

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH,
COURT NO. I

CUSTOMS APPEAL NO. 51306 OF 2023

[Arising out of the Order-in-Appeal No. CC (A) CUS/D-II/ICD/TKD/Import/
1211/2022-2023 dated 12/12/2022 passed by The Commissioner of
Customs (Appeals), New Customs House, New Delhi.]

M/s Mamta Enterprises,
992, Ground Floor, Hamilton Road,
Kashmiri Gate,
Delhi – 110 006.

.....Appellant

Versus

**Principal Commissioner
of Customs (Import),**
ICD, Tughlakabad,
New Delhi – 110 020

....Respondent

APPEARANCE:

Shri Archit Gupta, Advocate for the appellant.
Shri Girijesh Kumar, Authorized Representative for the
Department

CORAM:

**HON'BLE JUSTICE MR. DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

FINAL ORDER NO. 51865/2025

**DATE OF HEARING : 15.07.2025
DATE OF DECISION: 12.12.2025**

P.V. SUBBA RAO

M/s Mamta Enterprises¹ filed this appeal to assail the
order-in-appeal dated 12.12.2023² passed by the
Commissioner of Customs (Appeals), New Customs House,
New Delhi in which he partly upheld the order-in-original dated

**1. Appellant
2. impugned order**

04.08.2022 passed by the Joint Commissioner but set aside the penalties imposed under section 114A of the Customs Act, 1962³ and imposed a penalty of Rs. 40,000/- under section 112 of the Act.

2. The appellant had filed Bill of Entry No. 9393418 dated 04.07.2022 to clear "car curtain/curtain accessories" classifying them under Customs Tariff Item⁴ 6303 99 90 on which the applicable Basic Customs Duty⁵ was 10% and the Integrated Goods and Service Tax⁶ was 5%. A team of officers of the Delhi Customs Preventive Commissionerate examined the goods on 13.07.2022 in the presence of two independent witnesses and the customs broker and found them as declared. However, they formed an opinion that the goods merit classification under CTI 8708 99 00 being car window shades made up of PVC synthetic sheet meant exclusively for motor vehicles and that they were accordingly exigible to BCD at 15% and IGST at 28%. The value declared by the appellant was also doubted.

3. The appellant gave a letter dated 19.07.2022 to the Deputy Commissioner of Customs (Group V) stating that their classification of the goods under CTI 6303 99 90 was correct as the goods were curtains which were specifically covered under that CTI. It further asserted that value declared in the

3. the Act
4. CTI
5. BCD
6. IGST

Bill of Entry was true and also produced a copy of the remittance as proof. However, since the imported goods were meant for summer and any delay in clearance would have affected sales badly, it agreed to pay duty on the value and CTI as proposed by the department along with fine and penalty. It also waived the show cause notice and personal hearing. Accordingly, the Joint Commissioner passed his order-in-original which has been partly upheld in the impugned order. The Commissioner (Appeals) set aside the penalty under section 114A but imposed penalty under section 112 of the Act.

Submission on behalf of the appellant

4. Learned counsel for the appellant made the following submissions :-

- (i) The appellant had not accepted the classification and valuation proposed by the customs officers, but only agreed to pay the duty as per the classification by the department in its letters dated 19.07.2022 and 02.08.2022. Therefore, the appellant is not precluded from assailing the classification ;
- (ii) The appellant rightly classified the imported goods under CTI 6303 99 90 and also correctly declared the transaction value and paid duty accordingly ;

- (iii) The order-in-original dated 04.08.2022 passed by the Joint Commissioner made the payment of differential duty a pre-condition for release of the goods ;
- (iv) The fact that appellant filed an appeal against the order-in-original shows that the appellant paid the duty, interest, redemption fine and penalty under protest ;
- (v) The Joint Commissioner confirmed the demand under section 28 (4) of the Act and imposed penalty under section 114A of the Act and the Commissioner (Appeals), in the impugned order, held section 28 (4) and section 114A of the Act would not apply to the case since the goods were pending clearance and assessment under section 17 was not completed ;
- (vi) The value has been re-determined by the Joint Commissioner based on market survey which cannot be a ground on which the prices can be re-determined for the reasons the appellant was not part of the survey of the survey report has not been provided to the appellant till date and the details of the names and address of the retailers from whom the prices were ascertained were also not provided to the appellant ;
- (vii) The appellate authority exceeded his jurisdiction and imposed penalty under section 112 (ii) of the Act on the appellant, which was not imposed by the original

authority. A fresh penalty could not have been imposed by the appellate authority without giving an opportunity to the assessee to show cause against the penalty ;

(viii) The appellant is under the bonafide belief that the imported goods deserve classification under CTI 6303 99 90 on the basis of the explanatory notes to section XVII which, inter-alia, states that the articles need to comply with three conditions to be classified under that section including the condition that they must not be more specifically included elsewhere in the nomenclature. In this case, the goods imported by the appellant viz., curtains – though designed for use in cars – are specifically covered under CTH 6303 and, therefore, they cannot be classified under CTH 6708 ;

(ix) The imported goods have been wrongly held liable to confiscation under section 111 (m) of the Act. Consequently, the redemption fine imposed under section 125 of the Act also needs to be set aside ;

(x) The impugned order may be set aside with consequential relief to the appellant.

