IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75729 of 2026

(Arising out of Order-in-Original No. KOL/CUS/PR.COMM./PORT/GR-4/46/2026 dated 11.05.2026 passed by the Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal)

M/s. Sterling Bolts Private Limited **: Appellant**
Tentukuli, N.H.6,
Howrah – 711 409

VERSUS

Principal Commissioner of Customs (Port) **: Respondent**
Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri H.K. Pandey, Advocate, for the Appellant

Shri S. Debnath, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76202 / 2026

DATE OF HEARING: 16.09.2026

DATE OF DECISION: 22.09.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed by M/s. Sterling Bolts Pvt. Ltd., Tentulkuli, N.H. 6, Howrah – 711 409, hereinafter referred to as the "appellant-importer", assailing the Order-in-Original No. KOL/CUS/PR.COMM./PORT/GR-4/46/2026 dated 11.05.2026 passed by the Principal Commissioner of Customs (Port), Kolkata, whereby the declared unit price as well as the declared assessable value of the imported goods were rejected under Rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and redetermined under

Rule 12 thereof, the goods were held liable to confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962, with an option being extended to the appellant for redemption thereof solely for the purpose of re-export upon payment of a redemption fine of Rs.20,00,000/- under Section 125 of the said Act, besides imposition of a penalty of Rs.20,00,000/- under Section 112(a) ibid.

2. The facts of the case are that the appellant had imported DIN 975 Threaded Rods, including goods of Property Class 10.9 and Property Class 4.8, from China and filed Warehousing Bill of Entry No. 5137854 dated 16.10.2025 for warehousing of the said goods. The goods were declared under Customs Tariff Item No. 7318 1900, with a declared assessable value of Rs.35,21,730/-, corresponding to Rs.66.90/- per kg. The import was not intended for clearance for home consumption in India. The goods had been imported against an export order for their subsequent 100% re-export to Poland and were intended to remain under Customs control in a bonded warehouse pending completion of the requisite re-export formalities.

3. At the stage of assessment, the Department entertained a doubt regarding the declared value of the goods in the context of the Minimum Import Price (MIP) applicable to goods falling under the relevant tariff heading. The appellant had declared the goods at a value substantially below the MIP of Rs.129/- per kg. prescribed in respect of the subject goods pursuant to DGFT Notification No.55/2023 dated 03.01.2024. Accordingly, a query/communication dated 16.10.2025 was issued to the appellant in relation to the declared value.

3.1. The appellant, vide its reply dated 17.10.2025, specifically brought to the notice of the Department that the subject goods were being imported for 100% re-export to a third country, and were intended to be stored in a Customs bonded warehouse without being diverted for domestic consumption. The appellant also furnished the relevant export order and requested that the Warehousing Bill of Entry be assessed on the declared value. The appellant reiterated that the goods were meant exclusively for re-export and that the proposed enhancement of value would adversely affect the commercial viability of the re-export transaction.

4. The Department, however, vide a further query/communication dated 17.10.2025, took the view that goods intended for export were not exempt from the MIP requirement and called upon the appellant to convey its consent for enhancement of the declared value.

4.1. In response thereto, the appellant submitted its further reply dated 28.10.2025, reiterating that the goods were to remain in a Customs bonded warehouse for the purpose of subsequent re-export and that no payment of duty for domestic clearance was involved. The appellant further submitted that enhancement of the declared value would adversely affect the proposed re-export transaction and requested that the Bill of Entry be assessed and the goods released in accordance with law. In the alternative, the appellant requested that the matter be referred to the Port Assessment Group (PAG) for appropriate assessment.

5. The Warehousing Bill of Entry was thereafter referred to PAG (INCCU1) with the departmental observation that the importer had declared a value below the prescribed MIP, had not consented to enhancement of the declared value and that, consequently, the goods, being below the prescribed MIP, were liable to be treated as prohibited goods. The matter was accordingly referred for adjudication.

6. The Assessing Officer of PAG, on 25.11.2025, ordered First Check of the goods, directing that approximately 25% of the goods be opened and examined with reference to the import documents, declaration, description, quantity and other relevant parameters. Pursuant thereto, the goods were physically opened and examined on 26.11.2025 in the presence of the appellant's Customs Broker, in terms of the Group/RMS instructions. The physical examination, however, did not disclose any discrepancy in the declared description, quantity or other particulars of the imported goods.

7. Notwithstanding the aforesaid position, the Department proceeded on the basis that the declared value was below the MIP prescribed under DGFT Notification No.55/2023 dated 03.01.2024. A Show Cause Notice under Section 124 of the Customs Act, 1962 was consequently issued on 19.12.2025 in respect of the subject Warehousing Bill of Entry. In the said notice, it was recorded that the declared value of the goods was approximately Rs.66.90 per kg., whereas, in terms of the aforesaid DGFT Notification, the CIF value of the subject goods was required to be Rs.129/- per kg. or above. The notice proceeded on the premise that, since the declared CIF value was below the prescribed threshold, the goods

became prohibited within the meaning of Paragraph 2.46 of the Foreign Trade Policy, 2023, thereby attracting the provisions of Section 111(d) of the Customs Act. The Show Cause Notice further relied upon NIDB data pertaining to another import transaction covered by Bill of Entry No.4875180 dated 03.10.2025, wherein goods described, inter alia, as Threaded Rods M24X1000, Threaded Rods M20X1000 and falling under Customs Tariff Item No.73181900, were stated to have been imported at a CIF value of Rs.142.90 per kg. On the strength of the said data, it was alleged that the appellant had mis-declared the value of the subject goods and proposed rejection of the declared assessable value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The Show Cause Notice accordingly proposed rejection of the declared assessable value of Rs.35,21,730/- and its redetermination at Rs.75,11,709.98/- on the basis of the NIDB data relied upon by the Department. The notice further proposed recovery of the applicable duty arising from such redetermination. It was further alleged that the goods, being imported at a value below the MIP prescribed under the relevant DGFT notification, constituted prohibited goods and were consequently liable to confiscation under Section 111(d) and 111(m) of the Customs Act. The notice further proposed denial of warehousing and subsequent re-export of the goods on the ground that the restrictions contained in the relevant DGFT notification read with Paragraph 2.46 of the Foreign Trade Policy, 2023 operated notwithstanding the appellant’s stated intention to re-export the goods; penalty under Section 112(a) was consequently proposed.

8. The matter thereafter came to be adjudicated by the Principal Commissioner of Customs (Port), Kolkata, who, by the impugned Order-in-Original dated 11.05.2026, confirmed the proposals contained in the Show Cause Notice. The adjudicating authority rejected the appellant's declared assessable value of Rs.35,21,730/- under Rule 12 of the Customs Valuation Rules, 2007 and redetermined the value at Rs.75,11,709.98/- under Rule 4 thereof, essentially relying upon the contemporaneous NIDB data cited in the notice and held the goods consequently liable to confiscation under Section 111(d) and 111(m) of the Customs Act, 1962. However, having regard to the appellant's stated intention to export the goods, the adjudicating authority extended an option under Section 125 to redeem the confiscated goods solely for the purpose of re-export, upon payment of a redemption fine of Rs.20,00,000/-. In addition thereto, a penalty of Rs.20,00,000/- under Section 112(a) of the Customs Act, 1962 was imposed upon the appellant-importer.

9. Aggrieved by the aforesaid findings and the consequential liabilities fastened upon it, the appellant-importer has preferred the present appeal before the Tribunal, assailing, inter alia, the rejection and redetermination of the declared assessable value of the goods in question, the treatment of the goods as prohibited notwithstanding their intended warehousing and 100% re-export, the consequential order of confiscation and redemption fine, and the imposition of penalty under Section 112(a) of the Customs Act, 1962.

10. During the course of hearing, the Ld. Advocate representing the appellant-importer made detailed submissions, which inter alia are as under: -

I. DECLARED TRANSACTION VALUE COULD NOT HAVE BEEN REJECTED MERELY BECAUSE IT WAS BELOW MIP

(i) Section 14 of the Customs Act, 1962 and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 constitute a self-contained statutory mechanism for determination of customs value.

(ii) Rule 3 establishes the transaction value as the primary basis of valuation, subject to Rule 12. The subsequent valuation rules can be resorted to only after a legally sustainable rejection of the transaction value.

(iii) In the present case, the Appellant furnished the commercial invoice, import documents, export order and other relevant documents. There is no finding that:

a. the buyer and seller were related;

b. the price was not the sole consideration;

c. any additional amount was paid or payable;

d. any amount was remitted outside the banking channel;

e. any part of the sale proceeds accrued to the foreign supplier;

f. the invoice was fabricated;

g. the foreign supplier received any amount over and above the declared invoice value.

(iv) The Appellant specifically submitted that the declared value represented the genuine transaction value and that payment was made through proper banking channels.

(v) Reliance has been placed on the following decisions: -

- *Eicher Tractors Ltd. versus Commissioner of Customs, Mumbai, 2000 (122) E.L.T. 321 (S.C.),*
- *Commissioner of Customs, Calcutta versus South India Television (P) Ltd., 2007 (214) E.L.T. 3 (S.C.),*
- *Commissioner of Central Excise & Service Tax, Noida v.*
- *Sanjivani Non-Ferrous Trading Pvt. Ltd., 2019 (365) E.L.T. 3 (S.C.), and*
- *Commissioner of Customs (Imports), Mumbai v. M/s Ganpati Overseas, 2023 INSC 881.*

(vi) Therefore, the fact that Rs. 66.99/kg was below the MIP of Rs. 129/kg cannot, by itself, establish that the actual transaction value was false. MIP is a condition pertinent to Foreign Trade Policy/import policy. It is not a statutory tariff value prescribed under Section 14(2) of the Customs Act. A policy restriction cannot automatically replace the statutory valuation mechanism under Section 14 read with the Customs Valuation Rules.

II. MIP CANNOT BE USED AS A SUBSTITUTE FOR CUSTOMS VALUATION

(i) MIP has been designed with the objective to curb cheap, low-quality imports, protect domestic manufacturing industries, and to ensure quality standards in respect of the import mentioned in the Notification 55/2023 dated 03.01.2024. Thus, the MIP prescribed by DGFT would be applicable only when the goods are imported for the purpose of 'Home Consumption' and not applicable for the goods imported with the sole purpose of re-export.

(ii) The impugned order effectively proceeds on the following logic that the declared value was below MIP, which is contrary to the policy and as such, declared value was unreliable and NIDB value was adopted. Such reasoning reverses the statutory sequence.

(iii) The question whether the import satisfies a DGFT policy condition is distinct from the question whether the price actually paid or payable constitutes the transaction value under Section 14. The MIP of Rs. 129/kg is, therefore, not itself evidence that the Appellant actually paid Rs. 129/kg or Rs. 142.90/kg to the overseas supplier.

(iv) Indeed, if MIP were automatically to constitute customs value, every import below MIP would necessarily constitute undervaluation. Such an interpretation would render the independent statutory machinery contained in Rules 3, 4 and 12 of the Customs Valuation Rules otiose.

(v) The Hon'ble Supreme Court has consistently held that the Department must first establish legally sustainable grounds for rejecting the transaction value before proceeding to the subsequent valuation methods. The 2023 decision in Ganpati Overseas is particularly instructive in this regard.

III. NIDB DATA BY ITSELF DOES NOT ESTABLISH UNDERVALUATION

(i) The principal basis for enhancement is the NIDB data relating to Bill of Entry No. 4875180 dated 03.10.2025, wherein certain threaded rods were assessed at approximately Rs. 142.90/kg. The impugned order treats those goods as identical to the Appellant's goods. However, Rule 4 requires considerably more than a mere comparison of tariff heading.

(ii) Rule 4(1)(b) specifically requires that, in applying the identical-goods method, the transaction value of identical goods sold at the same commercial level and in substantially the same quantity should be used. Where the commercial level or quantity differs, appropriate adjustment must be supported by demonstrated evidence. The very text of Rule 4 relied upon in the impugned order recognises these requirements.

(iii) The impugned order, however, does not demonstrate with sufficient particulars: the complete commercial terms of the comparator transaction; the supplier and buyer relationship; whether the comparator was a home-consumption import or warehouse

import; whether the goods were purchased for domestic consumption or re-export; the exact technical specifications; grade and finish; quantity and commercial level; contractual terms; discounts, if any; freight and insurance components; and whether the comparator transaction represented a normal commercial transaction.

(iv) The Appellant's Grounds of Appeal specifically record that the relied-upon contemporaneous Bills of Entry and complete NIDB material were not supplied, thereby depriving the Appellant of a meaningful opportunity to establish whether the alleged comparator was truly comparable.

(v) The Hon'ble Supreme Court in *Gira Enterprises & Anr. versus Commissioner of Customs, Ahmedabad, 2014 (307) E.L.T. 209 (S.C.)*, held that where the Department relies upon computerised data concerning allegedly comparable imports, the underlying material must be supplied to the importer so that the importer can challenge comparability. The Court specifically held that mere existence of a computer printout is not proof of comparable imports. The Appellant cannot effectively challenge the NIDB comparison unless the complete underlying documents are furnished. Therefore, adoption of Rs. 142.90/kg without demonstrating the statutory comparability requirements under Rule 4 is legally unsustainable.

IV. THE FINDING UNDER SECTION 111(m) IS UNSUSTAINABLE

(i) Section 111(m) applies where the goods do not correspond in respect of value or any other particular with the entry made under the Customs Act.

(ii) In the present case, the Appellant declared the actual invoice value. The Department has not established that the invoice was false or that the Appellant paid any amount over and above the declared price.

(iii) There is a fundamental distinction between:

a. a declaration of a genuine transaction value which Customs subsequently considers unacceptable under the valuation rules; and

b. a deliberate misdeclaration of value.

(iv) A subsequent enhancement of value by Customs does not ipso facto establish that the importer had misdeclared the value.

(v) The Appellant correctly declared the description, quantity, country of origin and invoice particulars. The examination also confirmed the goods as declared. The Appellant's defence specifically states that the commercial documents were genuine and payment was made through proper banking channels. There is no evidence of parallel invoices, secret agreements, additional consideration, cash payments, remittance outside banking channels, flow-back, relationship between buyer and seller, manipulation of the invoice or

suppression of the actual price. Consequently, the essential foundation for alleging misdeclaration of value is absent.

(vi) The Hon'ble Supreme Court in *South India Television* held that the Department must prove that the apparent value is not the real value; suspicion cannot substitute proof. The same principle was reaffirmed in Sanjivani Non-Ferrous Trading and Ganpati Overseas.

V. THE APPELLANT'S CASE IS DISTINGUISHABLE FROM A CASE OF FRAUDULENT UNDERVALUATION

(i) The Appellant's case is materially different from cases where the Supreme Court has upheld valuation enhancement on the basis of actual evidence of under-invoicing.

(ii) There is no allegation that the Appellant and the overseas supplier were related parties or that there was any clandestine flow of consideration.

(iii) The Appellant's conduct throughout has been transparent. Even at the assessment stage, it expressly disclosed that the goods were intended for re-export and furnished the export order.

(iv) The Appellant did not seek clearance for home consumption and did not attempt to introduce the goods into the Indian domestic market.

(v) This factual background is highly material while examining whether the transaction was bona fide and whether the drastic consequences under Sections 111(m) and 112 are justified.

VI. THE PROPOSED/CONFIRMED VALUATION UNDER RULE 4 IS NOT IN ACCORDANCE WITH THE STATUTORY SEQUENCE

(i) Rule 3(2) mandates sequential application of the subsequent valuation rules only after the transaction value has been validly rejected. The impugned order proceeds directly from Rule 12 to Rule 4 on the basis of NIDB data. However, the very premise for invoking Rule 12 is defective because the existence of a higher NIDB value does not, without more, establish reasonable doubt about the truth or accuracy of the declared value. In Ganpati Overseas, the Hon'ble Supreme Court reaffirmed that the transaction value is the primary basis and that only after valid rejection can the subsequent valuation rules be sequentially invoked. Accordingly, once the rejection under Rule 12 fails, the consequential redetermination under Rule 4 and the resultant differential duty also cannot survive.

VII. WITHOUT PREJUDICE: WAREHOUSING AND RE-EXPORT DESERVE DUE CONSIDERATION

(ii) The Appellant had filed a Warehousing Bill of Entry and consistently informed the Department that the goods were imported for 100% re-export to Poland. The Department was aware of this position from the very beginning. The goods were never intended to be cleared for home consumption. The Appellant's case is, therefore, materially different from a case where prohibited goods are clandestinely introduced into the Indian domestic market. The purpose of warehousing provisions is precisely to permit

imported goods to remain under Customs control without being released for home consumption, subject to fulfilment of statutory conditions.

(iii) The Appellant further submits that the re-export aspect should be considered not merely as an equitable factor but as an important circumstance in determining the nature and consequences of the alleged policy violation.

VIII. DISTINCTION BETWEEN POLICY VIOLATION AND VALUATION VIOLATION

(i) The learned adjudicating authority has conflated two independent questions: First: whether the goods satisfy the MIP requirement under DGFT Notification No.55/2023; and Second: whether the declared transaction value represents the price actually paid or payable under Section 14 and Rule 3 of the Customs Valuation Rules.

(ii) Even assuming, without admitting, that the goods were imported below the applicable MIP, such fact cannot automatically establish that the invoice value was false. Conversely, even if the Department were able to establish a policy violation, the valuation of the goods would still have to be determined in accordance with Section 14 and the Customs Valuation Rules. The two statutory enquiries cannot be merged.

IX. SECTION 111(d) AND THE QUESTION OF REDEMPTION

(i) The Appellant respectfully submits that the issue under Section 111(d) has to be examined in the context of the precise wording and

applicability of Notification No.55/2023 and Para 2.46 of FTP 2023.

(ii) The Appellant's Grounds of Appeal have specifically contended that the MIP condition is being applied to a transaction involving warehousing and subsequent re-export and that the imported goods were never intended for domestic consumption.

(iii) The Appellant further relies upon the following:-

- *Commissioner of Customs versus Atul Automations Pvt. Ltd., 2019 (365) E.L.T. 465 (S.C.)*

X. REDEMPTION FINE OF RS. 20 LAKHS IS EXCESSIVE AND UNSUSTAINABLE

(i) Without prejudice to the primary submission that confiscation itself is not sustainable, the redemption fine of Rs. 20,00,000/- deserves to be set aside or substantially reduced. The impugned order does not demonstrate any concrete computation of margin of profit; market value; economic gain; revenue loss; commercial advantage obtained by the Appellant or any other objective basis for fixing the fine at Rs. 20 lakhs.

(ii) The Appellant's Grounds specifically challenge the redemption fine as excessive and arbitrary in the absence of determination of market value or profit margin. The redemption fine cannot be imposed as a punitive substitute for a duty demand which itself arises from an unsustainable valuation enhancement. Once the valuation enhancement fails, there is no basis

for treating the enhanced value as the basis for determining the gravity of the alleged offence.

XI. PENALTY UNDER SECTION 112(a)

(i) The penalty of Rs. 20,00,000/- under Section 112(a) is also unsustainable once the findings under Sections 111(d) and 111(m) are set aside.

(ii) The entire penalty order proceeds from the finding that the Appellant's act rendered the goods liable to confiscation. The impugned order itself records that the penalty has been imposed because the goods were held liable to confiscation under Sections 111(d) and 111(m). Thus, the penalty is consequential to the confiscation finding. More importantly, there is no finding of any fraudulent document, concealed payment, deliberate fabrication or clandestine conduct. The Appellant had openly disclosed the nature of the goods; their actual invoice value; their intended use; the export destination; the export order and the proposed warehousing/re-export arrangement.

(iii) The Appellant even specifically requested Customs to assess the Bill of Entry without enhancement and, rather than consenting to enhancement, requested that the matter be adjudicated. The conduct is inconsistent with an intention to evade customs duty or clandestinely manipulate the import transaction.

(iv) Without prejudice, even if Section 112(a) is held to be attracted as a civil penalty provision, the quantum of Rs. 20 lakhs is wholly

disproportionate to the facts and circumstances, particularly where the goods were never cleared for home consumption and the Department ultimately permitted re-export.

XII. THE FINDINGS IN THE IMPUGNED ORDER ARE INTERNALLY INCONSISTENT

(i) The adjudicating authority has held that the goods were prohibited and liable to confiscation under Section 111(d), yet has simultaneously granted the Appellant the option of redemption for re-export. The fact that the authority considered re-export legally permissible demonstrates that the consequences of the alleged policy violation are not equivalent to an absolute prohibition against dealing with the goods. The Appellant is not seeking permission to release the goods into the domestic market. Its consistent case is that the goods should remain under Customs control and be permitted to be re-exported. The object of the Customs law and Foreign Trade Policy would not be defeated by allowing the goods to leave India without entering the domestic stream, subject to appropriate safeguards.

10.1. In view of these submissions, it is the prayer of the Ld. Counsel for the appellant that the impugned order be set aside in toto and the appeal be allowed, granting consequential reliefs to the appellant-importer.

11. On the other hand, the Ld. Authorized Representative of the Revenue appearing before us has reiterated the findings in the impugned order. Accordingly, he prayed for rejection of the instant appeal.

12. Heard both the sides and perused the records of the case.

13. We find that the issue to be decided, in substance, is whether the declared value of the goods could legitimately be displaced by reference to the Minimum Import Price (MIP) prescribed under DGFT Notification No.55/2023 dated 03.01.2024, notwithstanding that the goods were entered for warehousing and were, from the inception, intended exclusively for re-export to Poland, and whether such circumstances could, in turn, render the goods prohibited or attract the provisions and consequences invoked in the impugned order.

Nature and purpose of the import — goods intended exclusively for re-export

14. The first and most fundamental aspect which, in our considered view, appears to have escaped adequate appreciation in the impugned order is the manifest purpose for which the subject goods entered India. It is borne out by the records that the appellant did not file a Bill of Entry for home consumption, but a Warehousing Bill of Entry, and there is nothing on record to suggest that, at any point of time, the goods were intended to be diverted into the domestic market. On the contrary, the appellant consistently disclosed, from the very stage of assessment, that the goods had been imported against an export order and were intended for 100% re-export to Poland, while

remaining under Customs control in a bonded warehouse. The export order was also placed before the Department. The subsequent correspondence further records the appellant's specific request that the goods be assessed on the declared value, pointing out that an artificial enhancement thereof would adversely affect the contemplated re-export transaction. In such circumstances, the treatment of the declared value as an attempt to introduce undervalued goods into the Indian market proceeds upon a premise which is conspicuously at variance with the declared and documented object of the transaction. Even before us, it has been maintained by the appellant that the goods were not sought to be released for home consumption; their intended trajectory was from the foreign supplier, through the bonded warehouse under Customs control, and thereafter out of India by way of re-export. The very commercial circumstance which the Department has treated as aggravating i.e., a lower declared value, must therefore be examined in the context of the actual statutory disposition of the goods and not in abstraction from their intended re-export.

14.1. The statutory distinction between imported goods and goods cleared for home consumption is itself significant in this regard. The goods in the present case were brought into the country not for their incorporation into, or assimilation with, the domestic commercial stream, but for their temporary custodial presence in a bonded warehouse pending their onward exportation. The Department was consequently required to demonstrate, by reference to the precise terms and operation of DGFT Notification No.55/2023 dated 03.01.2024 read with Paragraph 2.46 of the Foreign Trade Policy, 2023, that

the restriction invoked by it was attracted even to such goods entered for warehousing and destined for 100% re-export. The mere fact of physical entry into India, divorced from the statutory character of the warehousing transaction and the absence of any intended home consumption, cannot, by itself, furnish the requisite foundation for treating the transaction as an attempted breach of a domestic-market import restriction. In this regard, we observe that MIP has been designed with the objective to curb cheap, low-quality imports, protect domestic manufacturing industries, and to ensure quality standards in respect of the import mentioned in the Notification 55/2023 dated 03.01.2024. Thus, we observe that the MIP prescribed by DGFT would be applicable only when the goods are imported for the purpose of 'Home Consumption' and not applicable for the goods imported with the sole purpose of re-export, as the said goods would not be affecting the domestic manufacturing industry in any way.

MIP and the absence of any domestic-market impact

15. The Minimum Import Price (MIP) mechanism, as envisaged under the DGFT Notification No.55/2023 dated 03.01.2024, must likewise be examined in the context in which such a restriction is sought to operate. The evident commercial rationale of the said mechanism is to regulate the entry of such goods into the Indian market and thereby afford protection against the adverse consequences which may follow from their importation at artificially low values. It is amply clear that the rationale loses much of its force where the goods are not destined for the Indian domestic market at all, but are placed in a Customs bonded warehouse under a warehousing entry and are

intended, as disclosed from inception, for 100% re-export to Poland. Such goods do not enter the commercial stream available for consumption, use or sale in India; nor is there any material on record suggesting that the appellant sought to circumvent the warehousing controls or divert the goods for home consumption, as already noted hereinbefore. The application of the MIP restriction to the present transaction, therefore, cannot be assumed merely by juxtaposing the declared price with the prescribed threshold. It was incumbent upon the Revenue to establish that the particular statutory restriction invoked by it extends to goods so entered for warehousing and exclusively destined for re-export. In the absence of such demonstration, the conclusion that the goods became prohibited merely because their declared CIF value was below Rs.129/- per kg. cannot be sustained on the broad reasoning adopted in the impugned order.

Alleged undervaluation, mala fide intention and suppression

16. The further allegation that the appellant deliberately undervalued the goods likewise does not commend acceptance on the material before us. The present case is materially distinct from a transaction in which enhancement of declared value is founded upon affirmative evidence of under-invoicing, clandestine flow of consideration, contemporaneous payment over and above the invoice value, or a relationship between the parties giving rise to a legitimate basis for questioning the declared transaction value. No such circumstance has been brought on record. There is no allegation of any clandestine consideration passing between the

appellant and the overseas supplier, nor has the Department demonstrated any attempt to conceal the identity, description or quantity of the goods. On the contrary, the appellant's conduct from the inception of the assessment proceedings was one of disclosure: it expressly informed the Department that the goods were intended for 100% re-export, furnished the export order, stated that the goods would remain in the bonded warehouse and repeatedly sought assessment in accordance with the declared transaction value. The physical examination undertaken by Customs also did not reveal any discrepancy in the description, quantity or other declared particulars. In such circumstances, the mere circumstance that the declared price was below the MIP, or that NIDB data relating to another transaction disclosed a higher value, cannot, without further corroborative material, be transmuted into a finding of mala fide undervaluation or deliberate misdeclaration. A valuation dispute, particularly in respect of goods which were never intended for home consumption and whose proposed onward destination was expressly disclosed to the Department, cannot by itself furnish the factual substratum for the drastic consequences of confiscation and penalty. The impugned order, in proceeding from the difference in declared value to the inference of deliberate misdeclaration without establishing the necessary intervening facts, thus appears to have travelled beyond what the evidentiary record can legitimately sustain.

17. Be that as it may, at the cost of repetition, it must be noted that the goods in question were never meant to be cleared for home consumption in India; rather, their entire commercial trajectory, from the

very inception of the proceedings, stood disclosed as one culminating in 100% re-export to Poland. This was not an explanation introduced belatedly in the course of adjudication; it was the consistent stand of the appellant from the commencement of the proceedings, and the said fact has, significantly, also found express acknowledgment in the impugned order itself. The Revenue, therefore, cannot proceed upon a premise contrary to a fact which stands both contemporaneously disclosed and judicially recorded.

17.1. Once the goods are found to have been imported solely for the purpose of re-export and never intended to enter the domestic stream of commerce, the very substratum of the allegation of undervaluation, in the context in which it has been raised in the present proceedings, becomes conspicuously tenuous. The exercise of determining whether the declared value was liable to be rejected and thereafter redetermined proceeds on the premise that the value declared by the importer has a bearing upon the duty liability arising upon clearance for home consumption. Here, however, such clearance was never contemplated. The goods were warehoused precisely for the purpose of preserving their character as goods destined for re-export, and the contemplated transaction did not culminate in their entry into the domestic market. In such a factual and legal setting, the question of saddling the appellant with a domestic duty burden, and consequently the very premise upon which the alleged undervaluation is sought to be erected, does not arise.

18. From the discussions above, it is clear that it would be incongruous to treat the Minimum Import Price stipulated under the DGFT Notification, or the allied restrictions under the FTP, as having been infringed in respect of goods which were never intended to be commercially absorbed within India at all. The Revenue cannot, by a process of abstraction, be permitted to convert a warehousing transaction culminating in re-export into a transaction of home consumption and then found a charge of policy violation upon that very fiction.

19. In the conspectus of the aforesaid circumstances, therefore, the allegation of undervaluation cannot be permitted to travel beyond the factual and statutory premise upon which it rests. The declared value was sought to be rejected in proceedings founded upon an alleged violation of the MIP and the consequent domestic duty implications. Once it is held, for the reasons recorded hereinabove, that the goods were exclusively destined for re-export and that the MIP/FTP restriction relied upon by the Revenue is not attracted to such transaction, the edifice of value rejection necessarily falls with it. The exercise of redetermination consequently becomes not merely unnecessary but bereft of the foundational premise upon which it was undertaken. The question of examining NIDB data for sustaining such redetermination, therefore, does not survive for consideration.

19.1. Once the aforesaid foundation fails, the consequential proceedings for rejection of the declared assessable value and its redetermination under the Customs Valuation Rules, 2007, lose their substratum. The proposed recourse to Rule 12 and

redetermination under Rule 4, therefore, cannot be countenanced. Consequently, the question of examining or relying upon the NIDB data for the purpose of such redetermination does not arise. The enhanced assessable value determined in the impugned order is, accordingly, liable to be set aside.

19.2. It follows, as a necessary corollary, that the goods cannot be held liable to confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. The redemption fine imposed under Section 125 is thus rendered unsustainable and cannot be demanded as a condition for re-export. Likewise, having regard to the findings recorded hereinabove, particularly those in paragraph 16 of this Order, and the issue having been decided in favour of the appellant-importer, the imposition of penalty under Section 112(a) of the Customs Act, 1962 is wholly uncalled for.

20. In view of the above, we hold that the impugned order does not deserve any merit and is, accordingly, set aside. The declared assessable value is restored and the redetermination thereof is annulled, with the order of confiscation, consequential redemption fine and penalty also being set aside. The appellant-importer shall be permitted to re-export the goods to Poland without payment of redemption fine or penalty, subject, of course, to compliance with the applicable procedural requirements governing such re-export.

21. Resultantly, the appeal stands allowed, with consequential relief in the above terms.

(Order pronounced in the open court on **22.09.2026**)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd