CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO.1

Customs Appeal No. 55475Of 2023

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-102-2023-24 dated 13.07.2023passed by the Commissioner (Appeals) of CGST, Customs and Central Excise, Indore]

Regent Industries India **: Appellant**
(Manish Jain)
13-B, Sector B, Sanwer Road
Indore, Madhya Pradesh-452015

Vs

Commissioner of Customs, Indore **: Respondent**
3rd Floor, B-Zone Business Space,
Pipliya Kumar, Nipaniya Indore
Madhya Pradesh-452010

APPEARANCE:

Shri Vikas Oberoi, Consultant and Shri Mayank Sharma, Advocate for the Appellant

Shri Shiv Shanker, Authorized Representative for the Respondent

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

FINAL ORDER No. 51396/2026

Date of Hearing:17.07.2026

Date of Decision:25.08.2026

HEMAMBIKA R. PRIYA

The present appeal has been filed by M/s Regent Industries India[1] to assail the impugned Order-in-Appeal No. IND-EXCUS-000-APP-102-2023-24 dated 13.07.2023 wherein the Commissioner

1 **The appellant**

(Appeals)rejected the appeal and upheld the assessment order dated 10.05.2022.

2. Brief facts of the case are that the appellant, Sh. Manish Jain is Proprietor of M/s Regent Industries India imported wall paper falling under CTH 48149000vide two Bills of Entry No. 2231054 dated 04.01.2021 and No. 9999472 dated 17.12.2020, declaring a value of USD 2.2 per kg. The Faceless Assessment Group[2] enhanced this value to USD 3.5 per kg based on National Import Database[3] data from Nhava Sheva Port. The appellant filed an appeal before the Commissioner (Appeals), Indore against the initial assessment and the non-issuance of a speaking order. Vide order IND-EXCUS-000-APP-006-007-2021-22 dated 31.5.2021 remanded the case to the assessing officer to follow principles of natural justice. The FAG in respect of B/E No. 231054 dated 04.01.2021 rejected the declared value and issued an assessment order dated 10.5.2022. Being aggrieved, the appellant filed an appeal before the Commissioner (Appeals) who vide the impugned order rejected the appeal concerning the value enhancement for Bill of Entry no. 2231054 dated 04.01.2021. As regard the Bill of Entry no. 9999472 dated 17.12.2020, the Commissioner (Appeals) advised the appellant to approach the authorities for a speaking order, even though a previous order had directed the FAG to issue one and grant a personal hearing before issuing an order. This present appeal has been filed before the Tribunal against the

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2 FAG
3 NIDB

Order-in-Appeal No. IND-EXCUS-00-APP-102-2023-24 dated 13.07.2023.

3. Learned Counsel for the appellant submitted that the value of said goods @ USD 2.2 per Kg had been accepted by Department where Bill of Entry was filed before the subject Bills of Entry. Hence, the enhancement of the value said goods from @2.2 per Kg to @3.5per kg was unlawful. He relied on CESTAT Ahmedabad Bench Decision Dt. 22.9.2023 in Customs Appeal no. 12610 of 2018 in case of **M/s Panchagni Energies Pvt. Ltd.** Vs **Commissioner of Customs, Mundra.**Learned counsel also submitted that the proforma invoice dated 07.12.2020 of exporter M/s Passion Development Ltd. 46, Zhongjin Road Minglun Street Wucheng Jinhua City clearly reflected the value of said goods to be @USD 2.2 per Kg. Hence, the enhancement of said goods from @2.2 per Kg to @3.5per kg was unlawful.

3.1 Learned counsel further submitted that the Commissioner (Appeals) had erred in considering the NIDB Data of JNPT Port to assess the said goods @ USD 3.5 per Kg by Assistant Commissioner of Customs Mumbai. The Assistant Commissioner of Customs, Mumbai vide impugned order had assessed said goods imported vide Bill of Entry no 2231054 dt.04.01.2021 @ USD 3.5 per Kg The said assessment had been done on the basis of NIDB Data of Nhava Sheva Port wherein identical goods imported vide Bill of Entry No. 2466837 dated 22.01.21 had been cleared and assessed @ USD 3.5 per Kg. He submitted that neither the copy of Bill of Entry No. 2466837 Dated 22.01.21 of Nhava Sheva had been shared with the appellant. The Value of said goods @ USD 2.2 per

Kg had been accepted by Department in respect of Bill of Entry 9400767 dt. 01.11.2020. In support of his submission, learned counsel relied on the decision of the Tribunal dated 29.08.2018 in the case of **Varun Overseas** versus **Commissioner of Customs-Delhi-IV.**

3.2 Learned counsel further submitted that the Commissioner (Appeals) had erred in not considering Rule 5(3) of the Customs Valuation Rules, 1988 which lays down that, "in applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods" He also submitted that the Assistant Commissioner, Mumbai had considered the data of other port for same product at higher side i.e @USD 3.5 per Kg in place of considering data of ICD Tihi from where goods of same importer has been cleared @USD 2.2 per Kg/on declared value of Appellant i.e @USD 2.2 Per Kg which was against the provisions of Rule 5(3) of the Customs Valuation Rules, 1988. He prayed that the impugned order may be set-aside and his appeal be allowed.

4. Learned Authorized Representative for the Department reiterated the discussions and findings in the impugned Order-in-Appeal and Order in assessment. Additionally, he submitted that these supplementary submissions should be regarded as integral to the arguments presented during the appeal hearing. Learned AR submitted that the department's primary contention, as implemented by the Faceless Assessment Group (FAG) and upheld by the Assistant Commissioner, was that the imported "wall paper" was undervalued. They had based this assessment on NIDB

(National Import Database) data from Nhava Sheva Port, which indicated that identical goods were assessed at a higher value of USD 3.5 per kg, as opposed to the importer's declared value of USD 2.2 per kg. Learned Authorized Representative submitted that the department maintained that the said value viz., USD 3.5 per kg reflected the correct assessable value of the goods. This clearly implied that the transaction value declared by the importer was not acceptable under the Customs Valuation Rules, 2007, and thus required enhancement using comparable data. The impugned order of Commissioner (Appeals) supported the department's stance by rejecting the importer's appeal regarding the value enhancement for Bill of Entry no. 2231054 dated 04.01.2021, thereby upholding the department's decision on valuation for that specific bill. Learned Authorized Representative prayed that the appeal filed by the appellant may be dismissed.

5. We have heard the Ld Counsel for the appellant and the Ld AR for the department, and perused the records. The central issue in this appeal is the correctness in the enhancement of the customs valuation of imported "wall paper" by the Faceless Assessment Group (FAG) from the declared value of USD 2.2 per kg to USD 3.5 per kg. The appellant contests this enhancement, arguing that the declared value is the correct transaction value and is supported by contemporaneous imports and proforma invoices.

6. We find that the Ld Counsel has submitted that the impugned order has erred in relying on the NIDB data of Nhava Sheva to assess their B/E. We note that the instant Bill of Entry No. 2231054

dated 04.01.2021 was filed after self-assessment by the appellant @2.2 US$ per kgs. This was re-assessed by the order after following principle of natural justice by the Assistant Commissioner of Customs, Group-II(H-K)NS-1, JNCH, wherein the declared value in respect of the impugned goods imported through Bill of Entry No.2231054 dated 04.01.2021 was rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules 2007. It is pertinent to mention here that Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 empowers the proper customs officer to reject a declared transaction value and re-determine the value if there is reasonable doubt regarding the truth or accuracy of the declared value. In the instant case, the availability of higher import values of identical goods, as per NIDB was sufficient reason for the assessing officer to reject the value. We find that the AC proceeded to re-determine the value of impugned goods at @ US$ 3.5 per Kg as per provisions of Section 14 of the Customs Act. 1962. It has been contended by the Ld Counsel that they had contemporaneous imports at the same value which was not considered by the assessing order, nor in the impugned order. We find that the impugned order has noted that the assessing officer, while assessing the impugned Bill of Entry had found that contemporary import price of similar/identical goods was on higher side, and resorted to Rule 5 of Customs Valuation (Determination of Value of Imported (Goods) Rules 2007. The said Rule is reproduced hereinafter: -

"5. Transaction value of similar goods. -

(1)Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to

India and imported at or about the same time as the goods being valued: Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods."

7. We note the above rule states that the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued. In exercise of this Rule, we note that the assessing officer had found that transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued was available of similar goods at same commercial level, same quantity, same country of origin as the goods was being valued. The details of the Bills of Entry which was relied upon are as under:-

Sr. No.	Bill of Entry and date	Description	Declared unit price in US$	Quantity in Kgs	Assessable
1	2203827 dated 02.01.2021	Wall Paper	3.725416	20125	5811309.57
2	2322894 dated 12.01.2021	Wall Paper	6.328775	6083.8	2849222.10
3	2466837 dated 22.01.2021	Wall Paper	3.50	674.583	182646.88

8. We note that the Ld Counsel has submitted that the Department has not considered the value assessed in respect of contemporaneous Bill of Entry 9400767 dt 01.11.2020. In this context, we find that that impugned Bill of Entry was self-assessed and filed on 04.01.2021 and

was initially assessed on 06.01.2021, and thereafter cleared on 11.01.2021.It is pertinent to note find that the Appellant's contemporary Bill of Entry pertains to 01.11.2020, whereas the assessing officer has considered contemporaneous import vide Bill of Entry dated 22.01.2021. Further, out of the contemporaneous imports, we find that the assessing officer had taken the lowest value amongst the imports. Thus, the Ld Counsel’s contention that the impugned order had erred by not taking the lowest of such value is not correct, in view of the factual findings above.

9. The Ld Counsel has further contended that the description of goods, quantity, range and size of the goods imported under Bill of Entry No.2466837 dated 22.01.2021 had not been provided to them. In this regard, we note that the impugned order has noted that the Appellant in the said Bill of Entry No.2231054 dated 04.01.2021 had declared the description of goods as 'Wall Paper' with supplier’s invoice no.20201207-1 dated 07.12.2020 and packing list. Both the invoice and packing lists only number of packages, number of rolls, quantity, gross weight and net weight are mentioned and the size, thickness of Wall paper are nowhere mentioned. The impugned order further notes the contemporary Bill of Entry No.9400767 dated 01.11.2020, as relied upon by the appellant merely mentions the same description in the Bill of Entry. Hence, the ld counsel’s contention that the goods may not be identical for its comparison with the goods so imported cannot be accepted.

10. Hence, we find no infirmity with respect to the impugned order upholding the enhancement issued by assessing officer. As regards

the remand order of Commissioner (Appeals) to the assessing officer in respect of Bill of Entry No. 9999472 dated 17.12.2020, we do not find any infirmity in respect of this finding. Section 17 (5) of the Customs Act requires the customs officer to issue a speaking order. Despite the remand direction, it has been observed by the impugned order that speaking order has not been passed. The relevant portion of the findings in the impugned order as under:-

> "11. Further I also find that the Appellant in the present appeal has also requested to quash the assessment of Bill of Entry No.9999472 dated 17.12.2020 on the ground that even after the matter being remanded by Commissioner (Appeals) vide order dated 31.05.2021, the respective assessing officer has not passed speaking order yet inspite of lapse of one year. Since the assessment of Bill of Entry No. 9999472 dated 17.12.2020 was remanded with a direction to issue speaking order after giving opportunity of personal hearing, the contention raised to quash the assessment is baseless and does not merit consideration. The Appellant in this regard is free to approach the respective authorities for issuance of speaking order in respect of the Bill of Entry No.9999472 dated 17.12.2020."

In this context, we note that in a similar matter in the case of **J. K. C. General Trading Company** versus **Union of India & Ors.** the Hon'ble Bombay High Court in Writ Petition No. 15775 of 2025 vide order dated 01.12.2025 noted the following:-

> "10. The Respondents' not passing any speaking order in this matter is a gross dereliction of their duty. Firstly, the Commissioner (Appeal)'s remand order finds these Respondents, in terms of which speaking order should have been made within some reasonable period. In any event, this court, in the case of Canon India Private Ltd versus Union of India, this court has held that it is the duty of the Customs

> Authorities to decide the importers claim by passing a speaking order. This court has further held that by not passing such speaking orders, or by delaying their passing, the customs authorities cannot frustrate the importers, right of an effective redressal to appeal or other remedies."

11. In view of the above, we find no infirmity in the impugned order and uphold the same. Consequently, the appeal is dismissed.

(Order pronounced in the open Court on 25.08.2026)

(DR. RACHNA GUPTA)
OFFICIATING PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.