CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. III

Customs Appeal Nos. 40761 and 40762 of 2016

(Arising out of Order-in-Original No. 42900/2015 dated 30.10.2015 passed by Commissioner of Customs, No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

Mr. Raju Thomas **...Appellant**
53-b, 16C, Main 4th Block,
Koramangala,
Bangalore – 560 034.

And

Mr. Alberto Bestonso **...Appellant**
B-22, Sarita Apartments,
BJ Road, Bandra West,
Mumbai – 400 050.

Versus

Commissioner of Customs **...Respondent**
Chennai II Commissionerate,
No. 60, Custom House,
Rajaji Salai,
Chennai – 600 001.

APPEARANCE:

For the Appellants : Mr. Hari Radhakrishnan, Advocate
For the Respondent : Ms. Rajini Menon, Authorised Representative

CORAM:
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER Nos. 40926-40927 / 2026

DATE OF HEARING : 13.02.2026
DATE OF DECISION : 07.08.2026

Per Mr. VASA SESHAGIRI RAO

These two appeals C/40761/2016 and C/40762/2016 arise out of Order-in-Original No. 42900/2015 dated 30.10.2015 passed by the Commissioner of Customs

(Import), Chennai, whereby the declared transaction value of the imported Maserati GranTurismo was rejected, the assessable value was enhanced, differential customs duty of Rs. 62,51,117/-together with applicable interest was demanded, the imported vehicle was held liable to confiscation under Section 111 of the Customs Act, 1962 with an option of redemption on payment of fine of Rs 14,00,000/-, a penalty of Rs. 62,51,117/-was imposed on the first appellant under Section 114A of the Customs Act, 1962, and a penalty of Rs. 10,00,000/-was imposed on the second appellant under Section 112(a) of the Act. Aggrieved by the said Order-in-Original, the present appeals have been filed.

2. The first appellant purchased a brand-new Maserati GranTurismo from M/s. Hyperformance Cars, U.K., for GBP 53,000, imported it through Chennai Port under Bill of Entry dated 08.12.2008 and claimed the concessional rate of duty under Notification No. 21/2002-Cus. The vehicle was examined, assessed on the declared transaction value and cleared for home consumption. Subsequently, pursuant to an investigation by the Directorate of Revenue Intelligence, Ahmedabad, into imports of luxury cars allegedly facilitated through Shri Alberto Bestonso and Shri Lorenzo Bestonso, the Department, relying upon the statements of Shri Alberto

Bestonso, foreign invoices, e-mails, electronic records and documents obtained from overseas authorities, alleged undervaluation and proposed rejection of the declared transaction value under Section 14 of the Customs Act read with the Customs Valuation Rules, recovery of differential duty, confiscation of the vehicle and imposition of penalties. The appellant denied the allegations, contending that the declared invoice represented the actual transaction value, the entire consideration had been paid through banking channels without any additional payment or flow-back of consideration, and that the Department's case rested solely on uncorroborated third-party evidence. The adjudicating authority, however, confirmed the proposals in the show cause notice, leading to the present appeal.

3. The Ld. Advocate Shri Hari Radhakrishnan appearing for the appellant submitted that the impugned order proceeds on assumptions rather than legally admissible evidence. He contended that the declared transaction value had been accepted at the time of import after examination of the vehicle and scrutiny of the import documents, and that the subsequent rejection of the declared value was based solely on the DRI investigation without any evidence that the appellant had paid consideration over and above the invoice value. It was submitted that the entire sale consideration of

GBP 53,000 had been remitted through normal banking channels and that there was no evidence of any additional remittance, cash payment or flow-back of consideration. The learned Counsel further argued that the Department had wrongly relied upon upstream foreign invoices, which merely reflected independent transactions between third parties and could not substitute the transaction value between the appellant and the overseas supplier. He also challenged the reliance placed on the statements of Shri Alberto Bestonso, contending that they were retracted, uncorroborated and incapable of establishing undervaluation, and relied upon Vinod Solanki v. Union of India and Mohtesham Mohd. Ismail v. Special Director, Enforcement Directorate in support of this contention. It was further submitted that the e-mails and electronic records relied upon by the Department were inadmissible for want of compliance with Section 138C of the Customs Act and, in the absence of independent corroboration, could not form the sole basis for rejecting the declared transaction value. In support, reliance was placed on Eicher Tractors Ltd. v. Commissioner of Customs, Commissioner of Customs v. South India Television (P) Ltd., Kuber Impex Ltd., S.N. Agrotech, Ambica Organics, Agarvanshi Aluminium Ltd., Sunrise Stainless Steel Pvt. Ltd., Premier Instruments & Controls Ltd. and other decisions.

4. The Ld. Authorized Representative Ms. Rajini Menon reiterated the findings of the adjudicating authority and submitted that the investigation conducted by the Directorate of Revenue Intelligence, Ahmedabad, revealed a systematic modus operandi adopted by Shri Alberto Bestonso and Shri Lorenzo Bestonso for importing luxury cars into India at suppressed values. It was contended that the Department had rightly rejected the declared transaction value on the basis of the cumulative evidence comprising the statements recorded under Section 108 of the Customs Act, foreign invoices, e-mail correspondence, electronic records and documents received from overseas authorities, which established that the invoice produced before the Customs did not reflect the actual consideration paid for the vehicle. According to the Revenue, the appellant, having purchased the vehicle through Shri Alberto Bestonso, could not disown the transactions undertaken by the intermediary when foreign invoices reflected the actual purchase price of the vehicle, thereby establishing deliberate undervaluation. It was further submitted that adjudication proceedings under the Customs Act are not governed by the strict rules of evidence applicable to criminal trials and that the materials collected during investigation, including the statements of Shri Alberto Bestonso, were voluntary and duly corroborated by documentary evidence. The Revenue therefore contended

that the rejection of the declared transaction value, enhancement of the assessable value, confiscation of the vehicle under Section 111(m) and the penalties imposed under Sections 112 and 114A of the Customs Act were legal and proper, and that the impugned order called for no interference.

5. We have carefully considered the rival submissions, perused the records, the impugned order, the written submissions and the judicial precedents relied upon by both sides. The dispute in the present appeals principally concerns the correctness of the rejection of the declared transaction value of the imported Maserati GranTurismo, the appellant's eligibility to the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus. dated 01.03.2002, and the sustainability of the consequential demand of differential duty, confiscation, redemption fine and penalties.

6. In the above backdrop, the following questions arise for determination: -

i. Whether the declared transaction value of the imported Maserati GranTurismo was rightly rejected and the assessable value enhanced under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and whether the appellant is entitled to the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus., dated 01.03.2002?

ii. Whether the confiscation of the imported vehicle and the consequential redemption fine and penalties imposed under the Customs Act, 1962 are sustainable?

7. We now proceed to examine the issues framed for determination sequentially.

(i) Whether the declared transaction value of the imported car Maserati GranTurismo was rightly rejected and the assessable value enhanced under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and whether the appellant is entitled to the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus., dated 01.03.2002?

8. The principal issue is whether the declared transaction value of the imported Maserati GranTurismo was liable to be rejected under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and whether the assessable value determined by the adjudicating authority is sustainable. It is well settled that transaction value constitutes the primary basis of assessment under

Section 14. However, where the proper officer entertains reasonable doubt regarding the truth or accuracy of the declared value and such doubt is supported by cogent and reliable evidence, the declared value may be rejected under Rule 12 and the assessable value determined in accordance with the Valuation Rules.

9. In the present case, the Revenue has not proceeded merely on suspicion or on the basis of a solitary document. The investigation conducted by the Directorate of Revenue Intelligence formed part of a nation-wide investigation into systematic undervaluation of imported luxury motor cars through overseas intermediaries. During the investigation, contemporaneous invoices, commercial records, electronic correspondence, statements and other documentary evidence were recovered and relied upon collectively to establish undervaluation. The evidence, therefore, has to be appreciated as a whole and not in isolation.

10. The Ld. Counsel for the appellant placed reliance upon *Eicher Tractors Ltd. v. Commissioner of Customs, 2001 (122) E.L.T. 321 (S.C.), Commissioner of Customs v. South India Television (P) Ltd., 2007 (214) E.L.T. 3 (S.C.),* and *Commissioner of Customs v. Sanjivani Non-Ferrous Trading*

Pvt. Ltd., 2019 (365) E.L.T. 3 (S.C.), to contend that the declared transaction value enjoys statutory primacy and can be rejected only where the Revenue establishes, by cogent and reliable evidence, that it does not represent the price actually paid or payable. It was further argued that Rule 12 does not confer an unfettered power to reject the declared value on mere suspicion and that the burden of establishing undervaluation always rests upon the Department. We respectfully agree that the above decisions which correctly lay down the governing legal principles. Transaction value enjoys statutory primacy and cannot be discarded merely on suspicion or conjecture. Equally, Rule 12 does not authorise rejection of the declared value in the absence of objective material creating reasonable doubt regarding its truth or accuracy. However, the applicability of these principles necessarily depends upon the facts and evidence of each case.

