

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Customs Appeal No. 51857 of 2024

[Arising out of Order-in-Original No. 26-COMMR-VC-GEE TEE-ICD-PPG-2023-24 dated 17.01.2024 passed by the Commissioner of Customs, ICD, Patparganj, New Delhi]

M/s.GEE TEE TEXTILES

EC/O JATINDER SINGH (HUF),
ST-03, BHAI MANN,
OPPOSITE CHAND CINEMA,
LUDHIANA
PUNJAB 141008

..... Appellant

VERSUS

Commissioner of Customs

Inland Container Depot,
Patparganj
NEW DELHI 110096

..... Respondent

APPEARANCE:

Shri Devesh Tripathi, Advocate for the Appellant
Shri Rajesh Singh, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING: 22.01.2026
DATE OF DECISION: 26/02/2026

FINAL ORDER NO. 50297 /2026

P V SUBBA RAO

M/S. GEE TEE textiles¹ filed this appeal to assail the Order-in-Original dated 17.01.2024 passed by the Commissioner of Customs, ICD, Patparganj² in which he held that the goods imported by the appellant were classifiable under the **Customs Tariff Item³ 5903 20 90** as against **CTI 5903 90 90** (polyester plain dyed fabric laminated with TPU width 58") and **CTI 6006 32 00** (Polyester knitted bonded

1 The Appellant
2 Commissioner
3 CTI

fabric) under which the appellant had classified its goods in the Bills of Entry filed by it. He also rejected the transaction value of the goods under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007⁴ and re-determined it under Valuation Rule 9. of the Valuation Rules. Further, he held that the appellant was liable to pay Anti-dumping duty on the imported goods as per Anti-Dumping Notification no 14/2022-Customs (ADD) dated 20th May 2022. Accordingly, he confirmed demand of duty from the appellant with interest and imposed a penalty under section 114A of the Customs Act, 1962⁵.

2. Aggrieved, the appellant filed this appeal with a prayer to set aside the impugned order.

3. We have heard learned counsel for the appellant and learned authorized representative for the Revenue and perused the records. The issues which call for consideration in this appeal are as follows:

(i) Classification of the imported goods under **CTI 5903 20 90** instead of **CTI 5903 90 90** and **CTI 6006 32 00**.

(ii) Holding that the appellant was liable to pay anti-dumping duty on the imported goods;

(iii) Rejection of the transaction value under Rule 12 of the Valuation Rules and its re-determination under Rule 9 of the Valuation Rules.

(iv) Imposition of penalty of Rs. under section 114A of the Act.

Classification of the goods

4. The appellant described the imported goods in the Bills of Entry as 'Polyester plain dyed fabric laminated TPU quilted width 58" ' and

4 Valuation Rules
5 Act

classified them under **CTI 5903 90 90** and as 'Polyester knitted bonded fabric' and classified them under **CTI 6006 32 00**. The goods were detained and samples were sent to the Central Revenue Control Laboratory ⁶ who tested the samples and gave test reports. The declarations in the Bills of Entry and the test reports of the CRCL have been summarized in Table 'C' of the impugned order as follows:

Sr No.	Bill of Entry No. and Date	Description of goods	Report as reported by CRCL Lab
1	9611803 dated 18.07.2022	Polyester Knitted Printed Fabric	The sample as received is in the form of cut piece of yarn dyed self-designed knitted fabric. It is composed of blended knitted yarn of polyester and rayon (regenerated cellulose) and filament yarn of polyester along with spandex % Composition:- (by wt.) Polyester =64.60%, Viscose rayon=334.50%, Spandex=balance, Average thickness (as such): 0.08mm, GSM (as such); 357.62
2		Polyester Knitted Bonded Fabric	The sample is in the form of a cut piece of dyed fabric. It is made of two layers of fabric, bonded together. The uppermost layer is a dyed (bluish coloured) woven fabric having nappy finish made of twin yarn (spun yarn wrapped over filaments on weft side). The lower layer is dyed (black) knitted fabric made of filament yarn. It is wholly composed of polyester. % Composition: (by wt.) Polyester woven fabric 64.90%, Polyester knitted fabric =balance, GSM (as such): 257.39, Average thickness (as such) 0.67mm.
3		Polyester Plain Dyed Fabric Laminated with TPU quilted width 58"	The sample is in the form of a cut piece of (quilted) dyed textile made up article. It is made of three layer of fabric heat bonded together. The uppermost layer is dyed (ceramic) woven fabric laminated on one side with transparent film. Creamish woven fabric is composed of polyester filament yarns and transparent film is made up of thermoplastic polyurethane (TPU). White fibers made of polyester are sandwiched between the two layers of fabric. The lower layer is knitted fabric made of polyester filament yarns. Coating is visible with naked eyes. % Composition: by (wt.) Polyester woven fabric = 27.92%, Polyester knitted fabric = 21.77% Polyester fibers = 42.64% , Transparent Thermoplastic Polyurethane (TPU) film Balance., GSM (as such) = 229.5 , Average thickness (as such): 1.15mm.
4		Polyester Plain Dyed Fabric Laminated with TPU width 58"	The sample is in the form of a cut piece of dyed (pink) fabric having smooth surface on both sides and laminated on one side transparent film. The base woven fabric is

			composed of filament yarn of nylon (Polyamide) coated /laminated with polyurethane based polymeric material. Coating is visible with naked eyes. % composition: (by wt.): Nylon = 80.7% transparent polyurethane film balance, average thickness = 0.09mm GSM (as such) = 47.90
5	9611806 Dated 18.07.2022	Polyester Knitted fabric	The sample as received is in the form of cut piece of dyed self designed knitted fabric. It is composed of polyester filament yarns twisted with polyester spun yarns along with spandex yarn together with metalized polyester yarns twisted with polyester filament yarns.% composition (by wt.) Polyester filament yarns =56.49%, polyester spun yarns 2.78%, spandex yarns=2.78%, Metalized polyester yarns =balance, GSM (as such): 280.86, Average thickness (as such) : 0.97mm.
6.		Polyester Knitted Bonded Fabric	The sample is in the form of a cut piece of dyed fabric. It is made of two layers of fabric, bonded together. The uppermost layer is a dyed (greenish coloured) woven fabric having smooth surface, composed of polyester filament yarns. The lower layer, polyester dyed (black coloured) knitted fabric made of filament yarns is laminated with a transparent film made of thermoplastic polyurethane TPU one side & polyester raised fibers on the other side. Coating is not visible with naked eye. % composition:- (by wt.) Polyester woven fabric = 25.13% , Polyester knitted fabric along with raised fibre =70.09%, transparent thermoplastic Polyurethane (TPU) film balance, GSM (as such): 247.93. Average thickness (as such) = 0.85mm
7		PU coated Fabric with width 58"	The sample is in the form of cut piece of off white woven base fabric coated on one side with silvery coloured polymeric material is made of polyurethane (PU). Coating is visible with naked eyes. % composition:- Polyester fabric =58.22% Polyurethane (PU) coated polymeric material=Balance, GSM (as such): 124.25, Average thickness (as such): 0.17mm.
8		Polyester Plain Dyed Fabric Laminated with TPU quilted width 58"	The sample is in the form of a cut plece of (quilted) dyed textile made up article. It is made of three layer of fabric heat bonded together. The uppermost layer is dyed (greyish coloured) woven fabric laminated on one side with transparent film. Greyish woven fabric is composed of polyester filament yarns and transparent film is made up of thermoplastic polyurethane (TPU). White fibers made of polyester are sandwiched between the two layers of fabric. The lower layer is knitted fabric

			made of polyester filament yarns. Coating is visible with naked eyes. % Composition: by (wt.) Polyester woven fabric = 29.60% , Polyester knitted fabric = 17.24% Polyester fibers = 49.59% , Transparent Thermoplastic Polyurethane (TPU) film =Balance., GSM (as such) = 229.50, Average thickness (as such): 1.14mm,
9		Polyester Plain Dyed Fabric Laminated with TPU width 58"	The sample is in the form of a cut piece of dyed (black and off white) bonded woven fabric with embossed surface laminated on both sides. Black coloured woven fabric is composed of filament yarn of polyester laminated/coated with thermoplastic polyurethane (TPU) on one side while off white woven fabric, composed of polyester filament yarns laminated with polyurethane (PU) polymeric material on the other side. Coasting is visible with name eyes. %Composition ⊗by wt.): - Black polyester fabric =27.80%, Black TPU Film=7.91%, off white polyester fabric=38.60%, Black PU material= balance, GSM (as such)=201.80, Average thickness (as such) =0.33mm.

5. The relevant portion of the Customs Tariff is as follows:

“5903 TEXTILE FABRICS, IMPREGNATED, COATED, COVERED OR LAMINATED WITH PLASTICS, OTHER THAN THOSE OF HEADING 5902
5903 10 - With polyvinyl chloride :
5903 10 10 --- Imitation leather fabrics of cotton
5903 10 90 --- Other
5903 20 - With polyurethane :
5903 20 10 --- Imitation leather fabrics of cotton
5903 20 90 --- Other

5903 90 - Other:
5903 90 10 --- Of cotton
5903 90 20 --- Polyethylene laminated jute fabrics
5903 90 90 --- Other”

6. As can be seen, textile fabrics which have been impregnated, coated, covered or laminated with plastics fall under the four-digit Customs heading 5903. Under this heading, there are three six-digit Customs sub-headings proceeded by a single dash '-' based on the material with which the fabric has been coated impregnated or laminated. Those with PVC fall under 590310, those with PU fall under 590320 and those with any other plastic material are covered under 590390.

7. Both as per the description of the goods in the Bills of Entry and also as per CRCL's test report, the imported goods were with PU and therefore, the most appropriate six-digit sub-heading is 590320. This six-digit sub-heading is further classified into two **CTIs**. Imitation leather fabrics of cotton fall under CTI 5903 20 10 and other goods fall under **CTI 5903 20 90**. It is nobody's case that the imported goods were imitation leather fabrics. Therefore, the correct classification for the imported goods is **CTI 5903 20 90**.

8. The appellant's claim of classification under **CTI 5903 90 90** is not correct as this CTI would only fabrics coated with plastics other than PVC and PUC. Since the imported goods were with PU both according to the appellant's declaration in the Bills of Entry and according to the CRCL's test report, **CTI 5903 90 90** is not correct.

Applicability of the anti-dumping duty under notification no. 14/2022-Customs (ADD) dated 20th May 2022

9. This notification will apply to PU coated fabrics imported from China and manufactured in China. It reads as follows:

"Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as

specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8), of the said Table -

S. No.	Heading sub- heading or tariff	Description of goods	Country of origin	County of export	Producer	Amt.	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	650394 90 59032090	Polyurethane leather which includes any kind of textile coated one sides or both sided with polyurethane	China PR	Any country including China PR	Ahui Anil Material Technology Co. Ltd.	NIL	Meters	USD
2.	-do-	-do-	China PR	Any country including China PR	Any Producer other than S.N. 1	0.46	Meters	USD
3	-do-	-do-	Any country including China PR	China PR	Any	0.46	Meters	USD

10. It must be noted that while CTH 5903 includes Textile fabrics, impregnated, coated, covered or laminated with plastics, the Anti-dumping duty has been imposed only on PU Coated fabrics. As per the test reports of the CRCL, the imported goods were coated/laminated with PU. Since this expression was not clear, a clarification was sought by the department and CRCL confirmed that the goods were laminated. Relevant portion of the letter of CRCL is passed below:

Sub: Verification of sealed samples forwarded by the Customs for NOC/ Inspection report-reg.
"Ref..C.No. VIII (SB) 10/Cus.Prev/ Gr.-IV/23/2022-23 dated 01.09.2022
With reference to the subject cited above, as per standard Literature available, Coated fabric refers to any fabric which is coated, filled, impregnated or laminated with a continuous film forming polymeric composition.

However, it has been observed from the test findings of the samples under reference, the said samples of fabric are laminated.”

11. The question which arises is whether PU laminated textiles are also covered by the anti-dumping notification or only PU coated textiles are covered by the anti-dumping notification. The related question is whether lamination can also be treated as coating.

12. The well-settled principle of interpretation is that when the same word is used at different places, it should be treated as having been used in the same sense. If different words are used, they should be treated as having been used in different senses. In Customs Tariff Heading 5903, four different words have been used impregnated, coated, covered and laminated. These four words must, therefore, be understood to have different meanings. These words have not been defined in the chapter notes or elsewhere in the chapter. However, the clarification issued by the CRCL specifically indicates that the goods in dispute were laminated.

13. Anti-dumping notifications, unlike exemption notifications introduce a charge and do not reduce it and hence must be strictly interpreted and any ambiguity must be interpreted in favour of the assessee and against the Revenue. As Justice G P Singh explained, ‘There are three components of a taxing statute, viz., subject of the tax, person liable to pay the tax and the rate at which the tax is levied.’⁷ If there be any real ambiguity in respect of any of these components

7. G P Singh, Principles of Statutory Interpretation 15th Edition, pages 614-615 citing State of Kerala vs Alex George, AIR 2005 SC 1224 and Govindsaran Ganga Saran v CST AIR 1985 SC 1041

which is not removable by reasonable construction, there would be no tax in law till the defect is removed by the Legislature⁸. More recently, a five-member constitutional bench of the Supreme Court has in **Commissioner of Cus. (Import), Mumbai versus Dilip Kumar**⁹ upheld the same position with respect to the charging section of the taxing statute. The relevant portion of this judgment is reproduced below:

42. In Govind Saran Ganga Saran v. Commissioner of Sales Tax 1985 Supp (SCC) 205, this Court pointed out three components of a taxing statute, namely subject of the tax; person liable to pay tax; and the rate at which the tax is to be levied. If there is any ambiguity in understanding any of the components, no tax can be levied till the ambiguity or defect is removed by the legislature [See Mathuram Agrawal v. State of Madhya Pradesh, (1999) 8 SCC 667; Indian Banks' Association v. Devkala Consultancy Service, (2004) 4 JT 587 = AIR 2004 SC 2615; and Consumer Online Foundation v. Union of India, (2011) 5 SCC 360.].

43. There is abundant jurisprudential justification for this. In the Governance of rule of law by a written Constitution, there is no implied power of taxation. The tax power must be specifically conferred and it should be strictly in accordance with the power so endowed by the Constitution itself. It is for this reason that the Courts insist upon strict compliance before a State demands and extracts money from its citizens towards various taxes. Any ambiguity in a taxation provision, therefore, is interpreted in favour of the subject/assessee. The statement of law that ambiguity in a taxation statute should be interpreted strictly and in the event of ambiguity the benefit should go to the subject/assessee may warrant visualizing different situations. For instance, if there is ambiguity in the subject of tax, that is to say, who are the persons or things liable to pay tax, and whether the revenue has established conditions before raising and justifying a demand. Similar is the case in roping all persons within the tax net, in which event the State is to prove the liability of the persons, as may arise within the strict language of the law. There cannot be any implied concept either in identifying the subject of the tax or person liable to pay tax. That is why it is often said that subject is not to be taxed, unless the words of the statute unambiguously impose a tax on him, that one has to look merely at the words clearly stated and that there is no room for any intendment nor presumption as to tax. It is only the letter of the law and not the spirit of the law to guide the interpreter to decide the liability to tax ignoring any amount of hardship and eschewing equity in taxation. Thus, we may emphatically reiterate that if in the event of

8. Ibid, citing Mathuram Agarwal v State of Madhya Pradesh, AIR 2000SC 109, p 113; Indian Banks Association Bombay v Devkala Consultancy Service AIR 2004 SC 2615, p 2624; Commr of Central Excise Pondicherry v ACER India Ltd (2004)8 SCC 173; Consumer online Foundation v UOI (2011) 5 SCC 360 (para 26)

9. 2018 (361) E.L.T. 577 (S.C.)

ambiguity in a taxation liability statute, the benefit should go to the subject/assessee. But, in a situation where the tax exemption has to be interpreted, the benefit of doubt should go in favour of the revenue, the aforesaid conclusions are expounded only as a prelude to better understand jurisprudential basis for our conclusion. We may now consider the decisions which support our view.

(emphasis supplied)

14. The charge levied by the Anti-Dumping Notification is on PU coated fabrics. It does not explicitly cover fabrics laminated with PU and therefore, it cannot be interpreted so to charge anti-dumping duty even on fabrics laminated with PU. **The demand of anti-dumping duty in the impugned order, therefore, deserves to be set aside as there is no charge of this duty on fabrics laminated with PU.**

Rejection of transaction value under Valuation Rule 12 and its re-determination under Valuation Rule 9

15. Before examining the facts of this case, we examine the relevant legal provisions, viz., Section 14 of the Customs Act, 1962¹⁰ and Customs Valuation (Determination of Value of Imported Goods) Rules, 2007¹¹. Duties of customs are levied on goods imported into and exported from India at the rates specified in the Schedules to the Customs Tariff Act, 1975. On some goods, the levy is based on quantity (specific duty), and other goods it is based on value (ad valorem). If the duty is to be levied based on value, valuation for the purpose has to be done as per Section 14 which reads as follows:

“Section 14. Valuation of goods. -

(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, **the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the**

10 Act
11 Rules

buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided that such transaction value in the case of imported goods shall **include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges** to the extent and in the manner specified in the rules made in this behalf:

Provided further that the **rules** made in this behalf **may provide for,-**

(i) the circumstances in which the **buyer and the seller shall be deemed to be related;**

(ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or **price is not the sole consideration for the sale or in any other case;**

(iii) **the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:**

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation. - For the purposes of this section -

(a) rate of exchange" means the rate of exchange -

(i) determined by the Board, or

(ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b)"foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999)."

16. The non-obstante clause in sub-section 2 of section 14 gives the Board the power to fix tariff values for any class of goods and if fixed, the tariff value will be the value to determine the duty. This sub-section is not relevant to this case. In all other cases, the value to be reckoned for calculating the Customs duty shall be the transaction value subject to five conditions:

- a) Buyer and seller are not related.
- b) Price is for delivery at the time and place of importation, i.e., all costs up to the point of import are to be included. For instance, if the sale is on Free on Board basis, the costs of transportation to the place of import, transit insurance, etc. will have to be added.
- c) Price is the sole consideration for sale.
- d) Some amounts indicated in the first proviso to sub-section 1 of section 14 must be included.
- e) Valuation will be as per any other conditions as may be specified in the Rules.

17. Thus, the default position is that the valuation has to be done on the basis of the transaction value and not based on any fixed value. If there are a hundred transactions between the importer and the overseas seller at different prices, for each transaction, the value under section 14 shall be that transaction value. Simply because the price is higher in any particular transaction, such price cannot be applied to other transactions to determine duty. Conversely, the importer cannot claim to pay duty on a lower value than the transaction value in any consignment even if other consignments were sold to the same importer by the same overseas supplier at lower prices. Valuation has to be done for each import as per that transaction value.

18. The first proviso to sub-section 1 of section 14 provides for some additions to the transaction value which are not relevant for the present case. The second proviso to this sub-section provides for Rules to be made in this behalf to provide for:

- a) the circumstances in which **the buyer and the seller shall be deemed to be related;**
- b) the manner of determination of value in respect of goods **when there is no sale,**
- c) the manner of determination of value in respect of goods if **the buyer and the seller are related,**
- d) the manner of determination of value in respect of goods where **price is not the sole consideration for the sale;**
- e) the manner of determination of value in respect of goods in **any other case;** and
- f) the manner of **acceptance or rejection of value** declared by the importer or exporter, as the case may be, **where the proper officer has reason to doubt the truth or accuracy of such value,** and determination of value for the purposes of this section.

19. The Valuation Rules were framed as per the second proviso to sub-section 1 of section 14. It has 13 Rules in all of which Rules 1 and 2 are Preliminary rules. Rule 3 states that subject to Rule 12, the value shall be the transaction value adjusted according to Rule 10. Rule 10 provides for certain costs to be included in the transaction value. Rule 12 provides for the proper officer to reject the transaction value if he has reason to doubt its truth and accuracy. **Thus, unless the proper officer rejects the transaction value under Rule 12, the valuation has to be based on transaction value as per Rule 3 with some additions, if necessary, as per Rule 10.**

20. Rule 3 further provides that if the valuation cannot be done under that Rule, i.e., as per the transaction value with additions as per Rule 10, then **it must be done sequentially under Rules 4 to 9.** In other words, if the transaction value is rejected under Rule 12 and valuation

cannot be done as per the transaction value under Rule 3 and it must be done sequentially under Rules 4 to 9.

21. We now proceed to examine Rules 4 to 9. **Rule 4** provides for the valuation to be done on the basis of **identical goods**. **Rule 5** provides for the valuation to be done on the basis of the value of **similar goods**. Rule 6 states if Rules 4 and 5 cannot determine the value then they must be done as per Rule 7 and thereafter Rule 8 but this sequence can be reversed at the option of the importer. In other words, if the importer so chooses, Rule 8 can be applied directly instead of Rule 7. **Rule 7** provides for a **deductive method of valuation** on the basis of prices of similar or identical goods sold in India and after making some deductions from such prices. **Rule 8 provides for a computed value**, i.e., based on the cost of raw material, cost of manufacture, reasonable profit, etc. In view of Rule 6, the importer may choose the computed value without examining the feasibility of determining value through deductive methods. **Rule 9 is a residual method** which provides for determining the value where it cannot be determined under Rules 3 to 8. Rule 10, as already discussed, provides for some costs to be added to the transaction value if the valuation is done as per Rule 3. Rule 11 requires the importer to make a declaration. Rule 12 lays down the provision for rejection of transaction value. Rule 13 provides for interpretative notes for the Rules.

22. **To sum up, valuation has to be done sequentially** as follows:

- a) If a **tariff value** is fixed by the Board, it is the value (sub-section 2 of Section 14);
- b) If no tariff value is fixed by the Board, valuation is as per the **transaction value, if necessary, with some additions** (as per

the first proviso to sub-section 1 of section 14 and as per Rule 10);

- c) If the transaction value is rejected as per Rule 12 by the proper officer, valuation has to be done as per the **value of identical goods** (Rule 4);
- d) If transaction value is rejected and there is no value of identical goods, then it must be as per the **value of similar goods** (Rule 5);
- e) If transaction value is rejected and there is no value of identical goods or similar goods, value must be determined through **Deductive method** (Rule 7)
- f) If transaction value is rejected and there is no value of identical goods or similar goods and it is not possible to determine value following deductive method, then value must be determined through **computation** (Rule 8)
- g) If the importer so chooses, computational method may be adopted without examining the deductive method first (Rule 6).
- h) If the transaction value is rejected and there is no value of identical goods or similar goods and if it is also not possible to determine the value through deductive method or computational method, then value may be determined through the **residual method** by the officer following the above principles (Rule 9).

23. The next question which arises is when the proper officer can reject the transaction value. Rule 12 reads as follows:

"12. Rejection of declared value. -

(1) When the proper officer **has reason to doubt the truth or accuracy of the value declared** in relation to any imported goods, he **may ask the importer of such goods to furnish further information including documents or other evidence** and if, **after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt** about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and

provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation.-(1) For the removal of doubts, it is hereby declared that:-

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.

(iii) **The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include -**

(a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;

(b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;

(c) the sale involves special discounts limited to exclusive agents;

(d) the mis-declaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;

(e) then on declaration of parameters such as brand, grade, specifications that have relevance to value;

(f) the fraudulent or manipulated documents.”

24. Thus, if the officer has **reason to doubt** the truth and accuracy of the transaction value, he can call for information including documents and evidence. If the information and evidence is presented and after examining it or if no information or evidence as called for is presented, if the proper office has **reasonable belief** then it shall be deemed that the value cannot be determined as per Rule 3 (i.e., based on transaction value with additions, if necessary). While the officer can, in the first place call for information and evidence if he has reason to doubt, at the second stage, he should have not just some reason to doubt but a **reasonable doubt**. If he has such reasonable doubt, then

the transaction value can be rejected. The grounds on which the proper officer may raise doubts about the truth and accuracy of the transaction value have been illustrated in explanation 1 (iii) to Rule 12. The list is inclusive and not exhaustive.

24. The reasons for rejection of the transaction value in this case have been recorded in the impugned order as follows:

"26.3. Going through the above fact, I am of the opinion that the investigating officers had rightly proposed re-determination of value under CVR 2007, in view of the variation in description, thickness and coating of the impugned goods. Further, the importer had also failed to furnish supporting documents such as manufacturer's invoice to justify the transaction value of subject goods declared by them. Hence the allegation of the investigation team that imported goods were under valued by the importer seems appropriate."

25. The reason given for rejection of transaction value is that the specifications of the fabrics were different. A plain reading of the description of the goods in the Bills of Entry and the Reports of the CRCL about the nature of the goods recorded in Table C of the impugned order which we have reproduced in par 4 above would show that the Bills of Entry gave a general description of the goods and did not give any specifications. After testing, CRCL gave detailed specifications. Thus, there was no mis-match of specifications as held in the impugned order. If the assessing officer thought it necessary, he could have asked the appellant for more detailed specifications at the time of assessment. We do not find any discrepancy in the specifications. The impugned order also does not indicate what specifications, if any, were given in the Bills of Entry and how they differed from the specifications found after testing by CRCL.

26. We, therefore, find that the rejection of transaction value was not as per Valuation Rule 12. Consequently, re-determination of the value also cannot be sustained.

Imposition of penalty under section 114A

27. Section 114A provides for imposition of penalty equal to the duty sought to be evaded if the non-payment or short payment of duty is by reason of any collusion, wilful mis-statement or suppression of facts. This section reads as follows:

"Section 114A. Penalty for short-levy or non-levy of duty in certain cases. - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28 , and the interest payable thereon under section 28AA , is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA , and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect :

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation. - For the removal of doubts, it is hereby declared that -

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest ^{sub}-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person."

28. Since we have found in favour of the appellant on the question of duty both on re-determination of value and on charging of anti-dumping duty, it must be held that there was no short payment of duty, let alone, short payment by reason of collusion, wilful mis-statement or suppression of facts. **The penalty imposed under section 114A , therefore, needs to be set aside.**

29. In view of the above, the impugned order is set aside and the appeal is allowed. The appellant will be entitled to consequential relief.

[Order pronounced in the open court on **26.02.2026**]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)