CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 1

Customs Appeal No.598 of 2009

[Arising out of Order-in-Original No.07/MKG/2009 dated 30.06.2009 passed by the Commissioner of Customs (Import & General), New Delhi]

Smt. Shail Singhal,
W/o Ram Parkash Singhal **Appellant**
R/O Kothi No.8 (Ground Floor),
Opp. B-1, West Nizamuddin,
New Delhi-110013

Vs.

Commissioner of Customs,
New Delhi (Import & General) **Respondent**
New Custom House, Near I.G.I. Airport,
New Delhi -110037

WITH

Customs Appeal No.608 of 2009

[Arising out of Order-in-Original No.07/MKG/2009 dated 30.06.2009 passed by the Commissioner of Customs (Import & General), New Delhi]

Shri Ram Parkash Singhal,
S/o Late Sh. O.P.Singhal, **Appellant**
R/O Kothi No.8 (Ground Floor),
Opp. B-1, West Nizamuddin,
New Delhi-110013

Vs.

Commissioner of Customs,
New Delhi (Import & General) **Respondent**
New Custom House, Near I.G.I. Airport,
New Delhi -110037

Appearance:
Present for the Appellant: Shri Naveen Malhotra and Shri Ritvik Malhotra, Advocates
Present for the Respondent: Shri M.K.Shukla, Authorised Representative

WITH

Customs Appeal No.630 of 2009

[Arising out of Order-in-Original No.07/MKG/2009 dated 30.06.2009 passed by the Commissioner of Customs (Import & General), New Delhi]

Shri Ashish Chawla **Appellant**
E-526, Greater Kailash, Part-II,
New Delhi-110048

Vs.

Commissioner of Customs,
New Delhi (Import & General) **Respondent**
New Custom House, Near I.G.I. Airport,
New Delhi -110037

AND

Customs Appeal No.631 of 2009

[Arising out of Order-in-Original No.07/MKG/2009 dated 30.06.2009 passed by the Commissioner of Customs (Import & General), New Delhi]

Shri Vinod Chawla **Appellant**
E-526, Greater Kailash, Part-II,
New Delhi-110048

Vs.

Commissioner of Customs,
New Delhi (Import & General) **Respondent**
New Custom House, Near I.G.I. Airport,
New Delhi -110037

Appearance:
Present for the Appellant: None
Present for the Respondent: Shri M.K.Shukla, Authorised Representative

CORAM:
HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing :01.07.2026
Date of Decision:06.08.2026

Final Order Nos.51280-51283/2026

HEMAMBIKA R. PRIYA

The present four appeals have been filed by the appellant viz., Shail Singhal[1], R.P. Singhal[2], Ashish Chawla[3] & Vinod Chawla[4] against the Order-in-Original passed by the Commissioner of Customs (Import & General), New Delhi, rejecting the declared transaction value of imported Main PCB Boards for Digital Satellite Receivers[5] and redetermined assessable value under the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988[6]. Differential customs duty of Rs.7,24,34,879/- was confirmed along with interest, the goods were held liable to confiscation under Section 111(m) of the and penalties were imposed upon all the appellants.

2. The brief facts are that the Appellant M/s. Jitin Electronics, a proprietary concern of Smt. Shail Singhal, imported Main CB Boards for Digital Satellite Receivers under four Bills of Entry during the period January 2005 to April 2005, aggregating to 18,000 pieces. The goods were declared as "Populated PCB for Receiver / Components of Digital Receiver" and classified under CTH 85229000. All the consignments were supplied by M/s. New Leaf International Ltd., Hong Kong, which was controlled by Sh. Ashish Chawla. Investigations revealed that M/s. Jitin Electronics had lent its IEC and firm name for the purpose of importation. The imports were arranged and controlled by Sh. Ashish

1. Appellant 1
2. Appellant 2
3. Appellant 3
4 . Appellant 4
5. DSR
6. CVR

Chawla alongwith his father Sh. Vinod Chawla, proprietor of M/s. Wings Electronics, who was the ultimate beneficiary of the goods. Investigations further revealed that immediately upon clearance, the goods were supplied to M/s. Wings Electronics, through fabricated billing. M/s. Jitin Electronics, the appellant firm had earned only a fixed commission of Rs.3 per set. DRI investigations against the appellants culminated in Show Cause Notice dated 14.06.2007 issued under Section 124 read with section 28 (1) of the Customs Act, 1962, alleging undervaluation in respect of imports of main PCB Boards for Digital Satellite Receivers. The said Notice was adjudicated vide the impugned order wherein the differential duty was confirmed and penalties imposed on all the four appellants. Aggrieved, the present appeals are filed before this Tribunal.