11. We are, however, unable to accept the appellant's contention that the above decisions govern the present case. In Eicher Tractors, South India Television and Sanjivani Non-Ferrous, the Revenue had failed to produce contemporaneous and reliable evidence establishing that the declared value did not represent the actual transaction value. The present case stands on an entirely different footing. The

Revenue has not relied upon contemporaneous imports of similar goods or on mere suspicion. It has produced two contemporaneous invoices relating to the very same Maserati GranTurismo, both bearing the same date, namely 28.10.2008, and expressed in the same currency (GBP), but reflecting substantially different values. The higher-value invoice was produced by Shri Alberto Bestonso during investigation and its authenticity was independently corroborated by the First Secretary (Commercial), High Commission of India, London, through verification of the overseas transaction. The Revenue has also relied upon electronic correspondence and other commercial records forming part of the same transaction. The rejection of the declared transaction value is, therefore, according to us founded upon cogent, contemporaneous and independently corroborated documentary evidence and not upon mere suspicion. The ratio of the aforesaid decisions is, therefore, clearly distinguishable on the above facts duly supported by documentary evidence.

12. The appellant also relied upon *Vinod Solanki v. Union of India, 2009 (233) E.L.T. 157 (S.C.),* and *Mohtesham Mohd. Ismail v. Special Director, Enforcement Directorate, 2007 (220) E.L.T. 3 (S.C.),* to contend that a retracted statement, in the absence of independent

corroboration, cannot form the sole basis of an adverse finding. The principle laid down in the above decisions is equally well settled. However, the present case does not rest solely upon the statement of Shri Alberto Bestonso. His statement constitutes only one link in a larger chain of evidence and stands independently corroborated by the contemporaneous invoices, the annexure furnished by him, electronic correspondence, import documents and the report of the First Secretary (Commercial), High Commission of India, London. The impugned findings are thus supported by substantial independent documentary evidence. Consequently, the ratio of the aforesaid decisions is also distinguishable on facts.

13. The Ld. Counsel also placed considerable reliance upon the decision of the Coordinate Bench of this Tribunal in *Shri Ranjith Sundaramurthy v. Commissioner of Customs (Import), Chennai, 2024 (5) TMI 17 (CESTAT-Chennai).* We have carefully examined the said decision. In our considered opinion, the same is clearly distinguishable on facts as the facts captured in para 2 *supra* are not there in the reported case.

14. Moreover, in Ranjith Sundaramurthy, the Tribunal found that the Revenue had compared invoices

relating to two different Nissan GTR vehicles, one being an Ultimate Silver vehicle and the other a Black vehicle. The Tribunal also noticed a fundamental chronological inconsistency, inasmuch as the invoice issued by the U.K. dealer to the importer preceded the invoice issued by the Japanese dealer to the U.K. dealer. It was in those peculiar facts that the Tribunal concluded that the Revenue had failed to establish undervaluation. The factual position before us is materially different. The two invoices relied upon by the Revenue relate to the same Maserati GranTurismo, bear the same date, are expressed in the same currency, and concern the very transaction under consideration. The Revenue's case is not founded upon comparison of different vehicles nor is it affected by any chronological inconsistency. On the contrary, the higher-value invoice has been independently corroborated by the report of the First Secretary (Commercial), High Commission of India, London. The decision in Ranjith Sundaramurthy, rendered on its own peculiar facts, therefore does not advance the appellant's case.

15. We are also unable to accept the appellant's submission that the Revenue's case rests solely upon the statement of Shri Alberto Bestonso or that there is no evidence of payment over and above the declared value. In

cases involving organised undervaluation through overseas intermediaries, direct evidence of additional remittance may not always be available. Undervaluation can nevertheless be established from the cumulative effect of contemporaneous documentary evidence and surrounding circumstances. In the present case, the statement of Shri Alberto Bestonso constitutes only one link in the chain of evidence. It is corroborated by the contemporaneous invoices, the annexure furnished by him showing the transaction value, the electronic correspondence, the commercial records recovered during investigation and the verification carried out by the First Secretary (Commercial), High Commission of India, London. These materials constitute a consistent and mutually corroborative body of evidence and cannot be discredited or viewed in isolation.

16. The contemporaneous documentary evidence, in our considered view, conclusively establishes that the declared transaction value did not represent the true transaction value. The invoice produced by the appellant, namely Invoice No. 1029 dated 28.10.2008 issued by M/s. Hyperformance Cars Ltd., U.K., declared the sale price of the imported Maserati GranTurismo at GBP 53,000. However, during investigation, Shri Alberto Bestonso produced the contemporaneous Invoice No. 37103676 dated 28.10.2008

issued by M/s. H.R. Owen Sports Cars, U.K., relating to the very same vehicle, reflecting a price of GBP 80,516 (inclusive of VAT). The authenticity of the said invoice stood independently corroborated by the First Secretary (Commercial), High Commission of India, London, in his report dated 14.05.2009, which confirmed the overseas transaction. The fact that both invoices relate to the same vehicle, bear the same date and are expressed in the same currency (GBP), yet disclose a substantial variation in value, constitutes compelling contemporaneous evidence creating reasonable doubt regarding the truth and accuracy of the declared transaction value. We therefore hold that the proper officer was fully justified in invoking Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and rejecting the declared transaction value. At the same time, we find that the adjudicating authority was not justified in adding the VAT component of GBP 11,923.98 to the assessable value. The invoice itself shows that the price of GBP 80,516 was inclusive of VAT, and the amount of GBP 11,923.98 represented VAT refundable in the exporting country. Such VAT neither formed part of the price actually paid or payable for export to India nor constituted an element of assessable value under Section 14 of the Customs Act read with the Valuation Rules. Consequently, while the rejection of the declared value is upheld, the assessable value requires modification to the limited extent of excluding the VAT component for the purpose of computation of customs duty payable on the imported car.

17. The present case is not one of a mere difference in valuation but forms part of a systematic modus operandi involving undervaluation of imported luxury motor vehicles through overseas intermediaries. The contemporaneous invoices, the substantial difference in the values reflected therein, the statement of Shri Alberto Bestonso, the official verification by the First Secretary (Commercial), High Commission of India, London, the electronic correspondence and the other documentary evidence establish deliberate misdeclaration of value.

18. In *Eastern Silk Industries Ltd. v. Commissioner of Customs, Kolkata, 2015 (320) E.L.T. 166 (S.C.),* the Hon'ble Supreme Court reiterated that transactions tainted by fraud or deliberate misdeclaration cannot claim the statutory benefits flowing from such fraudulent conduct. In the case of *Commissioner of Customs (Preventive) v. Aafloat Textiles (I) Pvt. Ltd., 2009 (235) E.L.T. 587 (S.C.),* the Supreme Court held that forged/fraudulent licences are non est in the eye of law and fraud justified the invocation of extended period and statutory consequences. Applying the

above principles, we uphold the rejection of the declared transaction value under Rule 12 and the enhancement of the assessable value under Section 14 read with Rule 3 of the Customs Valuation Rules, subject only to exclusion of the VAT refund as discussed above.

Whether the appellant is eligible for the benefit of the Notification No. 21/2002-Cus.?

19. We now proceed to examine whether the appellant is entitled to the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus., dated 01.03.2002. The Revenue denied the exemption principally on the ground that the Maserati GranTurismo was registered with the Driver and Vehicle Licensing Agency (DVLA), United Kingdom, before its export to India and, therefore, ceased to be a new motor vehicle. The question, therefore, is whether such registration, by itself, is sufficient to deny the benefit of the notification.

20. We are unable to agree with the above contention. Mere registration of a motor vehicle in the exporting country does not, by itself, establish that the vehicle had been put to use. The decisive test is whether the vehicle had actually been used prior to export. This position stands clarified by CBEC Circular No. 1/2005-Cus., dated 11.01.2005 (F. No. 528/78/2004-Cus. (TU)). The Board

recognised that, in several countries, temporary registration is a statutory requirement for transporting a new vehicle from the factory or showroom to the port or airport. The Circular, therefore, clarifies that where such registration is only a technical or statutory formality and there is no evidence of actual use, the benefit of Serial No. 344 of Notification No. 21/2002-Cus. cannot be denied merely because the vehicle stood temporarily registered before export. The Circular further advises the field formations to verify whether the registration was merely for transportation by comparing the date of registration with the date of dispatch. Being a beneficial circular issued by the Board, it is binding upon the departmental authorities.

21. The above view also finds support from the decision of the Mumbai Bench of this Tribunal in *Alberto Bestonso v. Commissioner of Customs, 2014 (309) E.L.T. 263 (Tri.-Mumbai).* In that case also, the Revenue denied the benefit of the exemption notification on the ground that the imported luxury motor vehicles had been registered abroad prior to export. After considering the aforesaid CBEC Circular, the Tribunal held that registration undertaken only to comply with the legal requirements of the exporting country does not, by itself, establish that the vehicle had become old or used. In the absence of evidence showing

actual use before export, the benefit of the notification was held to be available. We are persuaded to concur with the above view.

22. Applying the above principles to the facts of the present case, we find that the contemporaneous invoice issued by M/s. H.R. Owen Sports Cars records payment of GBP 55 towards the First Registration Administration Fee and mentions the U.K. registration number. Thus, registration of the vehicle prior to export is an admitted fact. However, except for such temporary registration, the Revenue has not produced any material to establish that the vehicle had actually been put to use in the United Kingdom. There are no records showing previous ownership, commercial use, insurance claim, servicing, maintenance, abnormal mileage or any other contemporaneous material indicating that the vehicle had ceased to be a new motor vehicle. Temporary registration, without evidence of actual use, cannot by itself disentitle the appellant from claiming the benefit of the notification.

23. The Revenue contended that once undervaluation is established, the appellant is not entitled to the benefit of the exemption notification. We are unable to accept the said contention. The issue of valuation and the

issue of eligibility to an exemption notification rest on different statutory foundations. Rejection of the declared transaction value under Section 14 of the Customs Act does not, by itself, result in denial of an exemption notification. The entitlement to an exemption has to be examined independently on the basis of the conditions prescribed therein. In the present case, although the declared value has rightly been rejected, the Revenue has failed to establish that the imported vehicle was a used motor vehicle so as to deny the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus.

24. The above conclusion is also consistent with the principles laid down by the Constitution Bench of the Hon'ble Supreme Court in *Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Co., 2018 (361) E.L.T. 577 (S.C.).* The Constitution Bench held that exemption notifications must be construed strictly and that the burden lies upon the claimant to establish fulfilment of the prescribed conditions. Applying the said principle, we find that the appellant has discharged the burden of establishing that the imported Maserati GranTurismo continued to be a new motor vehicle notwithstanding its temporary registration in the United Kingdom. The substantive conditions prescribed under Serial No. 344(2) of Notification No. 21/2002-Cus. therefore stand

satisfied. Consequently, the appellant cannot be denied the benefit of the notification merely because the vehicle had undergone temporary registration before export.

25. Accordingly, Issue No. (i) is answered by holding that the rejection of the declared transaction value under Section 14 of the Customs Act and the enhancement of the assessable value are legally sustainable, subject to exclusion of the VAT refund from the assessable value. However, we also hold that the appellant is entitled to the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus., dated 01.03.2002, since the temporary registration of the imported Maserati GranTurismo in the United Kingdom, without evidence of actual use, does not render it a used motor vehicle for the purposes of the notification. Accordingly, Issue No. (i) is answered in the above terms. Since the quantum of duty requires re-determination after excluding the refundable VAT component and extending the benefit of Serial No.344(2) of Notification No.21/2002-Cus., the matter is remanded to the Original Adjudicating Authority only for the limited purpose of re-quantification in accordance with the findings recorded herein.

Issue No. (ii) Whether the confiscation of the imported vehicle and the consequential redemption fine and

penalties imposed under the Customs Act, 1962 are sustainable?

26. Having answered Issue No. (i), we now proceed to examine whether the confiscation of the imported vehicle under Section 111(m) of the Customs Act and the consequential redemption fine and penalties are sustainable. Having upheld the rejection of the declared transaction value and the enhancement of the assessable value, we find that the imported vehicle became liable to confiscation under Section 111(m) of the Customs Act on account of deliberate misdeclaration of its value. The subsequent finding that the appellant is entitled to the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus. does not efface or condone the fraudulent act of undervaluation. The liability to confiscation arises from the misdeclaration of value and operates independently of the appellant's entitlement to the exemption notification. We accordingly hold that the order confiscating the imported vehicle under Section 111(m) of the Customs Act warrants no interference.

27. Having held that the imported vehicle is liable to confiscation under Section 111(m), we now examine the redemption fine imposed under Section 125 of the Customs Act. It is not in dispute that the imported vehicle had already been cleared and was no longer available for confiscation or redemption. Further, there was no evidence that it was

provisionally assessed or cleared. The Hon'ble Supreme Court in *Commissioner of Customs v. Finesse Creation Inc., 2023 (385) E.L.T. 513 (S.C.)* has authoritatively held that redemption fine under Section 125 cannot be imposed where the goods are no longer available for confiscation. Respectfully following the said decision, we hold that although the confiscation of the vehicle is sustainable, the redemption fine imposed under Section 125 of the Customs Act is unsustainable and is ordered to be set aside.

28. We now turn to the penalties imposed under Sections 114A and 112(a) of the Customs Act. Facts emerging from the records that Mr. Alberto Bestonso of Mumbai has acted as a middleman in active conspiratorial way along with his brother Mr. Lorenso settled in UK with the aim of facilitating import of foreign made luxury cars by undervaluation with the aim of fraudulently evading appropriate customs duties. The adjudicating authority imposed the penalties principally on the finding that the imported vehicle had been deliberately undervalued by manipulation of invoices. We have independently examined the evidence and have upheld the rejection of the declared transaction value and the enhancement of the assessable value, subject only to exclusion of the VAT refund from the assessable value. We have also held that the appellant is

entitled to the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus. In these circumstances, while the finding of deliberate undervaluation is affirmed, the quantum of duty payable stands reduced on account of the admissibility of the exemption notification and the exclusion of the VAT refund. We have already remanded the issue of quantification of differential duty payable as ordered above.

29. The penalties imposed under Sections 114A and 112(a) are consequential to the duty found payable. Since the appellant succeeds only to the limited extent indicated above, the penalties cannot survive in the quantum determined in the impugned order. At the same time, the finding regarding deliberate undervaluation and consequent liability to penal action stands affirmed. Accordingly, the penalty imposed under Section 114A shall stand restricted to the penalty legally leviable on the duty payable after extending the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus. and after excluding the VAT refund from the assessable value. However, the penalty imposed under Section 112(a) on Mr. Alberto Bestonso is confirmed as imposed at Rs.10,00,000/- (Rupees Ten Lakhs only).

30. Accordingly, Issue No. (ii) is answered by holding that the confiscation of the imported vehicle under

Section 111(m) of the Customs Act is legally sustainable. However, in view of the law laid down by the Hon'ble Supreme Court in *Commissioner of Customs v. Finesse Creation Inc., 2023 (385) E.L.T. 513 (S.C.),* the redemption fine imposed under Section 125 of the Customs Act is set aside. The penalty imposed under Section 114A of the Customs Act shall stand modified consequentially in terms of the findings recorded in this order. It should be equivalent to the differential duty to be quantified on remand .

31. In the result: -

i. The impugned Order-in-Original is modified to the extent indicated herein.

ii. The rejection of the declared transaction value under Section 14 of the Customs Act and the enhancement of the assessable value are upheld, subject to exclusion of the VAT refund from the assessable value.

iii. The appellant is held entitled to the benefit of Serial No. 344(2) of Notification No. 21/2002-Cus., dated 01.03.2002, as the imported Maserati GranTurismo continued to be a new motor vehicle, notwithstanding its temporary registration in the United Kingdom prior to export.

iv. The confiscation of the imported vehicle under Section 111(m) of the Customs Act is upheld.

v. The redemption fine imposed under Section 125 of the Customs Act is set aside in view of the judgment of the Hon'ble Supreme Court in Commissioner of Customs v. Finesse Creation Inc., 2023 (385) E.L.T. 513 (S.C.).

vi. The penalty imposed under Section 112(a) is upheld but the penalty under Section 114A of the Customs Act is modified consequentially in accordance with the findings recorded in this order.

vii. The matter is remanded to the Original Adjudicating Authority only for the limited purpose of re-quantifying the assessable value, differential duty, applicable interest and the consequential penalty under Section 114A, strictly in accordance with the findings recorded in this order. No other issue shall be reopened

32. Accordingly, Customs Appeal No. C/40761/2016 is partly allowed in the above terms and remanded to the Original Adjudicating Authority for the limited purpose specified in paragraph 31(vii). Customs Appeal No. C/40762/2016 filed by Shri Alberto Bestonso is rejected.

(Order pronounced in open court on 07.08.2026)

Sd/-	Sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

MK