Submissions of the Revenue :-

5. Learned authorized representative for the Revenue submitted as follows :-

- (i) The imported goods were clearly car accessories and were mentioned, as such, in the Bill of Entry the import invoice and the packing list. The specific description was "MAAS car accessories and sun shield/sun shed" and this fact is not in dispute ;
- (ii) During examination, it was found that the shades were made of PVC film/synthetic sheet in roll form which is fixed on the window of the car for protection from sunlight and are meant to be used solely and principally with vehicles falling under section XVII of the Tariff and were not parts of general use. Therefore, they are correctly classifiable under CTI 8708 99 90 ;
- (iii) As per Rule 3 (a) of the General Rules for interpretation of the tariff (GIR), specific description should prevail over general description. Since car accessories were specifically classifiable under 8708 99 90, they cannot be classified under some other heading also ;
- (iv) The appellant had mis-classified the imported goods under CTI 6303 99 90 in order to pay lower rate of BCD & IGST. The goods are not made of fabric but were made of PVC film/synthetic material ;

- (v) The appellant had admitted to the classification and valuation in its letters dated 19.07.2022 and 02.08.2022 by specifically waiving the requirement of show cause notice and personal hearing. What is admitted need not be proved;
- (vi) Since the appellant has mis-classified the goods, they were liable for confiscation under section 111 (m) consequently the appellant was liable to penalty under section 112 (ii).
- (vii) In view of the above, the impugned order may be upheld and the appellant's appeal may be dismissed.

Findings :

6. We have considered the submissions advanced by both sides and perused the records.

7. We have gone through the letter dated 19.07.2022 submitted by the appellant waiving the show cause notice. It is clear as crystal that the appellant had asserted in this letter that it's classification of the goods was correct and that it had correctly declared the transaction value. However, since the goods were seasonal and no purpose would have been served if they were released after season, the appellant agreed to pay duty as assessed and for that purpose waived the show cause notice and personal hearing. Therefore, it cannot be said that the appellant had accepted the re-assessment of the Bill of

Entry under a different CTI or on a different value determined by the Joint Commissioner. The Commissioner (Appeals) noted in paragraph 3.5 of the impugned order that the appellant had admitted the classification and valuation proposed by the department during investigation by letters dated 19.07.2022 and 02.08.2022 and had waived the requirement of personal hearing and show cause notice and that it was not open to the appellant to challenge the classification and valuation at a later date. It is for this reason that the Commissioner (Appeals) did not deal with the question of classification or valuation. The Commissioner (Appeals) has completely misread the letter dated 19.07.2022 sent by the appellant. Not only did the appellant not accept the classification or valuation proposed but it had asserted that the classification and valuation in the Bill of Entry in its self-assessment were correct. However, since the goods were not being cleared by the department, the appellant agreed to pay the duty as per the department's classification and valuation especially since the goods were seasonal and no purpose would have been served if the goods are released late.

8. We now examine the classification of the goods :- The two competing entries are CTI 6303 99 00 and CTI 8708 99 00. These entries read as follows :-

Tariff Item	Description of goods
6303	Curtaains (including drapes) and interior blinds; curtain or bed valances - Knitted or crocheted ;

6303 12 00	-- Of synthetic fibres
6303 19 00	-- Of other textile materials - Other ;
6303 91 00	-- Of cotton
6303 92 00	-- Of synthetic fibres
6303 99	-- Of other textile materials ;
6303 99 10	--- Silk shower curtains
6303 99 90	--- Other

Tariff Item	Description of goods
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705
8708 10	- Bumpers and parts thereof :
8708 10 10	--- For tractors
8708 10 90	--- Other - Other parts and accessories of bodies (including cabs) ;
8708 21 00	-- Safety seat belts
8708 22 00	-- Front windscreens (windshields), rear windows and other windows specified in Sub-heading Note 1 to this Chapter
8708 29 00	-- Other
8708 30 00	- Brakes and servo-brakes; parts thereof
8708 40 00	- Gear boxes and parts thereof
8708 50 00	- Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof
8708 70 00	- Road wheels and parts and accessories thereof
8708 80 00	- Suspension systems and parts thereof (including shock absorbers) - Other parts and accessories :
8708 91 00	-- Radiators and parts thereof
8708 92 00	-- Silencers (mufflers) and exhaust pipes; parts thereof
8708 93 00	-- Clutches and parts thereof
8708 94 00	-- Steering wheels, steering columns and steering boxes; parts thereof
8708 95 00	-- Safety, airbags with inflater system; parts thereof
8708 99 00	- Other

9. We find that Chapter 63 of the Tariff deals with Textile Articles and CTH 6303 deals with curtains (including drapes) and interior blinds. These curtains are further sub-classified into "knitted or crocheted" and "other". The "others" are further divided into "of cotton", "of synthetic fibres" and "of other textile materials". The curtains made of other textile material are further sub-divided into "silk shower curtain" and "other". CTI 6303 99 90 deals with this other curtains. Clearly all these headings deal with textile articles, more specifically, curtains of various types.

10. Chapter 87 deals with vehicles other than railways and their parts and accessories. Motor cars and other motor vehicles design for transport passengers are classified under CTH 8703. The parts and accessories of motor vehicles covered by CTH 8701 to 8705 (which includes 8703) fall under CTH 8708.

11. This CTH is divided into "Bumpers and parts thereof", "other parts and accessories of bodies", "brakes and parts thereof", "gear boxes and parts thereof", "suspension system and parts" and "other parts and accessories". The "other parts and accessories" are further sub-classified. The residual heading 8708 99 00 covers parts and accessories which do not fall under any of the above groups.

12. Admittedly, what were imported by the appellant were not curtains or drapes but were shades meant and for use in cars. We do not find CTI 6303 99 90 is the correct classification for such car accessories even though the purpose of this particular accessories is to provide protection from the sun. They are clearly not curtains. Such shades are sold as car accessories in shops. They have also been described as car accessories in the appellant's own documents. Therefore, on question of classification of the goods, we find in favour of the department and against the appellant.

13. As far as the valuation is concerned, according to the appellant, it had declared the transaction value in its Bill of Entry. The transaction value was rejected by the Joint Commissioner only for the reason that the retail market price of identical goods, in Indian market was much higher as per the quotations which department had obtained from local vendors. The difference is follows :-

Sl. No.	Item name	Market value of identical goods (Rs.)	Value declared by Importer
1.	BA 42/W	120	31.58
2.	AS-100 black	190	59.21
3.	AS-100 belge	225	63.16
4.	BU-90	190	59.21

14. Since the appellant's overseas supplier was a trader, the Joint Commissioner asked the appellant to submit the manufacturer's invoice, which the appellant failed to submit. The Joint Commissioner concluded that the appellant had willfully mis-declared the value of the goods with an intent to evade of duty.

15. We find that the Joint Commissioner had no reason to reject the transaction value. As per Rule 3 of the Customs Valuation (Determination of Value of Imported Goods), Rules 2007⁷ subject to Rule 12, the value of the imported goods shall be the transaction value adjusted in accordance with Rule 10 of the Valuation Rules. Rule 10 of the Valuation rules provides for addition of certain costs and services to the

7. Valuation Rules

transaction value which are not relevant for this purpose. Rule 12 provides for the proper officer to ask the importer to furnish further information or documents who has reason to doubt the truth and accuracy of the imported goods and after receiving such information or in the absence of such information from the importer by the proper officer still has reasonable doubt about the truth and accuracy of the imported goods then it shall be deemed that the transaction value cannot be determined under Rule 3.

16. In this case, admittedly, the appellant had imported the goods from a trader and had provided the trader's invoice. But the Joint Commissioner asked for manufacturer's invoice and the appellant failed to provide it evidently because he had not bought the goods from manufacturer. As far as the market value of the goods in Indian market is concerned, it can be much higher than the international market price and that itself does not give the Joint Commissioner a reasonable doubt regarding the truth or accuracy of the transaction value. We do not find that the Joint Commissioner had a reasonable doubt regarding the truth or accuracy.

17. It also needs to be pointed out that even according to the Joint Commissioner, no identical or similar goods were imported into India and, therefore, the Rules 4 and 5 of the Valuation Rules were not applied. The Joint Commissioner only relied on a market survey report which is not part of the

records and a copy of which has not even been provided to the appellant. In this factual matrix we find that the value declared by the appellant in the Bills of Entry is the value on which duty should have been assessed.

18. The goods were held liable for confiscation under section 111 (m) of the Act and this section reads as follows :-

“SECTION 111. Confiscation of improperly imported goods, etc. — The following goods brought from a place outside India shall be liable to confiscation:—

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54”

19. Admittedly, there was no difference between the description of the goods or the quantity on examination. The only difference was that the goods were classified by the appellant according to its understanding and not according to the classification decided by the Joint Commissioner while re-assessing the Bills of Entry. There was no mis-declaration whatsoever. Therefore, the confiscation of the goods under section 111 (m) of the Act , the imposition of redemption fine and consequential penalty under section 112 of the Act in the impugned order cannot be sustained.

20. In view of the above, the appeal is partly allowed upholding the classification of the imported goods under CTI 8708 99 00 and setting aside the rest of the impugned order.

The amount of duty needs to be re-calculated, as above. The matter is remanded to the original authority for the sole purpose of calculation.

21. The appeal is allowed by way of remand. The appellant will be entitled to consequential relief, if any.

(Order pronounced in open court on 12/12/2025.)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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