3. Learned counsel submitted that M/s Jitin Electronics was a proprietary concern in the name of Smt. Shail Singhal, and was engaged only in the local sale of the imported goods. The imports were arranged by Shri Ashish Chawla and Shri Vinod Chawla through their concern M/s New Leaf International. Three Bills of Entry for 5,000 pieces each were filed, and the appellant firm had received only Rs.45,000/- from Shri Ashish Chawla. Learned counsel submitted that the appellant firm had no technical knowledge regarding the imported goods. The amount of Rs.9,50,000/- was deposited by them, pursuant to the directions of the DRI. Learned counsel also submitted that statements of Shri Vinod Chawla and other persons were recorded during investigation, following which the impugned Show Cause Notice was issued. He contended that the reasons assigned by the Department for rejection of the declared

transaction value and the methodology adopted for redetermination of value was after invoking Rule 10A based on certain independent price quotations. However, there was no contemporaneous import data of the item.

3.1 Learned counsel further submitted that no opportunity of cross-examination was granted of the persons whose statements and documents had been relied upon in the Show Cause Notice. Further, the mandatory procedure prescribed under Section 138B of the Customs Act, 1962 for relying upon statements recorded during investigation had also not been followed. Consequently, such statements cannot be relied upon as substantive evidence. Learned counsel relied on the decision of the Tribunal in the case of **Sh. Deept Swarup Aggarwal** vs **Commissioner of Customs ICD TKD,** Customs Appeal no. 335/2006 order dated 06.06.2025. Learned counsel also submitted that no goods were available for physical examination or comparison, and no representative samples were drawn, nor any laboratory or technical test report was obtained. In the absence of any scientific examination establishing that the imported goods were identical or comparable with the goods relied upon by the Department, the allegation of undervaluation remained unsupported by cogent evidence. Learned counsel also stated that under the Customs Valuation Rules, the declared transaction value can be rejected only upon the existence of valid and legally sustainable reasons. Mere suspicion, assumptions, market enquiries, or third-party quotations cannot, by themselves, constitute sufficient grounds for rejection of the transaction value. Learned counsel stated that prior to relying upon contemporaneous imports, the

Department was required to establish that the goods are identical or similar in all material particulars, including quality, technical specifications, brand, country of origin, quantity, commercial level, and the time of import. In the absence of such evidence and compliance with the sequential valuation methodology prescribed under the Customs Valuation Rules, reliance upon prices declared by other importers was legally impermissible.

3.2 Learned counsel for the Appellant relied upon the decisions of the Tribunal and Hon'ble Supreme Court in the case of **M/s Eicher Tractors Ltd** vs **Commissioner of Customs Mumbai**[7], **Mirah Exports Pvt Ltd** vs **Collector of Customs**[8]**, Rabindra Chandra Paul** vs **Commissioner of Customs**[9]**, Venus Insulation products** vs **Commissioner of Customs**[10], **Saahil Trends** vs **Commissioner of Customs**[11], **Commissioner of Customs** vs **Forte Garments**[12], **Eagle International** vs **Commissioner of Customs**- Customs Appeal no. 75332/2023 decided on 27.11.2025 CESTAT Kolkata bench.

3.3. Learned counsel further submitted that where penalty has been proposed under Section 114A of the Customs Act on the same set of allegations involving alleged suppression or willful mis-statement, separate penalty under Section 112(a) or Section 112(b) for the very same act was not legally sustainable. He prayed that the appeal may be allowed.

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7. 2001(1) SCC 315
8. 1988 (3) SCC 292
9. 2007 (3) 93
10. 2002(143)ELT 364
11. 2005(183)ELT 75
12. 2002(150) ELT622

4. Learned Authorized Representative for the department submitted that the investigations established that the impugned imports were not isolated transactions but formed part of a larger DRI investigation covering several importers who had engaged in systematic undervaluation of identical Digital Satellite Receiver components. Learned Authorised Representative stated that the Tribunal in its decision in **M/s. A.G. Incorporation**[13] had already examined the investigations in identical factual matrix and had recorded its findings that the importers had acted merely as conduits between overseas suppliers and domestic beneficiaries for importation of undervalued Main PCB Boards. In the said decision, the Tribunal had noted that the goods supplied by M/s. New Leaf International were sold to M/s Wings Electronics of Shri Vinod Chawla, thereby directly linking the present appellants with the very transaction pattern already judicially examined and upheld. He also submitted that the adjudicating authority had correctly recorded a categorical finding that there was no genuine sale of goods to M/s. Jitin Electronics in the course of international trade. The so-called importer had admittedly acted entirely on the instructions of the overseas supplier and the domestic beneficiary and had no freedom with respect to pricing, resale or disposal of the goods. The evidence on record established that the declared price was not the sole consideration for the sale, and restrictions existed on the sale of goods, and the proceeds of resale accrued to persons, other than the declared importer. Learned Authorised Representative contended that facts in the instant case attract clauses (e), (f) and (g) of Rule 4(2) of the Customs Valuation Rules, rendering the transaction value unacceptable. Further,

13. 2013 (287)ELT 357 (Tri.-Del.)

