CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. I

CUSTOMS APPEAL NO. 50197 OF 2024

[Arising out of the Order-in-Original No. 23/COMMR/VC/ICD-PPG/2023-24 dated 04/12/2023 passed by The Commissioner of Customs, New Delhi.]

M/s Shyam Rexin Trading Pvt. Ltd., **……Appellant**
1, Amra Tala Lane, Ground Floor,
Kolkata.

Versus

Commissioner of Customs, **….Respondent**
ICD Patparganj and other ICDs Patparganj,
New Delhi – 110 096.

APPEARANCE:

Shri L.B. Yadav, Consultant for the appellant.
Shri Rajesh Singh, Authorized Representative for the Department

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

FINAL ORDER NO. 50762/2026

DATE OF HEARING : 23.02.2026
DATE OF DECISION: 21.04.2026

P.V. SUBBA RAO

M/s Shyam Rexin Trading Pvt. Ltd.[1] filed this appeal to assail the order dated 04.12.2023 passed by the Commissioner of Customs, ICD, Patparganj, New Delhi in which he confirmed demand of differential duty of Rs. 46,76,106/- and imposed a fine of Rs. 5,00,000/- and penalty of Rs. 46,76,106/- on the appellant.

1. **the appellant**

2. No show cause notice was issued in this case because the appellant had waived the show cause notice in writing.

3. The appellant imported PVC coated fabrics under seven Bills of Entry dated 02.11.2022 to 07.11.2022 and declared them as PVC coated fabrics. On testing, the Central Revenue Control Laboratory[2] found that they were non-Textured Polyester Filament Yarn Fabric (PVC coating thickness 0.26 – 0.37 mm) which were of higher value.

4. The facts which led to the issue of the impugned order are that, acting of specific intelligence the consignments of goods imported by the appellant under the aforesaid seven Bills of Entry were placed on alert. The importer declared the goods as "PVC Coated Fabrics" and classified them under Customs Tariff Heading[3] 5903 and prices ranging from 0.88 US$ to 1.27 US$ per square meter and declared the total assessable value as Rs. 87,72,135/- and the duty as Rs. 32,07,850/-. Samples were drawn in the presence of the importer and the customs broker under a panchnama and sent to CRCL for testing. In all 2730 kg. excess weight found in one container. CRCL test reports confirmed that the goods were non-Textured Polyester Filament Yarn Fabric with PVC coating and not PVC coated fabric as declared. For these reasons, the transaction value was rejected under Rule 12 of Customs

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2. CRCL
3. CTH

Valuation (Determination of Value Goods) Rules, 2007[4] and re-determined under Rule 5 of the Valuation Rules.

5. The operative part of the impugned order is as follows :-

> "(i) I hereby reject the declared values of PVC Coated Fabric imported against the Bills of Entry Nos. 3272505, 3272503, 3272455 all dated 12.11.2022, 3198453 & 3198160 both dated 07.11.2022, 3139380 dated 03.11.2022 & 3131524 dated 02.11.2022 under Rule 12 of CVR, 2007 read with section 14 of the Customs Act, 1962 and order to re-determine the transaction values of PVC coated Fabric of various thickness as detailed in Table D above on the basis of contemporaneous NIDB data under Rule 4/5 of CVR, 2007. Accordingly, the assessable value of the said imported goods is re-determined as Rs. 1,17,77,076/- instead of Rs. 88,72,135/- declared by the importer in the said Bills of Entry.
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> (ii) I confiscate the goods having re-determined value of Rs. 1,17,77,076/- (Rupees Two Crores Seventeen Lakhs, Seventy Seven Thousand and Seventy Six only), imported under Bill of Entry Nos. 3272505, 3272503, 3272455 all dated 12.11.2022, 3198453 & 3198160 both dated 07.11.2022, 3139380 dated 03.11.2022 & 3131524 dated 02.11.2022 under section 111 (m) of the Customs Act, 1962. However, I give an option to the importer to redeem the same on payment of Redemption Fine of Rs. 5,00,000/- (Rupees Five Lakhs only) under Section 125 of the Customs Act, 1962. Sicne the goods in question have been provisionally released, the redemption fine may be appropriated from the importer.
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> (iii) I confirm the customs duty of Rs. 79,26,856/- payable on the goods released provisionally against Bills of Entry Nos. 3272505, 3272503, 3272455 all dated 12.11.2022, 3198453 & 3198160 both dated 07.11.2022, 3139380 dated 03.11.2022 & 3131524 dated 02.11.2022. However, since the importer has already paid an amount of Rs. 32,50,750/-,

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4. Valuation Rules

I hereby confirm the demand of differential duty of Rs. 46,76,106/- (Rs. Forty Six Lakhs Seventy Six Thousand one hundred and six only) in terms of Section 28 (4) of the Customs Act, 1962 read with Section 124 of the Customs Act, 1962 and order to recover the same along with interest as applicable under section 28AA of the Act ibid. I also order to appropriate the duty of Rs. 32,50,750/- (Rupees Thirty Two Lakh Fifty Thousand and Fifty only) already deposited against the said Bills of Entry.

(iv) I impose a penalty of Rs. 4,60,00/- (Rs. Four Lakhs Sixty Thousand) under section 112 (a) (ii) of the Customs Act, 1962 on the importer i.e. M/s Shyam Rexin Trading Private Limited. Since the goods have been seized and confiscated and are ordered to be redeemed under section 125 of the Customs Act, 1962. The penalty is imposable under section 112 (a) (ii) of the Customs Act, 1962. Therefore, penalty under section 114A of the Customs Act, 1962 is not imposed".

Submissions on behalf of the appellant

6. Learned counsel for the appellant made the following submissions :-

(i) The Commissioner has rejected the declared value without reasonable doubt about the truth and accuracy as is required under Valuation Rules. He rejected the transaction value merely on the basis of NIDB Data without demonstrating commercial levels like quality, quantity, place of export, year of manufacture, supplier, etc.

(ii) There is contradictory view between the Customs (Preventive) which investigated the matter and the Commissioner who passed the impugned order. In

the investigation report sent to the Commissioner it has been indicated that no NIDB data could be found for similar or identical goods.

(iii) Under Valuation Rule 4/5 the lowest value should be adopted whereas the Commissioner has taken the value after ignoring in the lowest and highest value available in the NIDB data.

(iv) The settled position of law is that the transaction value cannot be rejected merely on the basis of NIDB data.

(v) The appellant has always maintained that it's declared value was correct.

(vi) No evidence of remittance of any amount over and above the declared value has been formed by the department and it is for the department to prove its case. The transaction value has to be accepted unless contrary evidence is available.

(vii) Since there is no mis-declaration of the goods the goods were not liable to confiscation and hence no redemption fine could have been imposed.

(viii) No penalty is leviable on the appellant.

(ix) In view of the above, the appeal may be allowed and the impugned order may be set aside with consequential relief to the appellant.

Submissions of the Revenue

7. Learned authorized representative for the Revenue made the following submissions and vehemently supported the impugned order :-

(i) The importer willfully mis-declared the goods as PVC coated fabrics whereas CRCL test reports established that they were non-Textured Woven Fabric of Polyester Filament Yarn with PVC coating.

(ii) The declared value was rejected due to non-production of the manufacturer's invoices.

(iii) Abnormally low price compared to DRI alert dated 09.05.2011 and formed the basis of reasonable doubt about the truth or accuracy of the declared value.

(iv) The value has been re-determined under Valuation Rule 9 as per DRI alert dated 23.12.2015 and guidelines of the Directorate General of Valuation.

(v) The goods were correctly confiscated under section 111 (m) and 111 (o) and redemption fine was imposed in view of confiscation as the goods were already released provisionally.

(vi) The penalty under section 114A of the Act was correctly imposed on the importer as the duty was short paid by willful mis-statement, suppression of facts and collusion due to short levy of duty.

(vii) In view of the above, the impugned order is correct and calls for no interference. The appeal may be dismissed.

Findings

8. In the impugned order, the Commissioner has framed the following four issues for consideration:

1) Whether the declared value of the goods was correctly rejected under Valuation Rule 12 and re-determined under Valuation Rule 4/5?
2) Whether the differential duty was correctly recoverable under section 28 (4) of the Act?
3) Whether the imported goods are liable to confiscation under section 111(l) & 111(m) of the Act
4) Whether penalty is imposable under section 114A of the Act?

9. The reasons for rejecting the declared transaction value under Valuation Rule 12 and re-determining it under Valuation Rule 9 is given in paragraphs 27.9.3, 27.9.4,27.9.8 and 27.9.9 of the impugned order which are reproduced below:

> "27.9.3 In the investigation report, it has been mentioned that the foreign supplier was a trader and therefore, the importer was asked to produce the manufacturer's invoice under rule 11 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. However, the importer failed to produce the requisite invoice and therefore, the declared transaction value was found unreliable. It was also found that the value was much lower than the value of the same goods fixed by the department earlier and therefore, the declared value was found rejectable under Rule 12 of CVR, 2007. It has also been recorded that no reference of NIDB data of identical Goods or similar goods could be taken in the present case since it was not found. So as per Rule 9 of CVR, 2007 under residual method read with section 14 of the Customs Act, 1962 was found appropriate because the department already

had valuation guidelines on similar goods and therefore the re-determination of value was proposed.

27.9.4 The importer in their written reply has submitted that they have procured the goods directly from the manufacturer only and controverted the valuation done on the basis of guidelines issued by ICD, TKD, New Delhi as per valuation proposed at JNPT port, Nhava Sheva, Mumbai on the basis of DRI alert dated 09.05.2011 stating that the Alert Circular is contrary to the Customs Valuation Rules, which lay emphasis on transaction value, which can be rejected and substituted when and only when the Transaction value is not found genuine and there is evidence of contemporaneous import of identical goods and comparatively much higher price. On non-availability of contemporaneous imports data of identical/similar goods on NIDB is concerned, the importer has contended that there were several evidences of contemporaneous import of identical goods.

27.9.8 On generation of NIDB data it was found that lots many import data of identical/similar goods in question i.e. "PVC Coated Fabric" and its value are available in database. Therefore, I would like to prefer the NIDB data for valuation rather than relying upon the value derived from a dated alert of 2011. Keeping in view the principles of valuation rules, a fair process of determination of transaction value based on the value of identical/similar goods imported into India during relevant period has been relied upon. It may be mentioned here that the highest and the lower values in the NIDB Data base are only outliers and do not represent fair transaction value of the goods in question since only very few Bills of Entry have been filed for the said highest and lowest values. The value have been taken which represent most of the Bills of Entry assessed during the relevant period for the identical goods from the same country of origin as per the provisions of Customs Valuation Rules, 2007. Thus a

transaction value of $ 0.45 for the goods having thickness of 0.25 mm, $ 0.46 for the goods having thickness of 0.26 mm, $ 0.47 for the goods having thickness of 0.27 mm, $ 0.49 for the goods having thickness of 0.29 mm, $ 0.62 for the goods having thickness of 0.37 mm, $ 0.63 for the goods having thickness of 0.43 mm, $ 0.77 for the goods having thickness of 0.45 mm & 0.46 mm, $ 0.82 for the goods having thickness of 0.48 mm, $ 0.90 for the goods having thickness of 0.53 mm is appropriately taken up for determination under Rule 4/5 of the CVR, 2007.

27.9.9 Accordingly, I find that the goods 'PVC coated fabric' imported vide the above Bills of Entry are declared at a value which is substantially lesser than the transaction value of contemporaneous identical/similar goods. Hence the declared value by the importer under the impugned Bills of Entry is liable to be rejected under Rule 12 of the CVR 2007 and a fresh value is to be re-determined on the basis of NIDB data as discussed above under Rule 4/5 of the CVR, 2007 since thickness of the goods in question are varying from 0l.25 mm to 0.53 mm and as revealed from the NIDB database, the values of the goods in question also vary on the basis of thickness of the impugned goods".

10. Learned authorised representative for the Revenue emphasised that the appellant had mis-declared the nature of the goods as 'PVC Coated Fabrics' which, on testing, were found to be 'Non-textured Polyester Filament Yarn Fabric with PVC Coating'. The description of the goods in the Bills of Entry recorded in the impugned order is also 'PVC Coated fabrics'. Nothing in the test report shows that they were not PVC coated or that they were not fabrics. All that the CRCL's test report does is to give more details about the nature of the

fabric and describes it as non-textured fabric made of Polyester Filament Yarn. Neither the fact that it was non-textured nor that it was made of Polyester Filament Yarn is contrary to the description of the goods in the Bill of Entry.

11. There is no stipulation in law as to what extent details of the goods and which specifications have to be indicated in the Bills of Entry. A fabric is a fabric and if the assessing officer requires more details to assess the goods, he may call for them but there is no mis-declaration of the goods by the appellant in this case by any stretch of imagination.

12. The description of the goods cannot be a ground to reject the transaction value in this case. The Commissioner has also recorded in the impugned order that the appellant was asked to produce the manufacturer's invoice but he could not. It is not clear as to how the appellant is expected to be in possession of any invoice other than the one in which the goods were sold to him. An illustration will make the position clear. If you ask someone for the bill of his air conditioner, he can only produce the bill which the dealer has issued to him. There is no way that he can produce the invoice issued by the manufacturer in favour of the dealer or distributor. It is possible that in some cases, one may have the manufacturer's invoice because his supplier might have given him a copy. However, the failure to produce manufacturer's invoice cannot be held against the importer to reject his transaction value.

13. The other reasons for rejection of transaction value are the Alert circulars of the department and the values available in the NIDB database. In our considered view, in the facts of this case, the Commissioner had no reason to doubt about the truth and accuracy of the transaction value.

14. On the question of re-determination, the Commissioner recorded in paragraph 27.9.8 that he ignored the outliers which represent very high and very low values and has taken representative values from the NIDB database. This is contrary to the position in the Valuation Rules 4 & 5 which require the lowest of contemporaneous values to be taken and not the average values.

15. Thus, we find neither was there any reasonable ground for the Commissioner to doubt the truth and accuracy of the transaction value and reject it under Valuation Rule 12 nor was the re-determination done as per the principles laid down in the Valuation Rules.

16. In view of the above, the consequential confirmation of demand of differential duty under section 28 of the Customs Act with interest, confiscation, fine and penalty also cannot be sustained.

17. In view of the above, the appeal is allowed and the impugned order is set aside with consequential relief to the appellant.

(Order pronounced in open court on 21/04/2026.)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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