

**(1975) 07 CAL CK 0017**  
**In the Calcutta High Court**  
**Case No : Matter No. 478 of 1973**

Scientific Instruments Co. Ltd.

APPELLANT

Vs

Collector of Customs (Valuation Section) and Another

RESPONDENT

---

**Date of Decision :** 16-07-1975

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 23  
Constitution of India, 1950 — Article 226  
Customs Act, 1962 — Section 14(1)  
Customs Valuation Rules, 1963 — Rule 5

**Citation :** AIR 1976 Cal 38 : (1980) 6 ELT 89

**Hon'ble Judges :** A.N. Sen, J

**Bench :** Single Bench

**Advocate :** Biswarup Gupta, for the Appellant; T.K. Basu, for the Respondent

---

## Judgement

A.N. Sen, J.—The validity of certain orders passed by the Assistant Collector of Customs (Valuation Section), respondent No. 1 herein, forms the subject-matter of challenge of this writ petition.

2. The petitioner acts as the sole distributor in India of various foreign companies manufacturing scientific instruments. As such sole selling agent or distributor, the petitioner has to work for promoting in India the sale of the said products of its principals and the petitioner is also bound to handle the servicing contracts with the purchasers in India and has to keep stock of necessary parts for maintenance works. Wherever there is a warranty against defective workmanship and/or material, when the instrument is replaced by the principals abroad, the petitioner is also to handle the installation and testing. The petitioner mainly deals in scientific instruments and the scientific instruments which are manufactured by the principals of the petitioner abroad and which are imported into India by the petitioner as the sole distributor or agent of the foreign principals in India are liable to Customs Duty. The petitioner has been carrying on its business for a number of years. In 1964 in the matter of assessment of duty payable by the petitioner on the goods imported, a dispute arose and the Assistant Collector of

Customs, the respondent No. 1 herein, sought to disallow trade discount altogether and he changed the basis of determination of assessable value of the goods from Section 14(1)(b) to Section 14(1)(a) of the Customs Act, 1962 (hereinafter referred to as the Act) Against the said order of the Assistant Collector of Customs, the petitioner preferred an appeal, and in the appeal, the contention of the petitioner was accepted by the Appellate Collector who by his order dated 8-12-1965, allowed the appeal and directed that in the matter of determination of assessable value for computing the duty payable by the petitioner, Section 14(1)(b) of the Act should be applied. On the basis of the order of the Appellate Authority, determination of the assessable value was being made in accordance with the provisions contained in Section 14(1)(b) of the Act. On the 25th April, 1970, the Assistant Collector of Customs addressed a letter to the petitioner asking the petitioner to show cause why in the matter of determination of the assessable value Section 14(1)(a) should not be applied and by the said letter the Assistant Collector of Customs held that according to him Section 14(1)(a) was applicable and he also stated in the letter that the said letter should be treated as a demand for the amount of duty short levied and in terms of the proviso to Section 28(1) of the Act. The petitioner sent a reply to the said letter of the Assistant Collector of Customs on the 3rd June, 1970, and in the said letter the petitioner dealt with the contentions raised in the letter of the 25th April, 1970, and the petitioner denied and disputed that there could be any change in the basis of the determination of the assessable value from Section 14(1)(b) to Section 14(1)(a) of the Act. On the 11th September, 1970, the Assistant Collector of Customs after considering the representations made by the petitioner, in his letter dated 3rd June, 1970, passed an order holding that Section 14(1)(a) of the Act was applicable and determination of the assessable value should be on the basis of the provisions contained in Section 14(1)(a) of the Act. In paragraph 8 of the order passed by the Assistant Collector of Customs on the 11th September, 1970, he has held.

"\* \* \* I have carefully considered the submissions made by you, written as well as oral. Whatever might be the circumstances for direct importation by third parties, the fact remains that because of such importations you ceased to be the sole importer of the agency products, you are not, therefore, eligible for assessment under Rule 5 (a) of the Customs Valuation Rules read with Section 14(1)(b) of the Customs Act, 1962. The provisions of Section 14(1)(a) take precedence over Section 14(1)(b)."

Against the said order of the Assistant Collector of Customs (Valuation Section) the petitioner preferred an appeal on 9-11-1970. The said appeal filed by the petitioner was disposed of by the Appellate Collector on 12-1-1972. It is necessary to set out the order of the Appellate Collector of Customs.

"ORDER

S/Shri A. N. Banerjee and J. N. Roy, Advocates were heard on behalf of the appellant firm. They referred to their representation during the hearing before

my predecessor that loading in the valuation has been done arbitrarily as the Valuation Rules provide a certain percentage of the discount which is set off against post importation charges. In no circumstances can the post importation charges be loaded in the value. Even if there is one or two solitary importations of the products, they hold sole agency in India and they get their discounts from their principals. The appellants, therefore, requested that this may be examined when the Valuation Rules provide for consideration for setting off the post importation charges a certain percentage of the discount should be allowed to them.

Besides above and what had been stated in the written appeal Shri Roy said that he had two more points to put up for my attention.

First, he referred to Section 14(1)(a) of the Customs Act and stated for the purpose of valuation it is not only the place of importation but also the time of importation which is relevant and, therefore, any services rendered for which certain post importation charges are incurred the value of such services should not be loaded on; and secondly he referred me to the Customs Valuation Rules, 1963 and stated that he particularly refers to Rule 3 (a) where the word "Ordinarily" has been used with reference to sale or offered sale to buyers in India under competitive conditions, he said in the present case a few instances of direct sales were found by the Customs but such sales should be deemed to be sales under special circumstances and not within the meaning of words "ordinarily sold or offered for sale etc." occurring in Rule 3 (a) of the Customs Valuation Rules. Further he said those direct sales were made under the Aid Licences and in terms of the conditions of the said Aid Licences to importers who have to directly negotiate by opening L/C and placing indents directly on the suppliers; that some such sales were made through Ford Foundation, Rockefeller Foundation and also W. H. O. that some purchases were made directly by Hospitals in India from the manufacturers themselves or under the Import Liberation Scheme: that in all such sales the manufacturers reserved the appellants' agency commission for the purpose of post importation services during the warranty period and that such agency commissions were remitted to the appellants in due course, he said that because the appellants are holding the agency the valuation should have been done in terms of Rule 5 of the Valuation Rules; that is only the services rendered prior to importation, such as, advertising correspondence, indenting etc., which only should be loaded and not the post importation service charges.

The appellants as per record are the Sole Managing Agents of the principal in India and are entrusted with after sales service in respect of imports made by them or by other organisations. In all fairness there should be a consideration for such after sale services which are rendered free in India. It is observed that this aspect was not examined by the Original Side before disallowing the agency discount to the appellants. The order in original is therefore; annulled without prejudice to re-examination of merits and for determination as to what quantum

of discount claim can be on account of after sales services or expenditure by the local sole agents.

Sd/- R. N. Shukla, Appellate Collector of Customs, Calcutta.

CAP 2108/70, D/- 25-4-1972. Copy to: (1) The Scientific Instruments Co. Ltd., 6. Tej Bahadur Sapru Road, Allahabad-1. (2) Shri J. N. Roy, Advocate. 32/1, Broad Street, Calcutta-19.

Sd/- Illegible 22-4-1972 for Appellate Collector of Customs. Calcutta".

On the basis of the order passed by the Appellate Collector of Customs annulling the order of the Assistant Collector of Customs and remanding the matter to the Assistant Collector of Customs the Assistant Collector of Customs has passed an order holding that determination of the assessable value should be on the basis of Section 14(1)(a) of the Act and not on the basis of Section 14(1)(b) and necessarily the petitioner was not entitled to any deduction. The final order was passed by the Assistant Collector of Customs on 5th March, 1973, and before passing the final order the Assistant Collector of Customs by his order dated the 3rd June, 1972, had directed and ordered that pending finalisation assessment would be made provisionally u/s 18(1) of the Act read with Customs Provisional Assessment Regulations. 1963. It also appears that before passing the final order on the 5th March, 1973 the Assistant Collector of Customs sent a letter to the petitioner asking to show cause as to why on the basis of the statements contained in the said letter he should not pass a final order holding that Section 14(1)(a) of the Act applied and Section 14(1)(b) of the Act had no application. On the 12th January, 1973, a personal hearing was given by the Assistant Collector of Customs to the representatives of the petitioner, and as I have already noted, the Assistant Collector of Customs passed his final order on the 5th March, 1973. In this order the Assistant Collector of Customs has, inter alia, held.

"\* \* \* In view of the above. I also do not find any necessity to consider the matter in the light of the orders of the Appellate Collector of Customs vide Order in Appeal No. 313/72 dated 12-1-1972, since I do not find any scope to apply the provisions of Section 14(1)(b) of the Customs Act to this case. You are, therefore, advised to declare on all the Customs documents, the assessable values of your imports from your foreign principals, in accordance with the above decisions."

The Assistant Collector of Customs has also held that Section 14(1)(a) of the Customs Act was applicable and has further held

"The suppression of these facts and changes has resulted in underassessment of your imports from these suppliers. You are, therefore, requested to furnish immediately the relevant Bills of Entry with invoices and price lists to this office for scrutiny and pay the extra duty through the assessing groups concerned. While formal demand orders will be issued by the assessing groups in due

course, this letter may be treated as a demand notice in respect of all the under-assessed consignments, in terms of proviso to Section 28(1) of the Customs Act."

In this writ petition the validity of the order passed by the Assistant Collector of Customs on 25-4-1970, 11-9-1970, 3-6-1972, 2-12-1972 and 5-3-1973 have been questioned.

3. The real grievance of the petitioner, however, appears to be with regard to the final order passed by the Assistant Collector of Customs on 5-3-1973.

4. Mr. T. K. Basu, learned counsel appearing on behalf of the respondents, in my view, has rightly contended that the orders dated 25-4-1970 and 11-9-1970 cannot really be questioned in this writ proceeding, as the said orders have been merged in the order of the Appellate Collector of Customs dated 12-1-1972 and no appeal has indeed been preferred against the said order of the Appellate Collector of Customs, As I have already observed the real grievance of the petitioner in this petition is with regard to the final order of the Assistant Collector of Customs dated the 5th March, 1973.

5. Mr. Biswarup Gupta learned counsel appearing in support of this application has raised before me the following three contentions:

(1) The proposed order dated 2-12-1972 and the final order dated 5-3-1973 must be considered to be bad as the said orders have been passed by the Assistant Collector of Customs in excess of his jurisdiction and in violation of the order of the Appellate Collector passed in appeal.

(2) The said two orders are also otherwise bad as Section 14(1)(a) which has been sought to be applied by the Assistant Collector of Customs in the making the said two orders does not have any application to the facts and circumstances of this case and Section 14(1)(b) has to be applied.

(3) The finding of the Tribunal in the final order that there has been a suppression of facts by the petitioner is perverse, unwarranted and was without any jurisdiction and the further order on the basis of suppression of facts directing the said letter to be treated as demand made in respect of all under-assessed consignments is necessarily bad and illegal.

6. In support of the first contention, namely, that the order is bad as the said order is not in compliance with the direction by the Appellate Authority, Mr. Gupta has argued that aggrieved by the order of the Assistant Collector of Customs who was seeking to apply Section 14(1)(a) of the Act, the said appeal had been preferred by the petitioner. Mr. Gupta in this connection has drawn my attention to paragraphs 5 of the order dated 11-9-1970 passed by the Assistant Collector of Customs. I have already set out the said paragraph 5 and in the said paragraph the Assistant Collector of Customs has held that Section 14(1)(a) will have application. The contention of Mr. Gupta is that subject-matter of the appeal before the Appellate Collector was the correctness of that decision. Mr. Gupta has contended that the appeal of the petitioner was allowed and the said order was

annulled by the Appellate Authority and the Appellate Collector sent the matter back with the direction that the Assistant Collector would determine as to what quantum of discount claimed can be allowed on account of after-sale service or expenditure by the petitioner. It is the contention of Mr. Gupta that the effect of the order of the Appellate Authority, therefore, clearly is to hold that the Assistant Collector of Customs was not right in applying the provisions contained in Section 14(1)(a) of the Act and that Section 14(1)(b) should be applied and the Assistant Collector of Customs had to determine the quantum of discount to be allowed to the petitioner by applying the provisions of Section 14(1)(b). Mr. Gupta argues that in view of the said order passed by the Appellate Authority the Assistant Collector of Customs had really no jurisdiction to hold that Section 14(1)(a) was applicable and the observation of the Assistant Collector of Customs in his order dated 5th of March, 1973, to the effect-

"In view of the above, I also do not find any necessity to consider the matter in the light of the orders of the Appellate Collector of Customs vide Order in Appeal No. 313/72 dated 12-1-1972" are clearly unwarranted, unjustified and improper. It is the contention of Mr. Gupta that the Assistant Collector was hearing the matter on remand and his power and jurisdiction had in fact been limited by the directions contained in the order of the Appellate Authority and he was bound to carry out the same. In not complying with the order of the Appellate Authority Mr. Gupta contends that the Assistant Commissioner has not only acted illegally and improperly but has acted in excess of his jurisdiction. Mr. Gupta contends the impugned orders must, therefore, be considered to be illegal and without jurisdiction and they are in any event erroneous and the error is apparent on the face of the record.

7. Mr. Gupta has next argued that Section 14(1)(a) can have no application to the facts and circumstances of this case and Section 14(1)(b) has to be applied and the same has been applied all through. In this connection Mr. Gupta has referred to Section 14 of the Customs Act, 1962, Section 14 may be set out.

"14. Valuation of goods for purposes of assessment.

(1) For the purposes of the Indian Tariff Act, 1934, (32 of 1934) or any other law for the time being in force where-under a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be (a) the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale or offer for sale;

Provided that in the case of imported goods, such price shall be calculated with reference to the rate of exchange as in force on the relevant date referred to in Sub-section (1) of Section 15.

(b) Where such price is not ascertainable, the nearest ascertainable equivalent

thereof determined in accordance with the rules made in this behalf.

(2) Notwithstanding anything contained in Sub-section (1), if the Central Government is satisfied that it is necessary or expedient so to do it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value."

Mr. Gupta has also referred to Customs Valuation Rules, 1963 and in particular to Rule 5 thereof which is in the following terms:

"5. (a) Where any goods are imported by or through a sole agent, distributor or indenter appointed for the whole of India or any region thereof, the expenses ordinarily incurred by him in that capacity together with the expenses ordinarily incurred by his regional agents, distributors or indentors, if any, in that capacity shall be included while determining the value of the imported goods,

(b) Where any goods are imported by a branch or subsidiary of the exporter, the provisions of Sub-rule (a) shall apply as if the importation had been made by a sole agent.

Explanation. -- In this rule, "subsidiary" has the same meaning as in Section 4 of the Companies Act. 1956." Relying on the aforesaid provisions Mr. Gupta contends that Section 14(1)(a) can have no application, as the other sales on which the Assistant Collector of Customs sought to rely are not cases of ordinary sales in course of International trade and the requirements of Section 14(1)(a) are, therefore, clearly not satisfied, Mr. Gupta has finally contended that the finding of the Assistant Collector of Customs that there has been suppression is clearly unwarranted, unjustified and perverse and indeed there are no materials for coming to that finding. It is his argument that the entire facts and circumstances had always been there before the authorities concerned at the time of the assessments, he has commented that the said finding has been deliberately arrived at to circumvent the provision relating to limitation of the period of six months and to come within the period of limitation of five years in terms of the provisions contained in Section 28(1) of the Customs Act. Mr. Gupta contends that in any event the Assistant Collector of Customs in the proceeding on remand had no authority or jurisdiction to go into the auction as his jurisdiction was limited to the order earlier passed by him and subsequently set aside on appeal and remanded back to him to be decided on the basis of the decision of the Appellate Authority. Mr. Gupta submits that in that view of the matter and in any view of the matter, the Assistant Collector of Customs had no jurisdiction or authority to direct that the said letter should be treated as a demand notice in respect of the under assessed consignments. It is the submission of Mr. Gupta that there is no question of any suppression of facts and there is no question of any under assessment of the earlier consignments and necessarily there can be no question of any demand in terms of the provisions

contained in Section 28(1) of the Customs Act.

8. Mr. T. K. Basu, learned counsel appearing on behalf of the authorities has contended before me that the effect of the order of the Appellate Collector of Customs is to reopen the entire proceedings before the Assistant Collector of Customs without any limitation and the entire matter was at large before the Assistant Collector of Customs when it came back to him on remand by virtue of the order made by the Appellate Collector of Customs, he has argued that the words used in the order of the Appellate Collector to the effect "without prejudice to re-examination of merits and for determination as to what quantum of discount claim can be on account of after sales service or expenditure by the focal sole agents" go to indicate that the Appellate Authority has not come to any decision as to the applicability to either Section 14(1)(a) or 14 (1) (b) of the Act and the Appellate Authority has also not come to any decision that the petitioner was entitled to any discount claim and all these matters were to be decided de novo by the Assistant Collector of Customs while adjudicating upon the matter on remand. Mr. Basu argues that as the entire matter was at large before the Assistant Collector of Customs without any limitation as to his power or jurisdiction by the order of remand, he was perfectly competent to come to his own conclusions on a proper consideration of all the materials which were there before him. Mr. Basu, therefore, argues that there has been no violation of the order of the Appellate Authority and the order passed by the Assistant Collector of Customs is in compliance with the order passed by the Appellate Authority. Mr. Basu has next contended that as the Assistant Collector of Customs was free to decide the matter on the materials before him and the entire matter was at large before him, the Assistant Collector of Customs on a consideration of all the facts and circumstances has come to the conclusion that Section 14(1)(a) applies, as the requirements of the said Section are all satisfied. It is the argument of Mr. Basu that this finding of the Assistant Collector of Customs that the requirements of Section 14(1)(a) are satisfied is indeed a finding of fact and in this jurisdiction this Court should not interfere with the said finding of the Assistant Collector of Customs. Mr. Basu has further argued that the determination of the value for the purpose of assessment involves an enquiry into the various questions of fact and those questions are indeed all disputed questions and in this jurisdiction the Court should not really enter into the merits of controversy of such valuation. Mr. Basu has next argued that in view of the finding of the Assistant Collector Of Customs, he was perfectly justified in holding that in the case of earlier consignments there has been an under-assessment. Mr. Basu has finally contended that as the Act provides for an appeal against the order of the Assistant Collector of Customs and as on earlier occasions the petitioner had, in fact preferred appeals against the orders of the Assistant Collector of Customs, there is no justification on the part of the petitioner in not following the normal remedy of preferring an appeal against the order of the Assistant Collector to the Appellate Authority in terms of the provisions of the Act and in invoking the jurisdiction of this Court under Article 226 of the Constitution. Mr. Basu has



further argued that the petitioner by his own wilful act has deprived himself of the right to prefer an appeal to the appellate authority in terms of the provisions contained in the Act, as he allowed the period of three months fixed for preferring an appeal to expire and the petitioner has not offered any explanation for the delay and for not preferring an appeal. Mr. Basu has submitted that this petition was presented after the expiry of the period of three months and the petitioner who by his own laches has deprived himself of the right to prefer an appeal conferred on him under the Act is not entitled to invoke the jurisdiction of this Court in this proceeding. In this connection Mr. Basu has referred to the decision of the Supreme Court in the case of A.V. Venkateswaran, Collector of Customs, Bombay Vs. Ramchand Sobhraj Wadhwani and Another, .

9. In the instant case, the Assistant Collector of Customs in making the said order has acted in excess of his jurisdiction and in violation of the order passed by the appellate authority. It was the clear duty of the Assistant Collector of Customs in deciding the matter remanded to him by the appellate authority to act in compliance with the order of the appellate authority. To my mind, the effect of the order of the appellate authority clearly is to direct the Assistant Collector of Customs to proceed to determine the value for the purpose of assessment of duty in accordance with the provisions contained in Section 14(1) (b) of the Act. It is to be noted that in the order of the Assistant Collector of Customs from which the petitioner preferred the appeal to the Appellate Authority, the Assistant Collector of Customs had held that Section 14(1)(a) of the Act was applicable and he proceeded to determine the value by applying the provisions contained in Section 14(1)(a) of the Act. The grievance of the petitioner in the appeal before the appellate authority, therefore, clearly was that Section 14(1)(a) of the Act had no application and the Assistant Collector of Customs had erred in holding that Section 14(1)(a) of the Act applied and in applying the provisions of Section 14(1)(a) in determining the value. The appeal filed by the petitioner was allowed and the order of the Assistant Collector of Customs was annulled. The effect of allowing the appeal and annulling the order clearly indicates that the appellate authority was of the opinion that the view expressed by the Assistant Collector of Customs that Section 14(1)(a) was applicable was erroneous and the Assistant Collector of Customs had erred in applying the provisions of Section 14(1)(a) in determining the value. The further direction of the Appellate Authority while remanding the matter back to the Assistant Collector after annulling the order to re-examine on merits and to determine as to what quantum of discount claimed can be allowed on account of after-sales service or expenditure by the local sole agents, clearly indicates, to my mind, that the Appellate Authority directed the Assistant Collector of Customs to consider the assessment on merits by applying the provisions of Section 14(1) (b) of the Act and by giving necessary allowance to the petitioner in respect of the petitioner's claims for discount for after-sales service or expenditure. I am unable to accept the contention of Mr. Basu that as a result of the order of the Appellate Authority the entire matter before the Assistant Collector of Customs

was at large and he was free to decide the case in his own way and also to decide that Section 14(1)(a) was applicable and not Section 14(1)(b). When the matter came back to the Assistant Collector of Customs on remand by the Appellate Authority, his jurisdiction and Power were undoubtedly limited by the order of the Appellate Authority and it was his duty to act in deciding the matter sent back to him on remand in compliance with the order of the Appellate Authority. In the instant case, he has clearly acted contrary to the decision of the Appellate Authority which had sent the matter back to him for adjudication in the light of its decision which was binding on the Assistant Collector of Customs. The power and -jurisdiction of the Assistant Collector of Customs in deciding the matter on remand to him by the Appellate Authority were clearly restricted by the order of the Appellate Authority. In seeking to pass the proposed order dated 2-12-1972 and in passing the final order dated 5-3-1973 the Assistant Collector of Customs had clearly acted in violation of the order of the Appellate Authority. The said orders are contrary to the directions of the Appellate Authority and the said orders are, therefore, illegal, unjustified and without jurisdiction. In that view of this and on this ground alone the said orders cannot stand.

10. In the instant case, there has been no unusual delay in making the present application. The fact that the period of time fixed for preferring an appeal has elapsed constitutes no bar to the maintainability of the present application and does not deprive the petitioner of this right to move this Court in this jurisdiction. The decision of the Supreme Court relied on by Mr. Basu is not of any assistance in the facts and circumstances of this case. In the instant case the validity of the order is questioned mainly on the ground of lack of jurisdiction. It is to be noted that against the earlier order of the Assistant Collector of Customs the petitioner had appealed to the Appellate Collector and the Appellate Collector had allowed the appeal and remanded the matter back to the Assistant Collector of Customs. The principal grievance is that the Assistant Collector of Customs had violated the order of the Appellate Authority and had acted illegally and without jurisdiction in passing the impugned order without complying with the directions of the Appellate Authority and the order is erroneous in law on the face of it. As in the instant case the order is clearly bad for lack of proper jurisdiction and as the order is erroneous in law and the error is apparent on the face of the order, the petitioner was justified in invoking the jurisdiction of this Court without filing any appeal against the said order.

11. In view of my finding on the first question it does not indeed become necessary to decide the other contentions by Mr. Gupta. I am, however, inclined to the view that there appears to be considerable force in the contention of Mr. Gupta that in the facts and circumstances of this case Section 14(1)(b) is indeed applicable in determining the value. I, however, do not consider it necessary to decide this question finally. I also wish to observe that the finding of the Assistant Collector of Customs that there has been suppression of facts by the petitioner in respect of the earlier consignments is clearly unwarranted and unjustified as the entire order is being set aside and quashed it does not become

necessary for me to deal with this aspect at any length.

12. In the result the petition succeeds. The rule is made absolute, in so far as the orders dated 2-12-1972 and 5-3-1973 are concerned. The said orders are hereby quashed. So far as the order dated 3-6-1972 is concerned making provisional assessment u/s 18(1) read with Customs Provisional Assessment Regulation, 1963, I do not think it will be proper to interfere with the said order in this proceeding. The earlier orders complained of, as I have already noted, cannot be quashed as the said orders merged in the order of the Appellate Authority dated 12-1-1972 and the order of the Appellate Authority is not challenged in this proceeding and is indeed relied on in this proceeding. The orders dated 2-12-1972 and 5-3-1973, are therefore, quashed and the authorities concerned are restrained from giving any effect to the said orders and/or acting in terms of the said orders. The Assistant Collector of Customs is directed to proceed to determine the value in accordance with law in compliance with the order passed by the Appellate Authority. There will be no order as to costs. There will be a stay of operation of this order for a period of four weeks and during the said period of stay interim order will continue.