CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 86347 OF 2023

[Arising out of Order-in-Appeal No: 302(Gr.V)/2023(JNCH)/Appeals dated 16th March 2023 passed by the Commissioner of Customs (Appeals), Mumbai – II.]

Siya Traders
F-11/0-3 Shantivan Society, Sector – 7, Sanpada
Navi Mumbai - 400707 … ***Appellant***

versus

Commissioner of Customs (NS-V)
Jawaharlal Nehru Custom House, Nhava Sheva
Tal: Uran - 400707 ***…Respondent***

APPEARANCE:

Shri Prashant Patankar, Consultant for the appellant
Shri LB D'Coasta, Deputy Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85162/2026

DATE OF HEARING: 19/01/2026
DATE OF DECISION: 19/01/2026

PER: C J MATHEW

M/s Siya Traders is before us with an application for implementation of order[1] of the Tribunal remanding the dispute back to

[1] [final order no. A/87315/2021 dated 16th December 2021 in customs appeal no. 87530/2019]

the original authority upon setting aside the adjudicatory findings, fastening liability of ₹4,39,940 as basic customs duty (BCD) besides anti-dumping duty (ADD) of ₹ 33,87,904 in addition to confiscation of imported 'pre-sensitized positive offset aluminium plates' valued at ₹ 48,26,024 that were offered for redemption on payment of fine subject to discharge of duty liability and penalties imposed on the appellant and proprietor under section 114A and section 112 of Customs Act, 1962, as well as affirming order of appellate authority for determination of the origin of the goods as the test, which was challenged by the appellant therein with plea for acceptance of another test result in their favour, was but to be a consequence of origin being other than Malaysia as claimed in bill of entry no. 3663814/18.10.2017.

2. The application, for directing test of the goods in pursuit of implementation of the order, has been rendered infructuous in the light of final disposal that was affirmed by order[2] of Commissioner of Customs (Appeals), Mumbai-II in challenge thereto. Accordingly, application is dismissed as infructuous. We, therefore, take up the appeal for disposal.

3. We have heard Learned Consultant for appellant and Learned Authorized Representative.

4. The order of Tribunal is unambiguously clear that

[2] [order-in-appeal no. 302(Gr.V)/2023(JNCH)/Appeals dated 16th March 2023]

'11. Anti-dumping duty is leviable on 'digital offset printing plates' within which are three sub-categories, viz., violet, thermal and CtCP. Even if the outcome of the test evidences the impugned goods to be 'CtCP', the origin of the goods – both in manufacture and of export – must be from Peoples' Republic of China for the levy to be valid in law. It has not been controverted that the goods were not procured from the exporter in Malaysia. The evidence, in the form of 'whatsapp' messages and admission in statements, does not discredit the routing through the Malaysian entity as an independent trader in the goods. To take that first step, the 'certificate of origin' must be discarded and not by reliance on any circumstantial evidence. Without determination of the authenticity and correctness of the contents of 'certificate of origin', the testing of the product is a half measure that may not conclude the proceedings except in circumstances that confirm the declaration of the importer. This should have found a place in the impugned order.

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However, mere re-testing may not culminate in conclusion of proceedings even if the test report is conclusive enough for determination of the nature of the goods. No less critical to the eligibility is the 'certificate of origin' which has also been doubted by the original authority. The first appellate authority has not returned a finding on that aspect which is not dependent on the outcome of the re-test. That lack must be made good. For that additional finding, we remand the matter back to the first appellate authority without disturbing the directions in the order impugned before us.'

5. The impugned order has held that

'12. As regards the contention of the Appellant that procedure for denial of COO certificate has not been followed as prescribed in CBIC circular, ! am of the firm view that if the Chinese Origin of the

> *goods has been clearly evident in the form of circumstantial evidence which have been admitted by the Appellant himself in his voluntary Statements recorded under Section 108 of Customs Act, 1962 which has not been retracted or denied by the Appellant, the same is not required to be further verified. When the fact is proved and admitted same need not be further verified by following the procedure in terms of COO Rules. This view is supported by the decision of Hon'ble Apex Court and various Tribunals as follows:'*

which is clearly in deviation of the direction in the remand order of the Tribunal that evidence beyond circumstantial must inform ascertainment.

6. As the origin from Malaysia has not been appropriately discountenanced, the validity of certificate of origin precludes the need for testing which was intended merely to ascertain liability to anti-dumping duty on goods imported from Peoples Republic of China, and, hence, rendering non-availability of appropriate facility to be irrelevant.

7. For the above reason, we set aside the impugned order to allow the appeal.

(Operative part of the order pronounced in open court on 19th January 2026)

(AJAY SHARMA)	**(C J MATHEW)**
Member (Judicial)	***Member (Technical)***

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