Learned Authorised Representative submitted that the importer, through its Authorised Representative, had categorically disowned the transaction and had admitted to acting merely on a commission basis.

4.1 Learned Authorized Representative further contended that after rejection of the declared transaction value, the adjudicating authority had proceeded sequentially as per the Valuation Rules and re-determined the assessable value under Rule 6 by relying upon contemporaneous imports of identical or similar goods. The comparable imports relied upon were of Main PCB Boards for Satellite Receivers, of Chinese origin, falling under the same tariff heading, imported during the same period and in comparable quantities. The appellants themselves did not declare any brand name or distinguishing technical specifications in their Bills of Entry and therefore their plea of non-comparability was clearly an afterthought and devoid of merit. The enhanced assessable value adopted is thus based on objective, contemporaneous and legally admissible data and fully conforms to the statutory valuation framework.

4.2 Learned Authorized Representative further submitted that the differential customs duty amounting to Rs.24,34,879/- had been rightly confirmed under the proviso to Section 28(1) of the Customs Act, 1962, as the case involves deliberate undervaluation, suppression of material facts and wilful mis-declaration with intent to evade payment of duty.

5. We have heard Shri Naveen Malhotra, learned counsel for the appellant (Smt. Shail Singhal and Shri Ram Parkash Singhal) assisted by Shri Ritvik Malhotra and Shri M.K.Shukla, Authorised Representative of the department. None appeared on behalf of Shri Ashish Chawla and Shri Vinod Chawla.

6. The following issued arise for our consideration:

1. Whether the declared value for imported goods is liable to rejection under Rule10A (1) r/w Rule 4(2) of the Customs Valuation Rules, 1988.
2. Whether duty of Rs.24,34,879/- was recoverable under Section 28(1) with interest under Section 28AB.
3. Whether the goods were liable to confiscation under Section 111(m) of the Customs Act, 1962
4. Whether penalties on the appellants were warranted under Sections 112(a), 112(b), and 114A of the Customs Act.

6.1 At the outset, we take note of the submissions of learned Authorised Representative that on identical factual matrix, the Tribunal in its decision in M/s. A.G. Corporation (supra) has decided the matter in favour of the Department. We note that in the aforesaid decision, there were three importers Ali Corporation, Coin Cushion Ltd and Overseas Business Corporation, who imported 28 consignments of **DSR** parts, mainly PCBs. DRI initiated investigations which revealed that M/s. A.G. Corporation was a proprietary concern, and DSR were imported from Trade Venture Ltd., which in turn was supplied by M/s. New Leaf Electronics and sold to M/s. Wing Electronics of Sh. Vinod Chawla. It was also established that Sh. Vinod Chawla was father of Sh. Ashish Chawla of New Leaf Electronics. Based on the above factual matrix, the Tribunal decided as follows:

> "30. The other edifice of defence sought to be built is something constructed by borrowing different sentences from different decisions of courts written in the context of the facts of each case as explained with reference to major cases cited. Of course many

> more such decisions can be examined and shown how the decisions cannot build an edifice of defence in this case. For the sake of brevity it is not being attempted.
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> 31. When the facts are seen in the above light we see no reason to hold the impugned order to be bad. So we uphold the order in respect of revision of value as per the impugned order and consequent duty liability.
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> 32. However, we note that in respect of the penalties imposed on the three importers under Section 114A of the Customs Act, the adjudicating authority has not given the option to pay 25% of duty demanded along with interest within 30 days of receipt of the order for final settlement. So we give such option to be exercised within 30 days of receipt of this order. We make this order on the basis of following decisions of the High Courts:
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> (i) K.P. Pouches Pvt. Ltd. v. UOI - 2008(228) E.L.T. 31 (Del.)
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> (ii) CCE v. Balaji Exports - 2009 (258) E.L.T. A-108 (Guj.)
>
> 33. We uphold the penalty imposed on Shri Ajay Kumar Aggarwal.
>
> 34. The four appeals are disposed of in the above terms by giving partial relief in respect of penalty imposed under Section 114A of the Customs Act subject to condition."

6.2 In the instant case, it is an admitted fact that the appellant no.1, a proprietary concern had imported the said DSR from M/s. New Leaf Electronics, and immediately on import, the same was sold to M/s. Wing Electronics. These firms belonged to Sh. Ashish Chawla and his father Sh. Vinod Chawla and the goods were imported by the appellant for merely a commission. In view of the Tribunal's decision supra, and the fact that the facts are identical, we uphold the demand of differential duty along with interest.

6.3 We now take up the other submissions of the learned counsel. Learned counsel has vehemently submitted that without physical examination or drawal of samples, reliance on contemporaneous import values was not permissible. In this context, we note that the methodology adopted by the adjudicating authority is identical to the methodology upheld by this Tribunal in A.G. Incorporation decision (supra). In that case also, Revenue had relied upon contemporaneous imports of Main PCB Boards imported by M/s Electronic Enterprises, Catvision Products Ltd. and other importers. The Tribunal had specifically approved the adoption of the lowest contemporaneous value of USD 10.5 per PCB imported by M/s. Electronic Enterprises, observing that the Department had adopted the most conservative comparable value available. Significantly, it is very pertinent to note that the very same contemporaneous import of M/s Electronic Enterprises has been relied upon in the present proceedings. Hence, we hold that the valuation methodology was correct. Learned counsel's contention that the comparable imports are not identical or similar cannot be accepted. We find that the comparable imports relied upon relate to the same goods, under the same tariff heading, from the same country of origin, during the same period and in comparable quantities. We note that the appellants did not declare any distinguishing technical specifications and therefore cannot claim non-comparability at this stage.

6.4 Further the submission that the assessments could not be reopened after clearance was also directly answered by the decision in M/s. A.G. Incorporation (supra). Rejecting the identical argument, the Tribunal in the said decision categorically held that the acceptance of such a proposition would virtually grant immunity to importers indulging in undervaluation merely because the assessing officer had initially loaded the value. The Tribunal held that proceedings under Section 28 remain fully maintainable whenever subsequent investigation uncovers suppression or undervaluation. We find that the present case stands on identical footing and therefore the extended period has been rightly invoked.

6.5 Learned counsel has also contended that the mandatory procedure under section 138B of Customs Act, 1962 was not followed. He has relied on the Tribunal's decision in M/s. Deept. Swaroop Aggarwal (supra). In this context, we find that it is settled law that section 108 empowers a gazette officer of Customs to summon any person to provide evidence or produce documents. This aspect has been examined by the Hon'ble High Court of Calcutta in **Commissioner of Customs Preventive, Kolkata** vs. **Shri Anil Kumar Soni** in CUSTA 31 of 2025, wherein it was held as below:

> "10.1 Regarding the Learned Tribunal's summary dismissal of the statements recorded under Section 108 of the Act, we find it imperative to delineate the specialized statutory landscape governing such evidence. Section 108 empowers a Gazetted Officer of Customs to summon any person to provide evidence or produce documents. Sub-section (3) mandates that all persons so summoned are "bound to state the truth," and crucially, under sub-section (4), such inquiries are elevated by legal fiction to the status of "judicial proceedings" within the meaning of Sections 193 and 228 of the Indian Penal Code. This statutory character fundamentally distinguishes these depositions from ordinary confessions recorded by police authorities.
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> 10.2 Following the celebrated Constitution Bench decision in *Illias v. Collector of Customs, Madras* [AIR 1970 SC 1065], it is settled law that Customs Officers are not "police officers" for the purposes of Section 25 of the Evidence Act. Their primary mandate is the protection of the National Exchequer and the prevention of smuggling; since they lack the power to file a

> charge sheet under Section 173 of the Code of Criminal Procedure, a confession recorded by them is admissible as substantive evidence. Such statements are neither hit by the exclusionary rules of the Evidence Act nor do they violate the constitutional protection against self-incrimination enshrined in Article 20(3). As the Apex Court clarified in *Ramesh Chandra Mehta v. State of West Bengal* [AIR 1970SC940], at the stage of a Section 108 inquiry, the deponent is not an "accused" in the technical sense, rendering the shield of Article 20(3) unavailable.”

7. We now take up the issue of penalties on the appellant. M/s Jitin Electronics was a proprietorship concern in the name of Mrs. Shall Singhal, which imported 15,000 pieces of Main PCB Boards under three Bills of Entry, declaring CIF values ranging from USD 3.16 to 3.33 per piece. Summons were issued to Mrs. Shail Singhal under Section 108 of the Customs Act, 1962.Though she did not personally appear, she authorized her husband Shri R.P.Singhal to depose on her behalf and had unequivocally stated that all import-related activities were managed by him, and that she fully agreed with his statements and undertook to abide by all commitments made by him to the Government. This explicit authorization and adoption of the statements of Shri R.P. Singhal clearly fastened the legal responsibility upon the proprietorship concern and its proprietor. Consequently, Smt. Shail Singhal, being the proprietor of M/s. Jitin Electronics and the importer of record, was legally responsible for the declarations made to Customs. Through her authorised representative, she admitted that the imports were made for third parties and that the declared value was not genuine. Hence, the penalty under Section 114A been correctly imposed on the appellant.

7.1 Shri R.P. Singhal, husband of the proprietor, in his detailed voluntary statements recorded under Section 108 of the Customs Act, 1962, categorically admitted:

- M/s Jitin Electronics, IEC was lent out for the purpose of importing DSR components at the instance of Shri Ashish Chawla and Shri Vinod Chawla.
- The declared value of the Main CB Boards was not the actual transaction value and was deliberately under-declared.
- The extent of undervaluation ranged between US 6.5 to 12.5 per unit, leading to substantial evasion of customs duty.
- He received a commission of Rs. 3 per set, aggregating to Rs. 45,000, for allowing of his firm.
- One consignment was cleared using DEPB scrips, arranged through intermediaries, further evidencing conscious planning to evade duty.

7.1.1 Significantly, we note that Shri R.P. Singhal voluntarily deposited Rs. 9.5 lakhs towards differential duty even before issuance of the Show Cause Notice, which constitutes a strong corroborative circumstance evidencing acceptance of undervaluation and duty evasion. Sh. R.P. Singhal has admitted the receipt of commission, issuance of fabricated invoices and routing of goods to M/s. Wings Electronics with full knowledge of undervaluation. Consequently, we find that such conduct squarely attracts penalty under Section 112(a) of the Customs Act.

7.2 Investigations revealed that all the consignments imported by M/s Jitin Electronics were supplied by **M/s New Leaf International Ltd.,**

Hong Kong, controlled by **Shri Ashish Chawla**, who is the son of Shri Vinod Chawla. The statements and documentary evidence establish that M/s New Leaf International was the actual overseas supplier, even when invoices were routed through other Hong Kong entities. Shri Ashish Chawla actively coordinated the imports, guided the valuation, and arranged supply of undervalued goods. The entire export of CB Boards from Hong Kong was admitted and confirmed, and the invoices issued by M/s New Leaf International were accepted as genuine by Shri Vinod Chawla himself. We find that the adjudicating authority has correctly concluded that Shri Ashish Chawla was a co-conspirator, having orchestrated undervalued exports with full knowledge of Indian customs valuation requirements. His acts constitute clear abetment of mis-declaration, warranting penalty under Section 112(b).

7.3 Shri Vinod Chawla, proprietor of **M/s Wings Electronics**, was found to be the **ultimate beneficiary** of the undervalued imports. Evidence on record clearly established that all the imported PCB Boards were supplied to M/s Wings Electronics, either directly or under fabricated cash bills. Out of 26 sale bills generated by M/s Jitin Electronics, several were in the name of M/s Wings Electronics, and the remainder were admittedly created as "cash bills" to camouflage actual supply. Shri R.P. Singhal consistently stated that pricing, billing, and disposal of goods were carried out on the instructions of Shri Vinod Chawla. Although Shri Vinod Chawla attempted to retract and selectively deny portions of the statements, he admitted to purchase of at least 3,000 pieces under Tax Invoice No. 01 dated 10.08.2005. In view of the said evidence, we hold that the adjudicating authority has rightly held that such partial admissions, coupled with overwhelming corroborative evidence, clearly established active abetment and connivance by Shri Vinod Chawla in the undervaluation scheme. Penalty under Section 112(b) has therefore been rightly imposed upon him.

8. Learned counsel submitted that the Department had refused cross-examination of witnesses. We find that the adjudication was based on documentary evidence, Bills of Entry and voluntary admissions of the appellants themselves. No statement of investigating officers was relied upon against the appellants. Hence, cross-examination was held to be neither relevant nor necessary for proper adjudication. We have no reason to differ with these findings.

9. We hold that the present case is squarely covered by the decision in A.G. Incorporation (supra).

10. In view of the same, we uphold the impugned order, and dismiss the appeals.

(Order pronounced on **06.08.2009**)

(DR. RACHNA GUPTA)
OFFICIATING PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana