CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 59874 of 2013

[Arising out of Order-in-Original No. 29/LDH/2013 dated 08.07.2013 passed by the Commissioner of Central Excise, Ludhiana]

M/s Superfine Knitters, ...**Appellant**
C-5, Phase V, Focal Point, Near Kay Jay Forge,
Ludhiana, Punjab 141010
(Old Address; 269, Industrial Area A, Ludhiana, Punjab 141003)

VERSUS

Commissioner of Central Excise and Service Tax, Ludhiana ......**Respondent**
GST Bhawan, F Block, Rishi Nagar,
Ludhiana, Punjab 141001

APPEARANCE:

Shri Sudeep Singh Bhangoo, Advocate for the Appellant

Shri Anurag Kumar and Shri Goverdhan Dass Bansal, Authorized Representatives for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60042/2026

DATE OF HEARING:13.01.2026
DATE OF DECISION:13.01.2026

S.S.GARG:

The present appeal is directed against the impugned order dated 08.07.2013 passed by the Commissioner of Central Excise, Ludhiana, whereby, the learned Commissioner has confirmed the demand of excise duty amounting to Rs. 59,79,077/- under Section 11A of Central Excise Act along with interest in terms of Section 11AA of the Act, and also imposed equal penalty under Rule 25 of Central Excise Rules, 2002. The learned Commissioner has also imposed penalty of Rs. 5000 under Section 27 of Central Excise Rules, 2002.

2. Briefly the facts of the present case are that the appellant is engaged in the manufacture of Readymade Garments and had cleared the same for export in terms of Rule 19 of erstwhile Central Excise Rules, 2002 under the General Bond B-1 executed by them and duly accepted by the Deputy Commissioner Central Excise Division-1, Ludhiana. The export of the excisable goods was allowed without payment of Central Excise Duty under Rule 19 of Rules, 2002 on the execution and acceptance of the General B-1 bond as specified under Notification No.42/CE(NT) dated 26.06.2001; as per the guidelines contained in para 13.6 of Chapter 7 of the CBEC's Excise Manual of Supplementary Instructions, the exporter was required to submit a statement, at least once a month, in Form Annexure-19 to the Authority with whom the bond was executed along with the following documents:-

(i) Original copy of ARE-I with due certification of exports (Pass for Shipment Order) by Customs Authorities at the place of export.

(ii) Self attested photocopy of bill of lading.

(iii) Self attested photocopy of shipping bill (Export Promotion Copy).

(iv) Other supporting documents.

2.2 The appellant during the month of July 2011 had cleared 18 consignments for export under ARE-1s as tabulated in para 1.6 of the impugned order and vide letter dated 14.05.2012 the appellant had submitted some documents as a proof of export in respect of 7 ARE-1s and, thereafter, the appellant also submitted monthly statement in Form Annexure-19 for the month of July, 2011 in the division office on 30.05.2012 along with some more documents pertaining to ARE-1 from 29/2011-12 dated 13.07.2011 to 39/2011-12 dated 29.07.2011 for acceptance of proof of export.

2.3 The Department entertained a view that the goods cleared under 16 ARE-1 as tabulated in para 1.9 [from 24/2011-12 dated 04.07.2011 to 39/2011-12 dated 29.07.2011] of the impugned order and had not been exported and the appellant had contravened the provisions of Rule 19 of Rules 2002 and Notification No.42/CE(NT) and instructions contained in Chapter 7 of CBEC's Excise Manual of Supplementary Instructions, 2005. On these allegations, a show cause notice dated 06.08.2012 proposing to demand Central Excise duty in respect of the goods cleared under 16 ARE-1 and charge interest under Section 11AA of the Act. In reply to the show cause notice, the appellant submits that the goods cleared under all involved ARE-1, had been duly exported within the period of six months on the date of clearance from the factory premises and there is no justification in demanding the Central Excise Duty and imposing penalty. After following the due process, the adjudicating authority confirmed the demand on the basis of report dated 21.03.2013 of the jurisdictional Assistant Commissioner, wherein he had reported that proof of export had been rejected in respect of 16 ARE-1, in as much as the appellant had not submitted the original and duplicate copies of 16 ARE-1 bearing endorsement of Customs Officer in Part-B of the ARE-1, certifying export of goods and some other documents. Aggrieved by the said order, the appellant has filed the present appeal.

3. Heard both the sides and perused the material on record.

4. Learned counsel for the appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts and the documentary evidence showing export of goods produced by him. He further submits that the adjudicating authority has simply relied upon the report dated 21.03.2013 of the Assistant Commissioner of the Central Excise without examining the export documents produced by them before him as mentioned in Para 2.2 of the impugned order. He further submits that the adjudicating authority was required to consider various documents which clearly shows that goods have been exported and sale proceeds were received in convertible foreign currency. He further submits that the main ground taken by the Adjudicating Authority for confirming the demand is the report stating that the goods had not been duly exported as Bond

Accepting Authority has reported that the Customs Officer had not certified in Part-B of all the ARE-1 that goods had been exported. This finding as per the learned counsel is not factually correct rather the custom officer had duly signed and stamped the Part-B of all the ARE-1, when produced before him along with all the shipping bills which shows that he had certified the export of goods. Even if he has not mentioned the shipping bills number etc. in Part-B of ARE-1, it does not mean that goods had not been exported when the particulars given in ARE-1s tally with the particulars of relevant shipping bills.

4.2 He further submits that ARE-1 number, Excise invoice number, commercial Invoice number, description and quantity of goods, value in Indian currency and convertible foreign currency (USD) as given in the 16 ARE-1 tally with the said details given in the relevant shipping bill. Besides this, Bank Realization Certificates have also been issued in respect of all the ARE-1 which contains details of the exported goods. The appellant has also produced the chart before us which prima facie shows that the goods have been duly exported. He further submits that if the Customs Officer making assessments of the shipping bills at the time of export of goods had not mentioned the details of the shipping bills in Part-B of the ARE-1 that the appellant cannot be blamed for this failure on the part of the Custom Officers. The Customs Officers though have signed and stamped the Part-B of each involved ARE-1 which shows that he has certified the export of goods covered under each ARE-1. The learned counsel also produced the document pertaining to ARE-1 before us as mentioned in his written submissions and he has also referred to CBEC's clarification contained in para 13.6 of Chapter 7 of CBEC's Excise manual which has been erroneously invoked by the adjudicating authority.

4.3 Learned counsel has also relied upon the decision of the Tribunal in the case of ***CCE, Kolkata-I Vs. M/s Krishna Traders-2007 (2016) ELT 379 (Tri.-Kolkata)*** and ***Chamunda Pharma Machinery Pvt. Ltd. Vs. CCE Ahmedabad-I reported in 2009 (244) ELT 492 (Tri.-Ahmd.),*** wherein, it has been held under bond is also permissible and export benefits are available.

4.4 As regards the imposition of penalty, learned counsel submits that penalty cannot be imposed once the appellant has exported the goods and placed on record the document showing proof of export. He further submits that when the appellant has not contravened the provision of Rule 19 and Notification No. 42/2001, hence, no penalty is imposable as held by the Hon'ble Tribunal in the case of :

(i) ISMT Ltd. Vs. UOI – 2016 (338) ELT 356(Bom.)

(ii) Eves Fashions Vs. Commissioner of C.Ex. Delhi-1 reported as 2006 (205) ELT 619 (Tri.-Del).

5. On the other hand, learned Authorized Representative for the Revenue, reiterated the findings of the impugned order and submits that the learned Commissioner has rightly confirmed the demand as the appellant have failed to provide proof of export of goods and the ARE-1 part B has not been properly certified by the Custom Officer

because the details about the shipping bills are missing in part B of ARE-1. He further submits that the learned Commissioner has confirmed the demand on the basis of the report of the Custom Officer who has certified that Original documents have not been produced showing the proof of export.

6. We have considered the submissions made by both the sides and perused of the material on record. We find that in the present case the demand has been confirmed only on the ground that the appellant has failed to prove the export of goods because on the basis of report of the Custom Officer, the appellant has contravened the provision of Rule 19 of the Customs Rules, 2002 and instruction contained in para 13.6 of Chapter 7 of CBEC’s Excise Manual of Supplementary instructions, 2005. Further, the only ground of confirming the demand is that the appellant has not submitted original and duplicate copies of 16 ARE-1 bearing endorsement of Customs Officer in Part-B of the ARE-1 certifying export of goods and some other documents. Further we find that in reply to the show cause notice itself, the appellant has submitted that goods covered under all involved ARE-1 had been duly exported within the period of six months on the date of clearance from the factory premises. The appellant further stated in their reply which is recorded in para 2.2 of the impugned order stating that goods have been duly exported and in proof of the same, the appellant has produced all the documents, but the adjudicating authority has not considered the documents produced by the appellant in right

perspective and has only relied upon the report submitted by the Custom Officer.

7. We also find that the appellant has produced before us a chart showing details of ARE-1 and other export documents proving that the goods have been exported which prima facie shows that the goods in fact have been exported. Further we find that the Custom Officer has duly signed and stamped part B of all the ARE-1 when produced before him along with all the shipping bills which clearly shows that he has certified the export of goods even if he has not mentioned the shipping bill nos. etc. in part B of ARE-1 it does not mean that goods have not been exported when the particulars given in ARE-1 tally with the particulars mentioned in relevant shipping bills. We also find that if the Custom Officer while making assessment of the shipping bills at the time of export of goods had not mentioned the details of shipping bills in part B of ARE-1, the appellant cannot be blamed and demand of duty cannot be made on account of the failures of the Custom Officer to do his duty. The Custom Officer has signed and stamped part B of each ARE-1 which clearly shows that goods have been exported under each ARE-1 and the entire demand appears to be based on assumptions and presumptions which is not sustainable in law.

8. In view of the fact that in spite of sufficient documentary evidence produced which was not considered by the adjudicating authority, we are of the considered view that the case needs to be remanded back to the adjudicating authority with a direction to

consider all the documents produced by the appellant and other evidences which may be produced by the appellant to establish that the goods have been exported within the stipulated time as prescribed under law.

9. Consequently, we set aside the impugned order and remand the matter back to the adjudicating authority to pass a fresh order after considering the entire evidence on record and pass a reasoned order after complying with the principle of natural justice and after affording an opportunity of hearing to the appellant and the same may be done within the period of three months from the date of receipt of the certified copy of this order. Accordingly, the appeal is disposed of by way of remand.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash