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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75940 of 2026

(Arising out of Order-in-Original No. KOL/CUS/A&A/Pr.Commr/ADJN/8/2026 dated 14.05.2026 passed by the Principal Commissioner of Customs (Airport & A.C.C.), Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. H.K. Impex **: Appellant**
Prop.: Shri Ravi Khandelwal,
3rd Floor, 1168/1146, Kucha Mahajani, Chandni Chowk,
New Delhi – 110 006

VERSUS

Principal Commissioner of Customs (Airport & A.C.C.) **: Respondent**
Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri Amit Kumar, Advocate,
Smt. Mandira Routh, Advocate,
Smt. Atrayee Chatterjee, Advocate,
Smt. Sriparna Banerjee, Advocate,
For the Appellant

Shri Ashwini Kr. Choudhary, Authorized Representative,
Shri Rajarshi Chakraborty, Authorized Representative.
For the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76556 / 2026

DATE OF HEARING: 28.10.2026

DATE OF DECISION: 29.10.2026

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order rejecting their declared value while denying the benefit of Notification No. 46/2011-Cus. dated 01.06.2011, consequently imposing redemption fine on the goods provisionally released and also imposing penalties on the appellant under the provisions of Sections 112(a), 112(b) and 114AA of the Customs Act, 1962.

2. The facts of the case are that the appellant is a proprietorship concern, holding Importer-Exporter Code (IEC) BBHPK1008H. The appellant had been engaged in the business of purchasing old and silver bullion from banks, such as the State Bank of India and IndusInd Bank, and selling the same to its customers.

3. From about the last week of October 2023, the appellant extended its bullion business to the import of silver articles, and the import in question is part of that bona fide line of trade carried on through regular banking channels and the normal customs clearance process.

4. On 23.12.2023, the appellant filed a Bill of Entry No. 9376677 through the Air Cargo Complex, Kolkata (Port Code INCCU4) for clearance of the goods for home consumption. The goods were declared as "925 Assorted Plain Silver Jewellery (Product: Bangle) (Qty: 5,823 Nos.)". The consignment was covered by Import General Manifest (IGM) No. 2403771 dated 23.12.2023 and Master Airway Bill (MAWB) No. 09896412573 dated 23.12.2023. The supplier was M/s Shriram Exports Co. Ltd., 66/20 Soi Sukhapiban 2 Soi 31, Kwang Dokmai, Khet Praves, Bangkok 10250, Thailand; the country of origin was declared as Thailand and the port of loading as Bangkok. The Custom Broker was M/s P. K. Ghosh & Sons. The goods were classified under Customs Tariff Item No. 71131149. All the relevant particulars were declared in the Bill of Entry, such as price, quantity, freight, insurance and assessable value. The appellant claimed the preferential (NIL) rate of Basic Customs Duty (BCD) in terms of Notification No. 46/2011-Cus. dated 01.06.2011 [Sl. No. 966(I)], as amended, and

paid Integrated Goods and Services Tax (IGST) of Rs.18,66,054/-.

5. Further, in support of the above preferential claim, the appellant uploaded the Commercial Invoice, Packing List and Country of Origin Certificate issued by the Department of Foreign Trade, Ministry of Commerce, Government of Thailand under the ASEAN-India Free Trade Agreement (AIFTA), in the e-Sanchit portal. The appellant also uploaded the declaration in Form-I, in the manner prescribed under the Customs Administration of Rules of Origin under Trade Agreements) Rules, 2020 (CAROTAR, 2020), setting out the origin particulars and the Regional Value Content (RVC). The Country of Origin Certificate declared the origin criterion as "RVC 40.1923% + CTSH", certified direct transport from the country of origin, and was not issued by any third country. In Form-I, the supplier set out the production process undertaken in Thailand (designing, making of wax and rubber mould, mixing of silver with alloy, casting, filing, polishing, plating, colouring, quality check and packing), claimed the value-content criterion, and indicated that the Change in Tariff Sub-Heading (CTSH) rule had been satisfied in respect of the non-originating materials (HS 71069100 and 74032300).

6. The RVC of 40.1923% was built up, per gram of FOB value (USD 1.1960), as follows:

- Raw material i.e., silver grains under HS 71069100 and alloy/zinc under HS 74032300 (USD 0.7153);
- local/originating components, comprising Jewellery Designing, Master Mould, Tools, Wax, (USD 0.4807);

- Casting & Labour (USD 0.1750);
- Plating & Polishing (USD 0.0675);
- Silver Loss & Recovery (USD 0.0662);
- Machine Depreciation/Management & Maintenance/Packing Cost (USD 0.0570); and
- Profit (USD 0.1150).

The RVC was thus computed as 0.4807/1.1960 × 100 = 40.1923%.

7. The Bill of Entry was assessed and the Risk Management System (RMS) generated an examination order. The goods were examined on 29.12.2023, when the Examiner, under the instruction of the Appraiser (Import Shed), raised a query in regard to the 'RVC Content' of the goods. Thus, the Out-of-Charge clearance for the consignment was not issued. Upon receipt of intelligence, the Directorate of Revenue Intelligence (DRI), Kolkata Zonal Unit, by letter dated 09.01.2024 requested the Principal Commissioner of Customs (Airport & Admin.), Kolkata to withhold clearance of the consignment so that 100% examination could be carried out, and to not permit any amendment or re-export without the concurrence of DRI.

7.1. A 100% examination was carried out on 11.01.2024 at the Import Shed, ACC, Kolkata, in the presence of, among others, the Appraiser (Air Cargo Complex) Shri Rohit Vashist, the Examiner; Shri Tridib Shit, the representative of the Custom Broker; Shri Rajan Kumar Singh, and two independent witnesses. The consignment comprised 23 packets/cartons, which had been examined and re-packed once earlier. On re-opening, the goods were found to be in the form

of metallic strips of assorted size resembling bangles having open ends in 13 packets and jointed embossed with designs, semi-(closed) ends in 10 packets polished, with no studded material, and appearing to be made of silver. Thereafter, a Panchanama was drawn.

7.2. For assaying and valuing the goods, Shri Sanjiv Kundu, proprietor of M/s S.K. Jewellers, was appointed, who examined the contents of all 23 cartons and weighed each carton individually. Six (06) representative samples were drawn. As per the Assayer's Report, the goods were 93% purity silver strips given in the shapes of bangles (of two varieties), which were valued at Rs. 4,75,72,511/-, against the declared assessable value of Rs. 6,22,01,807/-. In arriving at the value, the Assayer adopted the market rate of pure silver (24K) at USD 772.50 per kg prevailing on 21.12.2023 (the invoice date), derived the value of 93%-purity silver at Rs. 60.20 per gram (excluding duty), and applied the exchange rate of 1 USD INR 83.80 as on 21.12.2023. He estimated the 'Making Charges' at Rs. 15 per gram and Rs. 20 per gram for the two varieties. The total weight was recorded at 6,15,117.80 grams.

8. The samples drawn were sent for chemical analysis to the Chemical Examiner, Custom House Laboratory, vide Test Memo Serial No. 160/S/2023, and by Report dated 02.02.2024 the Laboratory confirmed that the samples were made mainly of silver, with the silver content being in the range of 92.5% to 92.8% i.e., consistent with sterling/925-grade silver, exactly as declared.

9. On the strength of the examination, the Assayer's Report and the importer's first statement, the DRI, on 17.01.2024, seized the entire quantity of the goods in question under Section 110(1) of the Customs Act, 1962. On 22.04.2024, a market survey was also conducted by the DRI.

10. Thereafter, the appellant prayed for provisional release of the goods and provisional assessment thereof. The said request was acceded to and accordingly, the goods were allowed for provisional release, with certain conditions.

11. The Revenue entertained the view that the RVC of the goods, claimed by the appellant as 40.18%, was inflated and proceeded to rework the same.

12. A Show Cause Notice came to be issued on 18.11.2025, proposing enhancement of the value of the goods, denial of the benefit of Notification No. 46/2011-Cus. dated 01.06.2011, as amended, demanding the differential duty thereof; the said Notice also proposed imposition of penalties under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962.

12.1. The adjudication order was passed on 14.05.2026, wherein it was held that the appellant had not made out the RVC under AIFTA and therefore, the appellant’s claim for preferential rate of duty under the ASEAN-India Free Trade Agreement (AIFTA) in terms of Notification No. 46/2011-Cus. dated 01.06.2011 was denied. Consequently, by way of the said order, the declared value of the said goods was rejected by redetermining the same and the goods were held liable for confiscation under Sections

111(m) and 111(q) of the Customs Act, 1962; redemption fine and penalties were also imposed.

12.2. Aggrieved from the said order, the appellant is before us.

13. The Ld. Counsel appearing on behalf of the appellant, inter alia, made the following submissions:-

(i) The case of the Department is that the Regional Value Content (RVC), as provided in the Country of Origin Certificate, is not as per norms. Therefore, it is alleged that the appellant is not entitled to the benefit of Notification No. 46/2011-Cus. dated 01.06.2011, as amended. The above stand taken by the Revenue is arbitrary without any evidence being brought on record to disregard the same.

(ii) The Revenue has arbitrarily applied the RVC formula by including its own truncated computation, which is not applicable in the facts of the present case.

(iii) The appellant has discharged their obligations by producing the Country of Origin Certificate, which has not been disproved by the Revenue. In such circumstances, the benefit of the said Notification cannot be denied to them.

(iv) Accordingly, the value declared by the appellant cannot be rejected. The burden of displacing the declared value lies squarely upon by the Revenue, which must be done through positive evidence and not assertions.

(v) Therefore, the goods are not liable for confiscation.

(vi) Accordingly, redemption fine and penalties are also not imposable in the facts and circumstances of the case.

13.1. In view of these submissions, it is prayed by the Ld. Counsel for the appellant that the impugned order be set aside and the appeal be allowed.

14. On the other hand, the Ld. Authorized Representative of the Revenue reiterated the findings in the impugned order.

15. Heard the parties.

16. The sole allegation made by the Revenue in this case is that, the Regional Value Content (RVC) of the goods as claimed by the appellant, of 40.18%, is not correct as the actual RVC of the said goods should be 24.14%, which is below the prescribed RVC of 35% for claiming the benefit of preferential rate of Basic Customs Duty (BCD) under the ASEAN-India Free Trade Agreement (AIFTA) in terms of Notification No 46/2011-Cus. dated 01.06.2011, as amended. Therefore, the benefit of the said Notification has been sought to be denied by the Revenue.

17. For better appreciation of the facts, the RVC of the goods as calculated by the supplier of the goods in question, is extracted hereinbelow: -

CHART- A (RVC CLAIMED)

CALCULATION BASED ON VALUE DECLARED IN IMPORT INVOICE					
Sl.No.	Description	Unit	Amount		
1	Invoice Valuc	USD	7,42,265.00		
2	Less: Freight	USD	3,677.92		
3	Less: Insuarance	USD	3,002.35		
4	Total FOB Value	USD	7,35,584.73		
5	Net Weight (Found during examination)	GMS	6,15,117.80		
6	FOB Value of 'Silver Jewellery' Per Gram	USD	**1.1958**		

AIFTA CONTENT (RVC) PER GRAM OF IMPORTED ITEM IN US DOLLAR ($)					
Sl. No.	Raw Material	HS Code	Origin	Qty (in gram)	Value (in USD)
1	Silver Grains	71069100	Not Known	0.1520	0.1103
2	Silver Grains	71069100	Not Known	0.3650	0.2799
3	Silver Grains	71069100	Not Known	0.4080	0.3243
4	Zinc Grains	79070000	Not Known	0.0750	0.0008
A	**Raw Material Cost**				**0.7153**
1	Jewellery Design	NA	Local Content	NA	0.0260
2	Master Mould	NA	Local Content	NA	0.0275
3	Tools	NA	Local Content	NA	0.0150
4	Wax	NA	Local Content	NA	0.0100
5	Assembly	NA	Local Content	NA	0.0375
6	Labour	NA	Local Content	NA	0.0558
7	Other Expences	NA	Local Content	NA	0.0240
8	Polishing & QC	NA	Local Content	NA	0.0675
9	Silver Loss	NA	Local Content	NA	0.0662
10	Machine Depreciation	NA	Local Content	NA	0.0112
11	Maintenance/Packing Cost	NA	Local Content	NA	0.0250
12	Cost of Transportation	NA	Local Content	NA	0.0600
B	**Value of Total Local Content (AIFTA Content) Per Gram**				**0.4257**
C	**Total Cost of 'Silver Jewellery' Per Gram [A + B]**				**1.1410**
D	**Profit Per Gram**				**0.0548**
E	**FOB Value of 'Silver Jewellery' Per Gram [C + D]**				**1.1958**
##	**RVC Content Per Gram [(B/E) * 100] (in %) claimed in COO**				**40.18**

17.1. In this connection, the alleged / revised RVC, as computed by the Revenue, is also extracted hereinbelow: -

CHART-B (RVC REVISED)

CALCULATION BASED ON VALUE DECLARED IN IMPORT INVOICE					
Sl.No.	**Description**	**Unit**	**Amount**		
1	Invoice Value	USD	7,42,265.00		
2	Less: Freight	USD	3,677.92		
3	Less: Insuarance	USD	3,002.35		
4	Total FOB Value	USD	7,35,584.73		
5	Net Weight (Found during examination)	GMS	6,15,117.80		
6	FOB Value of 'Silver Jewellery' Per Gram	USD	**1.1958**		

CALCULATION OF AIFTA CONTENT (RVC) PER GRAM IN US DOLLAR ($) (REVISED)					
Sl. No.	**Raw Material**	**HS Code**	**Origin**	**Qty (in gram)**	**Value (in USD)**
1	Silver Grains	71069100	Not Known	0.1520	0.1103
2	Silver Grains	71069100	Not Known	0.3650	0.2799
3	Silver Grains	71069100	Not Known	0.4080	0.3243
4	Zinc Grains	79070000	Not Known	0.0750	0.0008
5	Loss of Silver Grains	71069100	Not Known	0.0278	0.0214
A	**Raw Material Cost**				**0.7367**
1	Jewellery Design	NA	Local Content	NA	0.0260
2	Master Mould	NA	Local Content	NA	0.0275
3	Tools	NA	Local Content	NA	0.0150
4	Wax	NA	Local Content	NA	0.0100
5	Labour	NA	Local Content	NA	0.0558
6	Silver Loss	NA	Local Content	NA	0.0214
7	Machine Depreciation	NA	Local Content	NA	0.0112
8	Maintenance/Packing Cost	NA	Local Content	NA	0.0250
9	Cost of Transportation	NA	Local Content	NA	0.0600
B	**Value of Total Local Content (AIFTA Content) Per Gram**				**0.2519**
C	**Total Cost of 'Silver Jewellery' Per Gram [A + B]**				**0.9886**
D	**Profit Per Gram**				**0.0548**
E	**FOB Value of 'Silver Jeweller' Per Gram [C + D]**				**1.0434**
#	**RVC Content Per Gram in % [(B/E) * 100] (in %) (REVISED)**				**24.14**

17.2. The main contention of the Revenue in this regard is that the supplier has claimed 'Loss of Silver' worth USD 0.0662 in the production of one gram of the imported goods, which quantitatively translates into a loss of 9.26% of the quantity of non-originating raw material (silver grains) that was purportedly used in producing the quantity of goods imported and that in terms of the amendment in Para 4.59 of Handbook of Procedures, 2023 carried out vide Public Notice No. 30/2024-25-DGFT dated 01.11.2024, the maximum wastage by weight of silver that is allowed in this country for making of silver jewellery is 3.00% for handcrafted jewellery and 0.50% for mechanized jewellery. On that basis, the Revenue has computed the same, considering the loss of silver as less than 3.00% instead of 9.26% as shown in the Certificate of Country of Origin.

17.3. We hold that the above reference made by the Revenue is not permissible in the facts of the case. The aforesaid DGFT Public Notice dated 01.11.2024 is applicable to the manufacturers of silver jewellery located in India. The said Public Notice is not applicable to foreign manufacturers of articles of silver, as in this case.

18. Further, the Revenue has not disputed the issuance of the Certificate of Country of Origin (COO), to the effect that the same is not genuine, or, was otherwise fabricated. In these circumstances, the Certificate of Country of Origin is an admissible document. The same is reproduced hereinbelow, for better appreciation of the facts: -

ORIGINAL

1. Goods consigned from (Exporter's business name, address, country)
[illegible] EXPORTS CO.,LTD [illegible] BOI 91, BOKHAN, PRAVES B.
BANGKOK 10250 THAILAND TEL : 081 852 1253 FAX : - TAX ID [illegible]

Reference No
AI2023-0066770

ASEAN-INDIA FREE TRADE AREA
PREFERENTIAL TARIFF
CERTIFICATE OF ORIGIN
(Combined Declaration and Certificate)

FORM AI

Issued in THAILAND
(Country)
See Notes Overleaf

2. Goods consigned to (Consignee's name, address, country)
HKIMPOL THIRD FLOOR, [illegible], KUCHA MAHAJANI, CHANDANI CHOWK
AREA NEW DELHI, CENTRAL DELHI 110006, INDIA IEC NUMBER: [illegible]
TEL: +91-[illegible] GST IN: [illegible] E-mail: [illegible]

3. Means of transport and route (as far as known)
BY AIR FREIGHT
Departure date
23/12/2023
Vessel's name/Aircraft etc.
AI321
Port of Discharge
KOLKATA / INDIA

4. For Official Use
☐ Preferential Tariff Treatment Given Under ASEAN-India Free Trade Area Preferential Tariff
☐ Preferential Tariff Treatment Not Given (Please state reason/s)

Signature of Authorised Signatory of the Importing Country

5 Item number	6. Marks and numbers on packages	7. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country)	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity and value (FOB)	10. Number and date of invoices
		Page : 1 of 1			
1	AS PER INVOICE NO. 3130/2023	H.S. CODE. 7113.1130 925 ASSORTED PLAIN SILVER JEWELLERY PRODUCTS : BANGLE ---- TOTAL: TWENTY THREE (23) CTNS---- FIVE THOUSAND EIGHT HUNDRED TWENTY THREE (5,823) PCS----	PWC 40.1923% + CTSH	861.00 KGM 730,684.73 USD	31/2/2023 21/12/2023

11. Declaration by the exporter
The undersigned hereby declares that the above details and statement are correct, that all the goods were produced in

THAILAND
(Country)

and that they comply with the origin requirements specified for these goods in the ASEAN-INDIA Free Trade Area Preferential Tariff for the goods exported to

Republic of India
(Importing Country)

BANGKOK, 10250 22/12/2023
Place and date, signature of authorised signatory

12. Certification
It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.

SUVARNABHUMI AIRPORT
22 DEC 2023

MR. NAPHAT OPPHET
Place and date, signature and stamp of certifying authority

13. When appropriate please tick:
☐ Third Country Invoicing ☐ Exhibition ☐ Back-to Back CO ☐ Cumulation

No. 1254273

KALYAN CHOWDHURI

72

098- 9641 2573

SHRIRAM EXPORTS CO.,LTD.
46/20 SOI SUKHAPIBAN 2 SOI 31, KWANG BOKMAI,
KHET PRAVES, BANGKOK 10250, THAILAND

098- 9641 2573

Air Waybill AIR INDIA

HKIMPEX
THIRD FLOOR, 1168/1146, KUCHA MAHAJANI,
CHANDANI CHOWK AREA, NEW DELHI, CENTRAL
DELHI-110006, IEC NUMBER:BBHPK1008H ***

TRIPLE I AIR EXPRESS / BKK

***GST IN: 07BBHPK1008H1ZL, TEL: +91-8076208576
EMAIL: HKGOLDIMPEX@HOTMAIL.COM

35-3-0653

SUVARNABHUMI AIRPORT / THAILAND

CCU AI THB PP PP NVD NCV

KOLKATA/INDIA AI321/23 NIL

TWENTY THREE (23) CARTONS / MARKED AS ADOR / PLS NOTIFY CNEE IMM UPON ARRIVAL.
DOC.ATT.TO.AWB.

No. of Pieces RCP	Gross Weight	kg	Rate Class Commodity Item No.	Chargeable Weight	Rate / Charge	Total	Nature and Quantity of Goods (incl. Dimensions or Volume)
23	651.0KG	Q		651.0KG	****.AS ARRANGED.****		ASSORTED URNAMENTS (H.S.CODE : 71131130) INV NO. 312/2023

"FREIGHT PREPAID"

Prepaid | Weight Charge | Collect
Valuation Charge
Tax
Total Other Charges Due Carrier
Total Other Charges Due Agent
Total Prepaid | Total Collect
Currency Conversion Rates | CC Charges in Dest. Currency
For Carrier's Use only at Destination | Charges at Destination | Total Collect Charges

Other Charges

Shipper certifies that the particulars on the face hereof are correct and that insofar as any part of the consignment contains dangerous goods, such part is properly described by name and is in proper condition for carriage by air according to the applicable Dangerous Goods Regulations.

Signature of Shipper or his Agent

TEL: (02) 685-4688 (AUTO)
DECEMBER 23, 2023 TAWAN NFFS/BKK

Signature of Issuing Carrier or its Agent

098- 9641 2573

ORIGINAL 3 (FOR SHIPPER)

KALYAN CHOWDHURY
APPRAISER
KOLKATA CUSTOM

19. As the above Certificate of Country of Origin is found to be genuine, and no corroborative evidence to the contrary has been brought on record by the Revenue, which has been issued by the Department of Foreign Trade, Ministry of Commerce, Government of Thailand, we are of the view that the benefit of preferential rate of Basic Customs Duty (BCD) under the ASEAN-India Free Trade Agreement (AIFTA) in terms of Notification No 46/2011-Cus. dated 01.06.2011, as amended, cannot be denied to the appellant, merely on the basis of assumptions and presumptions or the DGFT Public Notice dated 01.11.2024 referred to hereinabove.

20. In that view, we hold that the charge of undervaluation is also liable to be discarded. Therefore, the enhancement of value and consequent demand of differential duty is not sustainable in law.

20.1. Accordingly, we also hold that the goods in question are not liable for confiscation. Consequently, the redemption fine and penalties imposed on the appellant are also found to be unwarranted in the facts of the present case.

21. In these circumstances, we find that the impugned proceedings are not sustainable against the appellant.

22. In the result, we set aside the impugned order and allow the appeal, with consequential relief, if any.

(Order pronounced in the open court on **29.10.2026**)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd