CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 42518 of 2014

(Arising out of Order-in-Appeal No.TUT-CUS-000-APP-080-14 dated 20.08.2014 passed by Commissioner of Customs & Central Excise (Appeals), No.1, Williams Road, Cantonment, Tiruchirappalli 620 001)

M/s.PGC Corporation Limited **.... Appellant**
(formerly PGC Textile Corporation Pvt. Ltd.
& Prem Durai Exports Pvt. Ltd.)
No.5, Prem Gardens, Rajaji Nagar,
P.N. Road,
Tirupur 641 602.

VERSUS

The Commissioner of Customs **... Respondent**
Custom House,
New Harbour Estate,
Tuticorin 628 004.

APPEARANCE :

Shri J.V. Niranjan, Advocate for the Appellant
Smt. Anandalakshmi Ganeshram, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No.40556/2025

DATE OF HEARING : 03.02.2025
DATE OF DECISION :29.05.2025

Per: Shri P. Dinesha

The assessee appears to have imported certain goods into India; some of which were exported for which, the appellant had claimed duty drawback. The facts are not in dispute in so far as the goods imported/reimported are concerned, the area of dispute is regarding the goods exported. The case of the appellant is that export was made affixing the tag as required by the foreign importer on all the items that were meant for export but, however, since some of the items were rejected by them for various reasons, the same goods were reimported with the very same tag on them. The requirement of the foreign importer was the goods with specific fabric composition to be fixed on the label which was apparently done by the appellant. However, it is the case of the appellant that though the composition of the fabric remained unaltered, only the label was printed with a different composition as per the requirement of the foreign importer.

2. When the rejected goods were re-imported, the Revenue subjected the same to test-check through Textile Committee, Chennai who, as per their test reports confirmed

the composition which was almost matching with the original composition, but for the fact that the label contained a different composition. This was alleged to be a misdeclaration calling for action and demand of duty for which, SCN dated 31.07.2012 was issued. The appellant appears to have filed detailed reply explaining the facts and the understanding between them and foreign importer. But however, the Original Authority going by the test report concluded that the appellant has misdeclared the fabric composition in the documents filed upon reimport of the goods in question. Consequently, duty was demanded along with applicable interest and penalty. The appellant appears to have filed an appeal before the First Appellate Authority, thereby explaining the transaction/understanding between them and the foreign importer but, however, not satisfied with the same the First Appellate Authority vide Order-in-Appeal No.80/2014 dated 20.08.2014 has dismissed their appeal thereby upholding the demands confirmed in the Order-in-Original No.26/2013 dt. 18.09.2013. The said OIA dated 20.08.2014 has been challenged in this appeal by the appellant.

3. Heard Shri J.V.Niranjan, Ld. Advocate for the Appellant and Smt. Anandalakshmi Ganeshram, Ld. Assistant Commissioner for the Respondent. The only issue that arises for our consideration is, "whether there was misdeclaration at all, justifying the demand of consequential duty?

4. From the SCN and reply thereto, we find that the dispute was only with regard to the declaration in the label /tag regarding the fabric composition and not the composition *per se*. Hence, the scope of the appeal does not involve or require getting into the merit as regards the fabric composition is concerned. The appellant has explained that the internal miscommunication and misunderstanding resulted in errors in labelling, but in so far as seven Shipping Bills were concerned, there was no mismatch either with regard to the fabric composition or even the declaration of the same is concerned. Further, the conduct of the appellant that upon re-import of the fabric in question which has been recorded in SCN at paragraph 11 that the appellant had vide their letter dated 19.05.2010 sought for provisional release of the goods after surrendering the duty drawback, which was availed at the time of export. This, according to us, is an action in good faith since it was at least after three years

thereafter that the SCN came to be issued; the reimport of the consignments was in July 2009.

5. Hence, we do not find any willful misdeclaration to claim the drawback, as alleged by the Revenue and hence, the consequential demand raised in the impugned order cannot sustain since it is an admitted fact that the appellant voluntarily remitted back the duty drawback sanctioned to them, along with interest. Sustaining the consequential demand would therefore result in demanding the duty twice. For the above reasons, no penalty could be levied and the impugned order requires to be set aside, which we hereby do. Resultantly, the appeal is allowed with consequential benefits, if any, as per law.

(Order pronounced in open court on 29.05.2025)

(M. AJIT KUMAR)
Member (Technical)

(P. DINESHA)
Member (Judicial)

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