CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>New Delhi</u>

PRINCIPAL BENCH

CUSTOMS APPEAL NO. 50336 OF 2021

(Arising out of Order–in-Original F. No. GEN/ADJ/Comm/133/2020-Adjn-O/o Commr-Cus-Indore/3646 dated 17.12.2020 passed by Commissioner of Customs, Indore)

Elvance Overseas LLP **...Appellant**
105, H-3, Vardhman Plaza Tower,
Netaji Subhash Palace, Pitampura,
Delhi, North West - 110034

VERSUS

Commissioner of Customs, **...Respondent**
B-Zone, 3rd Floor, 12/27 & 12/28
Village Pipliakumar, Nipania,
Indore – 452010

<u>APPEARANCE:</u>

Shri Somesh Arora, Advocate for the Appellant
Shri Rakesh Kumar, Authorized Representative for the Respondent

AND

CUSTOMS APPEAL NO. 50337 OF 2021

(Arising out of Order–in-Original F. No. GEN/ADJ/JC/229/2020-Adjn-O/o Commr-Cus-Indore/3646 dated 17.12.2020 passed by Commissioner of Customs, Indore)

Sedna Impex India Pvt. Ltd. **...Appellant**
105, H-3, Vardhman Plaza Tower,
Netaji Subhash Palace, Pitampura,
Delhi, North West - 110034

Versus

Commissioner of Customs, **...Respondent**
B-Zone, 3rd Floor, 12/27 & 12/28
Village Pipliakumar, Nipania,
Indore – 452010

<u>APPEARANCE:</u>

Shri A.P. Mathur, Advocate for the Appellant
Shri Rakesh Kumar, Authorized Representative for the Respondent

<u>CORAM:</u> **HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE MR. P V SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: June 30, 2021
Date of Decision: July 16, 2021

FINAL ORDER NO. 51665-51666/2021

JUSTICE DILIP GUPTA:

Customs Appeal No. 50336 of 2021 has been filed by Elvance Overseas LLP[1] to assail the order dated 17.12.2020 passed by the Commissioner of Customs, Indore[2] by which the seized goods have been ordered to be provisionally released under section 110A of the Customs Act, 1962[3] on execution of a bond of Rs. 3,81,23,274/- and security deposit of Rs. 3,01,47,151/- .

2. **Customs Appeal No. 50337 of 2021** has been filed by Sedna Impex India Pvt. Ltd.[4] to assail the order dated 17.12.2020 by which the seized goods have been ordered to be provisionally released under section 110A of the Customs Act on execution of a bond of Rs. 1,91,07,522/- and security deposit of Rs. 1,50,96,851/- .

3. **Section 110A** of the Customs Act provides that any goods seized under section 110 of the Customs Act, may, pending the order of the adjudicating authority, be released to the owner on taking a bond from him with such security and conditions as the adjudicating authority may require.

4. **Section 110** of the Customs Act stipulates that if the proper officer has reason to believe that any goods are liable to confiscation, he may seize such goods.

5. In order to appreciate the contentions advanced by learned counsel for the appellant and the learned Authorized Representative of

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1. **Elvance**
2. **the Commissioner**
3. **the Customs Act**
4. **Sedna**

the Department, it would be necessary to state the relevant facts relating to the both the appeals.

Elvance

6. Elvance claims to be engaged inter-alia in import of various types of fabrics. It entered into a contract with M/s. Dauer International Limited London for purchase of 100% Polyester Knitted Fabric at US$0.95 per kg. Elvance filed a Bill of Entry dated 26.09.2020 through its Customs Broker and sent an e-mail to shipping agencies and ICD Pithampur on 28.09.2020 with a request for First Check examination of the Bill of Entry so as to avoid any delay in clearance. However, as the Department kept the request for First Check examination on hold, Elvance sent reminders for First Check examination and in the meantime Elvance imported two more consignments, for which two Bills of Entry, each dated 21.10.2020, were filed. These were also kept on hold by the Department. The goods were examined by Directorate of Revenue Intelligence[5] and Panchnamas dated 02.11.2020, 03.11.2020 and 04.11.2020 were prepared. The goods were then seized under section 110 of the Customs Act alleging that the goods were not as per the declaration in terms of quality as they appeared to be of higher quality than what was declared. The Department also believed that the goods were made of elastomeric yarn. The Textile Committee Laboratory in the Ministry of Textile on testing, however, did not find the goods to contain elastomeric yarn. Elvance, thereafter filed a letter dated 05.11.2020 for provisional release of the goods. A request was also made under section 49 of the Customs Act for storage of the goods in a warehouse

5. DRI

pending clearance or removable. Elvance, thereafter filed a Writ Petition before the Indore Bench of the Madhya Pradesh High Court seeking a direction for provisional release of the goods under section 110A of the Customs Act and for waiver and refund of demurrage charges already paid. The Writ Petition was disposed of by the High Court on 15.12.2020 with a direction to the respondents to decide the application filed for provisional release of goods within 10 days in accordance with law by a speaking order. The observations are as follows:

> "Mr Prasana Prasad, learned counsel appearing for respondents No. 2 and 5 has argued before this court that unless and until a report is received from Directorate of Revenue Intelligence in respect of goods seized, they are not in a position to pass an order in respect of provisional release of goods.
>
> On the other hand, learned counsel Shri Chandan Airen appearing for Directorate of Revenue Intelligence has argued before this court that they have already forwarded a report on 20-11-2020 to the Assistant Commissioner Customs, Indore Commissionerate and no further report is required to be submitted in the matter.
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> This court has carefully gone through the Circular issued on the subject and Mr Prasana Prasad has also stated in Open Court that there is no statutory provisions which is requires for a report from the Directorate or Revenue Intelligence. Mr Prasana Prasad was also not able to state out any statutory provision which provides for a report from Directorate of Revenue Intelligence. He has stated that it's a Departmental Protocol.
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> In the consideration opinion of this court, in case there is no statutory provision for obtaining a report from Directorate of Revenue Intelligence, then there is no justification in not deciding the application submitted by the petitioner for provisional release of the goods. Otherwise also, the Directorate of Revenue Intelligence as informed by learned counsel for Directorate of Revenue Intelligence has already submitted a report to respondents No. 2 and 5.
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> **Resultantly, the respondents No. 2 and 5 are directed to decide the petitioner's application for provisional release of goods, within a period of ten days, from today, in accordance with law, on merits. Respondents shall pass a speaking order without begin influenced by the order passed by this court.**
>
> With the aforesaid observation, the writ petition stands allowed alongwith other connected petition No. 1849/2020 which is arising out of the same dispute."

(emphasis supplied)

7. The Commissioner thereafter passed the order dated 17.12.2020, after making reference to DRI letter dated 17.12.2020 and paragraphs 2.1 and 2.2 of the Circular dated 16.08.2017 issued by the Government of India. The Commissioner directed for provisional release of the goods on execution of a bond and furnishing of security deposit. The relevant portion of the order is reproduced below:

> "5. Where provisional release of seized imported goods is allowed, the bond referred to in Para 2.1 shall contain an undertaking that the importer shall pay the duty, fine and/or penalty as may be adjudged by the Adjudicating Authority, subject to appellate provisions under the Act. Further, where security is furnished by way of Bank Guarantee, the Bank Guarantee should contain a clause binding the issuing bank to keep or renewed and valid till final adjudication of the case, or in the event of non-renewal of Bank Guarantee as above, the guaranteed amount be credited to the Government account by the bank on its own.
>
> 6. xxxxxxxxx
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> 7. As per para 2.1 of Circular No. 35/2017-Cus dated 16.08.2017, seized goods may be released on execution of bond for the full value of seized goods. In addition, importer has to furnish security / Bank Guarantee for an amount equivalent to sum total of duty payable, redemption fine under Section 125 of the Customs Act, 1962 and penalties that may be imposed at the time of adjudication.
>
> 8. I find that there are provision of imposition of penalties under Section 112 and 114A of the Customs Act, 1962 for such cases of import where misdeclaration has been made in the Bills of Entry. Section 112(ii) of the Customs Act, 1962 provides maximum penalty for misdeclaration of the value of dutiable goods in the Bills of Entry equivalent to 10% of duty sought to be evaded. Section 114(A) provides for penalty equal to duty sought to be evaded in such cases. Further, Section 125 provides for option to pay fine in lieu of confiscation.
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> 9. In view of the facts of the case, I find it appropriate that security amount should cover full duty leviable on the subject goods, 10% of differential duty towards penalty which may be imposed under Section 112 of the Customs Act, 1962, 100% of differential duty towards penalty which may be imposed under Section 114A of the Customs Act, 1962 and 20% of value of goods towards redemption fine under Section 125 of the Customs Act, 1962.
>
> 10. In view of the above, the amount of bond and security deposit is worked out as under:
>
> Value of Bond - Rs. 3,81,23,274/-
> Amount Security deposit- Rs. 3,01,47,151/-
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> 11. Accordingly, the subject seized goods imported under Bill of Entry No. 8913720 dated 23.09.2020 (new Bill of Entry No. 9344504 dated 27.10.2020), Bill of Entry No. 9261058 dated 21.10.2020 & Bill of Entry No. 9261178 dated 21.10.2020 Bill are of ordered to be provisionally released on

> execution of a Bond for the value of Rs. 3,81,23,27/- and furnishing of Security deposit of Rs. 3,01,47,151/-”

8. It is this order dated 17.12.2020 that has been assailed in the appeal filed by Elvance.

Sedna

9. Sedna also entered into a contract with M/s. Dauer International Limited London, for import of 100% Polyester Knitted Fabric at US$0.95 per kg. It filed a Bill of Entry dated 23.09.2020 and the proper officer passed an order dated 23.09.2020 for examination of the goods. Sedna assessed the duty and paid the duties. While the goods were pending ‘out of charge order’, the Department started search and seizure and re-examination of the goods on 28.09.2020 and 29.09.2021. Panchnamas dated 25.09.2020, 28.09.2020 and 29.09.2020 were also prepared.

10. Sedna filed a letter dated 04.11.2020 for provisional release of the goods and also made a prayer for sending the goods to warehouse under section 49 of the Customs Act. Sedna and Elvance filed a Writ Petition before the Indore Bench of the Madhya Pradesh High Court for provisional release of goods and, as noticed above, both the Writ Petitions were allowed by judgment and order dated 17.12.2020 with a direction to the respondent to take a decision on the applications. Thereafter, the Commissioner passed the order dated 17.12.2020 for provisional release of the goods on execution of a bond and furnishing of security.

11. Shri Somesh Arora learned counsel made submissions on behalf of Elvance and Shri A.P. Mathur learned counsel made submissions on

behalf of Sedna. Shri Rakesh Kumar learned Authorized Representative made submissions on behalf of the Department.

12. The submissions advanced by the learned counsel for Elvance and Sedna are:

i) The conditions imposed for provisional release of the goods are arbitrary and unreasonable and infact harsh conditions have been imposed for provisional release of the goods by submission of a bond to cover the full value of the seized goods with Security deposit for the full differential duty plus 20% of the value of goods towards redemption fine under section 125 of Customs Act plus 10% of differential duty towards penalty under section 112 of the Customs Act plus 100% of differential duty towards penalty under section 114A of the Customs Act;

ii) The Circular dated 16.08.2017, on which reliance has been placed in the impugned orders, only provides guidelines for bond and security deposit for provisional release of the goods. Paragraph 2.3 of the Circular specifically provides that the competent authority, depending on the specific nature of the case, may for reasons to be recorded in writing, increase or decrease the amount of security deposit. This Circular has also been commented upon by the Tribunal in **Sedna Impex India Pvt Ltd** vs. **Commissioner of Customs, Faridabad**[6];

iii) There is no basis for rejection of the transaction value determined on the basis of sales contract.;

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6. 2017(347) E.L.T. 314 (Tri. – Chan.)

iv) Similar goods were allowed to be imported by other importers at much lower value even after enhancement of the value by the Customs authorities, but in the present case, the value has been enhanced to US$2.83 per kg;

v) There is no justification for the Commissioner to include 100% of differential duty towards penalty under 114A of the Customs Act;

vi) Value of US$2.83 per kg has been arrived at on the basis of a letter dated 17.12.2020, but as copy of the said letter was not provided to Elvance or Sedna, they could not offer any comments to dispute the amount;

vii) The differential duty has been wrongly calculated without considering the benefit of the Notification dated 30.06.2018 that was available to the appellant. This will, in turn, effect the bond amount and the security deposit amount for provisional release of the goods; and

viii) Penalty under section 112 and 114A of the Customs Act is not imposable and, therefore, the amount of security deposits deservers to be reduced.

13. Learned Authorized Representative of the Department, however, supported the impugned order and made the following submissions:

(i) The goods imported by of Sedna and Elvance were examined and on being tested at the laboratories were found to be mis-declared in description. The report suggested that the imported goods were Warp Knitted

Fabrics which was against the declaration of 100% Polyster knitted fabrics that was made;

(ii) The conditions imposed for provisional release is as per section 110A and cannot be said to be harsh; and

(iii) The Proper Officer had reasonable belief that the declared price was liable to rejected as per rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007[7] read with section 14 of the Customs Act.

14. The submissions advanced by the learned counsel for the appellant and the learned Authorized Representative of the Department have been considered.

15. The orders passed under section 110A of the Customs Act on the applications filled by the Elvance and Sedna for provisional release of the goods seized are under challenge in these two appeals. Section 110A provides that any goods seized under section 110, may, pending the order of the adjudicating authority, be released to the owner on taking a bond from him with such security and conditions as the adjudicating authority may require.

16. Discretion is, therefore, cast upon the adjudicating authority for determining the value of the bond to be taken and the security deposit as also the conditions to be imposed while passing an order for provisional release of the goods. The exercise of this discretion has to be fair and reasonable and should not be exercised on irrelevant considerations. This is what was observed by the Delhi High Court in

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7. the 2007 Valuation Rules

Mala Petrochemical & Polymers vs. **The Additional Director General, DRI & Anr.**[8]

17. In **P. Pandithurai** vs. **Joint Commissioner of Customs (adjudication), Trichy**[9]**,** the Madras High Court also observed that discretion must be exercised in a manner known to law and that an opportunity of being heard is also required to be given. The observations are as follows:

> "The adjudicating authority should be permitted to exercise their discretion in manner known to law. While exercising their discretion, they may also examine the statements made by the petitioner. Naturally, they would have to provide an opportunity to the petitioner of being heard."

18. The learned counsel of the appellants and the learned Authorized Representative of the Department have placed reliance on the Board Circular dated 16.08.2017 that provides guidelines for provisional release of the goods seized under section 110 of the Customs Act. While paragraph 2 of the said Circular provides for circumstances under which provisional release shall not be allowed, paragraphs 2.1 and 2.2 relate to execution of a bond and taking of a Bank Guarantee or Security Deposit. Paragraph 2.3 specifically provides that depending on the specific nature of the case, the competent authority may, for reasons to be recorded in writing, increase or decrease the amount of security deposit indicated in paragraph 2.2. Paragraphs 3 and 4 of the Circular remind the Authorities about the observations made by the Madras High Court and the Delhi High Court while allowing provisional release of goods. The relevant portion of the Circular is reproduced below:

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8. W.P. (C) 3965/2017 decided on 19.05.2017
9. 2020 (373) E.L.T. 451 (Mad.)

Circular Dated 16.08.2017

"Subject: Guidelines for provisional release of seized imported goods pending adjudication under Section 110A of the Customs Act, 1962 - reg.

The following guidelines are being issued for guidance of the adjudicating authorities in order to ensure uniformity and to streamline the divergent procedures being followed for grant of provisional release of imported goods which are seized under Section 110 of the Customs Act, 1962. Section 110A of the Customs Act, 1962 states that "Any goods, documents or things seized under section 110, may, pending the order of the adjudicating authority, be released to the owner on taking a bond from him in the proper form with such security and conditions as the adjudicating authority may require".

2. While provisional release of seized imported goods under Section 110A of the Customs Act, 1962 may normally be considered by the competent adjudicating authority upon a request made by the owner of the seized goods, provisional release shall not be allowed in the following cases-

i. Goods prohibited under the Customs Act, 1962 or any other Act for the time being in force;

ii. Goods that do not fulfill the statutory compliance requirements / obligations in terms of any Act, Rule, Regulation or any other law for the time being in force;

iii. Goods specified in or notified under Section 123 of the Customs Act, 1962;

iv. Where the competent authority, for reasons to be recorded in writing believes that the provisional release may not be in the public interest.

2.1. Seized imported goods shall be released provisionally by the competent authority upon request of the owner of the seized goods, subject to executing a Bond for the full value / estimated value of the seized goods.

2.2. Further, in addition to the Bond mentioned at Para 2.1. above, the competent authority shall take a Bank Guarantee or Security Deposit to cover the following:

i. the entire amount of duty/differential duty leviable on the seized goods being provisionally released;

ii. amount of fine that may be levied in lieu of confiscation under Section 125 of the Customs Act, 1962 at the time of adjudication of the case. While securing the same, the competent authority shall take into account the nature of the seized goods, the duty and charges payable on the said goods, their market price and the estimated margin of profit;

iii. amount of penalties that may be levied under the Customs Act, 1962, as applicable, at the time of adjudication of the case.

2.3. Depending on the specific nature of a case, the competent authority may, for reasons to be recorded in writing, increase or decrease the amount of security deposit as indicated above.

3. xxxxxxxxx

4. xxxxxxxxx

> 4.1. The above mentioned observation of the Hon'ble Madras High Court and Hon'ble Delhi High Court may be kept in mind while allowing provisional release of goods."

19. The Delhi High Court in **Mala Petrochemicals** drew a distinction between provisional assessment and provisional release of goods and also observed that each case has to turn on its own peculiar facts. The Madras High Court in **Malabar Diamond Gallery Pvt. Ltd.** vs. **Additional Director General, DRI Chennai & Ors.**[10], observed that sufficient discretion has to given to the adjudicating authority in passing an order for provisional release of the goods.

20. It is in the light of the aforesaid principles that the factual position relating to these two appeals has to be examined.

21. What transpires from the records is that both Elvance and Sedna had executed written contracts with M/s. Dauer International Limited, London, for purchase of 100% Polyester Knitted Fabric and the price agreed upon between the parties was US$0.95 per kg. This is the price that was also mentioned in the Bills of Entries submitted by Elvance and Sedna. The goods have been seized under section 110 of the Customs Act, as according to the authorities they appeared to be of higher quality than what was declared. The Department also believed that the goods were made of elastomeric yarn. However, the Textile Committee Laboratory in the Ministry of Textile on testing found that the goods did not contain elastomeric yarn.

22. It is only on the basis of a letter dated 17.12.2020 sent by DRI that the adjudicating authority observed that the value of the goods should be US$ 2.83 per kg. This letter dated 17.12.2020 was not even supplied to Elvance or Sedna as a result of which no comments could

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10. Writ Appeal No. 377 of 2016 decided on 28.07. 2016

be offered by them. A copy of the said letter has been provided by learned Authorized Representative of the Department. It refers to an assessment order under section 17(5) of the Customs Act relating M/s. Nova Enterprises in which the declared value in the two Bills of Entry at US$ 1.43 per kg, was rejected and re-determined at US$ 2.83 per kg in regard to a product which was stated to be similar.

23. It needs to be noticed that the goods involved in the present two appeals were valued at US$ 2.83 per kg and, therefore, the said assessment order may not have any relevance. The appellant had also pointed out to the adjudicating authority that similar goods were allowed to be imported by other importers at much lower value at US$ 1.55 per kg by the Customs Authority after enhancement of the value of the goods. There is no discussion of this fact in the impugned orders.

24. The appellants had also filed Writ Petitions before the Indore Bench of the Madhya Pradesh High Court for provisional release of the goods. These petitions were allowed on 15.12.2020 with direction to the respondents to pass a speaking order on the application filed by the appellant for provisional release of the goods. The adjudicating authority passed the order for provisional release of the seized goods on 17.12.2020 based on a DRI report of the same date. The order merely reproduces paragraphs 2.1 and 2.2 of the Circular dated 16.08.2017 and determines the value of the Bond and value of the Bank Guarantee and Security Deposit in a mechanical manner in terms of paragraphs 2.1 and 2.2 of the Circular without even examination of the facts stated by the appellants and without exercising its discretion.

25. The calculation of the amount under the two orders is as follows :

Elvance

Particulars	**Amount (in Rs.)**	**Calculation of the amount**	
Bond	3,81,23,274/-	Full value of seized goods: Rs. 3,81,23,274/-	
Security Deposit/Bank Guarantee	3,01,47,151/-	Total differential duty calculated by department	Rs.1,07,24,903/-
		20% of value of impugned goods towards redemption fine under section 125 of the Customs Act, (20% of Rs. 3,81,23,274/-)	Rs.76,24,655/-
		10% of differential duty towards penalty under section 112 of the Customs Act, (10% of Rs. 1,07,24,903/-)	Rs.10,72,490/-
		100% of differential duty towards penalty under section 114A of the Customs Act, (100% of Rs. 1,07,24,903/-)	Rs.1,07,24,903/-
		Extra amount	Rs. 200/-

Sedna

Particulars	**Amount (in Rs.)**	**Calculation of the amount**	
Bond	1,91,07,522/-	Full value of seized goods: Rs. 1,91,07,522/-	
Security Deposit/Bank Guarantee	1,50,96,851/-	Total differential duty calculated by Department	Rs.53,69,213/-
		20% of value of impugned goods towards redemption fine under section 125 of the Customs Act, (20% of Rs. 1,91,07,522/-)	Rs.38,21,504/-
		10% of differential duty towards penalty under section 112 of the Customs Act, (10% of Rs. 53,69,213/-)	Rs.5,36,921/-
		100% of differential duty towards penalty under section 114A of the Customs Act, (100% of Rs. 53,69,213/-)	Rs.53,69,213/-

26. In the instant case, the appellants had declared the transaction value of the impugned goods in the Bill of Entries at 0.95 US$ per Kg

as per the sales contract between the supplier and the appellant. It is important to note that the appellants and the supplier are not related parties. However, the transaction value declared by the appellant was sought to be re-determined by the Customs department without providing any reasons. In the impugned order, the differential duty has been calculated at the rate of US$ 2.83$ per kg solely on the basis of the DRI letter dated 17.12.2020, which has not been provided to the appellant.

27. The same goods, it has been stated by the appellants, were allowed to be imported by other importers at much lower value at US$ 1.55/kg by the Customs Authorities after enhancement of value, in comparison to the value at US$ 2.83 Per Kg enhanced for the impugned goods. Details of these imports were also brought to the notice of the Customs Authorities, but they have not been discussed.

28. While calculating the differential duty, the Commissioner has not considered the benefit of the Notification dated 30.06.2018 which benefit, the appellants claim is available to them. The relevant portion of Notification is extracted below:

Table			
S. No.	Chapter, Heading No., Sub-Heading No., or tariff item	Description of goods	Extent of tariff concession (percentage of applied rate of duty;%)
		Part A	
646.	6006 31 00 to 6006 44 00	All goods	20

29. In the present case, the appellant has stated that the impugned goods are classifiable under Customs Tariff Item 6006 3200 and, therefore, eligible for benefit of the aforesaid notification.

30. It has also been submitted that penalty under section 112 of the Customs Act is linked to confiscation under section 111 of the Customs Act. Thus, it is only where the goods are liable to confiscation under section 111 that penalty can be imposed under section 112 of the Customs Act and as there arises no case for confiscation of the goods under section 111(m) of the Customs Act no case for invoking section 112 for imposing penalty as the appellant declared the value as per the contract. It is, therefore, the submission that since the transaction value has to be accepted, differential duty is not payable and hence there is no question of any penalty to be imposed under section 114A of the Customs Act. It has also been submitted that section 114A provides that no penalty can be imposed under it as well as under section 112 of the Customs Act.

31. It will not be appropriate to determine the aforesaid submissions made on behalf of the appellants as they may have a bearing on the final decision to be taken by the adjudicating authority. However, these factors can be taken into consideration, on a prima facie basis, while exercising discretion conferred under section 110A of the Customs Act. The Madhya Pradesh High Court had earlier, by judgement an order dated 15.12.2020, allowed the Writ Petitions filed by Elvance and Sedna for provisional release of the seized goods with a direction to the authorities to pass a reasoned order in accordance with law for provisional release of the seized goods. The orders impugned in the present appeals have been passed as a consequence order passed by the Madhya Pradesh High Court. It will, therefore, not be appropriate to remand the matter to the adjudicating authority for passing a fresh order.

32. Having considered the aforesaid factors it would be appropriate to prima facie determine the value of the goods at US$ 1.5 per kg. This value ofcourse will be determined finally by the adjudicating authority in accordance with the provisions of the Customs Act and the 2007 Valuation Rules. The provisional release order is, accordingly modified, to the extent indicated below.

Elvance

(i) It shall execute a bond for Rs. 2 crores.

(ii) Furnish a bank guarantee or a cash security (as decided by the appellant) for Rs. 20 lakhs.

Sedna

(i) It shall execute a bond for Rs. 1 crore.

(ii) Furnish a bank guarantee or a cash security (as decided by the appellant) for Rs. 10 lakhs.

33. Upon execution of the bond and furnishing the bank guarantee/cash security, as directed above, the goods shall forthwith be released and not later than ten days from the date of executing the bond and furnishing security.

34. The appeals are allowed to the extent indicated above.

(Order pronounced on 16.07.2021)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P V SUBBA RAO)
MEMBER (TECHNICAL)

Shreya/JB