CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH- COURT NO. I

CUSTOMS APPEAL NO. 51109 of 2022

(Arising out of Order-in-Appeal No. CC(A)-CUS/D-II/ICD/PPG/1442/21-22 dated 01.12.2021 passed by the Commissioner of Customs (Appeals), New Delhi)

Mahabal Impex **....Appellant**
1300A/19, Ground & 1st Floor
Sant Nagar, Huda Complex
Rohtak – 124 001 (HR)

Versus

Commissioner of Customs (Appeals) **....Respondent**
New Customs House, Near IGI Airport
New Delhi - 110 037

APPEARANCE:

Shri Sagar Rohatgi, advocate for the appellant
Shri Mukesh Kumar Shukla, authorized representative of the department

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

Date of Hearing: 04.02.2026
Date of Decision: 19.05.2026

FINAL ORDER NO. 50930/2026

JUSTICE DILIP GUPTA :

M/s Mahabal Impex has filed this appeal to assail the order dated December 01, 2021 passed by the Commissioner of Customs (Appeals) by which the appeal filed by the appellant against the assessment order at enhanced value for the Bill of Entry dated November 13, 2018 has been rejected.

2. The appellant claims to have imported Polyester Knitted fabrics from its foreign supplier at Hong Kong and filed a Bill of Entry dated November 13, 2018 declaring the value of the goods as US $ 1.40 per kg. It transpires that the assessing officer proposed to enhance the

value of the imported goods to US $ 2.30 per kg but the appellant accepted the enhanced value. The value was, accordingly, enhanced and the appellant paid duty on the goods on the enhanced value and out of charge order was given and the goods were cleared by the appellant.

3. Subsequently, the appellant filed an appeal challenging the enhancement of the value. During the course of hearing of the appeal, the appellant did not contest that the appellant had accepted the enhanced value of US $ 2.30 per kg. The Commissioner (Appeals) also noted that the appellant had not lodged any protest with the department regarding payment of the enhanced value nor the appellant had brought on record any correspondence to show that the appellant had challenged the enhancement of value with the assessing officer. The Commissioner (Appeals), therefore, dismissed the appeal.

4. Shri Sagar Rohatgi, learned counsel appearing for the appellant submitted that the view taken by the Commissioner (Appeals) is contrary to the decision of the Delhi High Court rendered in **Niraj Silk Mills** vs. **Commissioner of Customs (ICD), Patparganj** for the reason that the enhancement of the value could not be solely on the basis of NIDB data.

5. Shri Mukesh Kumar Shukla, learned authorized representative appearing for the department, however, submitted that the decision of the Delhi High Court in **Niraj Silk Mills** will not apply to the facts of the present case.

6. The submissions advanced by the learned counsel appearing for the appellant and the learned authorized representative appearing for the department have been considered.

7. It clearly transpires from the records that though the appellant had submitted the Bill of Entry dated November 13, 2018 declaring the value of the goods as US$ 1.40 per kg, but as the proper officer had reason to doubt the correctness of the value declared by the appellant, he proposed to enhance the value to US$ 2.30 per kg. and when this was brought to the notice of the appellant, he submitted a letter categorically admitting the enhanced value and also paid the customs duty. The customs duty was not paid by the appellant under protest nor was the letter a conditional letter. Out of charge was given by the officer and the appellant cleared the goods.

8. It is thereafter that the appellant filed an appeal before the Commissioner (Appeals) contending that the enhancement was not proper.

9. The Delhi High Court in **Niraj Silk Mills** noted that the importer therein had registered protests on more than one occasion and had also sought expeditious clearance of the goods subject to an exercise of provisional reassessment being undertaken. The Delhi High Court also noticed that the importer had submitted a letter to clear the goods on provisional basis to avoid financial burden and demurrages and it is only after all these requests fell on deaf ears that the appellant submitted a letter consenting to the re-determination of the value in accordance with what was proposed by the proper officer. The Delhi High Court also noticed that there were communications addressed to the proper officer in which the importer while consenting to the proposed re-assessment had also conveyed readiness to pay the customs duty at the enhanced value as suggested 'under protest'. It is, in such circumstances, that the Delhi High Court observed that it was not a case where the

concession was either unqualified or without reservation of a right to question the assessment made by the proper officer.

10. In the present case, nothing has been brought on record by the appellant to show that either it had submitted letters for provisional assessment or had indicated that the goods should be cleared expeditiously to avoid accruing liability of demurrages and other charges. It clearly transpires from the records that the appellant unconditionally accepted the enhanced value and paid the duty and cleared the goods and it is later that a challenge was made to the enhancement of the value in the appeal.

11. A Division Bench of this Tribunal in **Commissioner of Customs (Preventive), Jaipur** vs. **CMR Nikkei India Pvt. Ltd.** has considered this aspect and has held that it is not open to the importer to challenge the enhanced value after unconditionally accepting the enhanced value.

12. There is, therefore, no merit in this appeal. It is, accordingly, dismissed.

(Order pronounced on **19.05.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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