grounds for doubting the declared value at its request. It is in the aforesaid context that we would thus have to adjudge whether the CESTAT was correct in holding that the exchange of communications amounted to a waiver or abandonment not just of the right to question and assail the reassessment but to impugn it in further proceedings in accordance with the procedure prescribed under the Act.*

***85.** In our considered opinion, the perceived concession made in respect of the opinion harboured by the proper officer cannot possibly be interpreted or construed as detracting from or depriving the importer of the right to question the decision of the proper officer in accordance with law. The right to question the correctness of the decision of the proper officer, be it with respect to the formation of opinion or even on merits, is one which is protected by statute. The question, which as a sequitur, arises is whether that right itself can be said to have been abandoned.*

***...**….*

......

89. *The question of abandonment arose for consideration again before a Constitution Bench of the Supreme Court in Bhau Ram vs. Baij Nath Singh – 1961 SCC OnLine SC 292. The issue itself arose in light of the stand of the respondents that the appellants upon withdrawing the pre-emption price would be deemed to have accepted the decree and thus being deprived of the right to assail or question the same.*

...*….*

......

97. *By virtue of Section 17(5) of the Act, the proper officer stands relieved of the obligation to pass a speaking order only in cases where the importer confirms his acceptance of the reassessment in writing. However, and as was noted in the preceding parts of this decision, the different Benches of the CESTAT have consistently taken the position that letters of consent of the like submitted by the appellants in this batch cannot be viewed as a complete or abject surrender of the right to assail or question a reassessment. However, the host of past precedents rendered on this aspect have come to be overlooked and ignored by the CESTAT which has merely proceeded to toe the line taken in the Advanced Scan Support and Vikas Spinners. We have already taken note of the distinguishing features which inform the aforementioned two decisions.*

98. *Therefore, the proper officer could not be said to have been relieved of its obligation to pass a speaking order in terms of Section 17(5). The process of rejecting the declared value and reassessing the transaction value is statutorily required to be preceded by the proper officer having drawn an opinion of why the declared value was not liable to be accepted before consequently proceeding to reassess the value. While the said reassessment may not be framed in elaborate terms, it would necessarily have to be reflective of the reasons which weighed upon the respondent to form the opinion that the declared value was not liable to be accepted.*

...*…..*

100. *Insofar as the aspect of whether the enhancement or reevaluation of the 'declared value'* *can be based solely on the data available in the NIDB, in Agarwal Foundries, the Hyderabad Bench of the CESTAT had held that the customs authorities would be unjustified in enhancing the declared import values solely on the basis of NIDB data. It emphasized that transaction values cannot be rejected arbitrarily and that the authenticity of importer-issued invoices must be accepted unless discredited on the basis of cogent evidence.*

...…

…….

103. *The Chennai Bench of the Tribunal in M/s Gypsie Impex vs. Commissioner of Customs [Final Order No. 40131/2024 dated 5.2.2024] addressed the limitations besetting the usage of NIDB data as the sole basis for re-determining transaction values. It is pertinent to note that Rule 10A of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988, as analysed by the CESTAT in this decision, was similar to Rule 12 of the 2007 Rules. The CESTAT ruled in favour of the appellant, holding that NIDB data alone would be insufficient for value reassessment without corroborative evidence or contemporaneous import comparisons. This decision underscored the importance of comprehensive evidence and procedural compliance in customs disputes, cautioning against arbitrary reliance on NIDB data.*

104. *It becomes apparent from a reading of these decisions collectively that the Tribunal has consistently found that a valuation addition based solely on NIDB data would wholly unwarranted and that any such reassessment would have to be shored by independent and cogent evidence. The legal position so articulated would ensure fairness and transparency in the determination of import values. The body of precedent noticed above have in unison held that mere reliance on external data without corroborative evidence or clear justification would fail to meet the tests and principles underlying the provisions enshrined in the 1988 Rules and 2007 Rules. They correctly lay emphasis on the imperatives of a reasoned approach to customs valuation and a deviation from declared values being founded on tangible and justiciable material. A reassessment or rejection of declared value would thus have to necessarily be established as being compliant*

> *with the aforenoted requirements of pre-eminence. Relieving the respondents of this obligation would clearly lead to pernicious consequences.*
>
> ***105.*** *Accordingly, and for all the aforesaid reasons, we would answer the question framed in the affirmative and in favour of the importers. The appeals are consequently allowed and the impugned orders of the CESTAT set aside. The order of the Commissioner (Appeals) shall in consequence stand restored."*

11. In view of our discussion above and by following the ratio of the judgment of Hon'ble High Court of Delhi passed vide its **order dated 27.11.2024**, we are of the considered opinion that the impugned order is not sustainable in law, accordingly, we set aside the same and allow all 25 appeals, with consequential relief, if any, as per law."

7. By following the ratio of the said decision of the Tribunal, we are of the view that the impugned order is not sustainable in law, accordingly, we set aside the same and allow all 6 appeals, with consequential relief, if any, as per law.

(Order pronounced in the open court on 26/05/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

RA_Saifi