CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 1

CUSTOMS APPEAL NO. 52329 OF 2019

[Arising out of Order in Appeal No. CC(A) CUS/D-II/IMP/ICD/TKD/413/2019-20 dated 14.06.2019 passed by the Commissioner of Customs (Import), ICD, TKD, New Delhi]

M/S GARG ENTRPRISES **......APPELLANT**

Prop. Vikas Garg,
514B, G/F Back Portion, GTV 08155,
Ghitorni, New Delhi-110030

Vs.

THE COMMISSIONER OF CUSTOMS (IMPORT) **......RESPONDENT**

ICD, Customs Commissionerate,
TKD, New Delhi

Appearance:

None for the Appellant
Shri Girijesh Kumar, Authorised Representative for the Respondent

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

FINAL ORDER NO. 50029 /2026

DATE OF HEARING : 13/11/2025
DATE OF DECISION : 07/01/2026

P.V.SUBBA RAO

M/s. Garg Enterprises[1], filed this appeal to assail the Order dated 14.06.2019[2] passed by the Commissioner of Customs, (Appeals), New Delhi[3] upholding the order dated 31.01.2018 passed by the Additional Commissioner.

2. None appeared for the appellant. When these appeals were listed on March 13, 2025, Shri Shubham Singh, learned counsel sought to withdraw his Vakalatnama. Permission was granted and a notice was directed to be issued to the appellant indicating that

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1 Garg
2 Impugned order
3 Commissioner

the matter would be listed for hearing on June 5, 2025. On June 5, 2025, office submitted a report that the notice sent to the appellant was returned undelivered. Learned authorized representative for the Revenue was requested to take steps to serve the appellant indicating that the matter would be heard on August 7, 2025. On August 7, 2025, learned authorized representative reported that the notice could not be served on the appellant. It was therefore, directed that the matter should be listed on September 18, 2025 making it clear that the appeal may be decided on merits even if the appellant does not appear. When the matter was called today (September 18, 2025) none appeared on behalf of the appellants.

3. We have heard learned authorized representative for the Revenue and perused the records and proceed to decide the appeal on merits.

4. Receiving intelligence that the goods were mis-declared in Bills of Entry no. 5863788 dated 04.07.2016, DRI initiated investigation and examined the goods. The goods were found to be of excess weight weighing 17,103 kg. (against declared 15,850 kg) i.e., excess of 1,253 kg. The goods were declared as "Polyester Knitted Long Pile Fabric" classifiable under **Customs Tariff Item**[4] **6001 10 90** attracting duty at the rate of 10%. On examination, the fabric was found to be "Fabric with cut pile". Samples were sent to the Textile Committee and it was confirmed that the fabric was 100% Polyester Knitted Cut Pile Fabric which was classifiable under **CTI 6001 92 00** which attracted a higher rate of duty of 10% or Rs. 100/- per kg whichever is higher.

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4 CTI

5. After completing the investigation, ADG, DRI issued an SCN dated 15.01.2017 proposing to classify goods under **CTI 6001 92 00,** confiscate the goods under section 111(l) and (m) of the Customs Act, 1962[5] and impose penalties.

6. The proposals in the SCN were confirmed by the Additional Commissioner. He confirmed demand of duty of Rs. 27,25,445/- under section 28 of the Customs Act, 1962[6] along with interest under section 28 AA of the Act. He confiscated the goods under section 111(l) and (m) of the Act and allowed their redemption on payment of five of Rs. 9,55,092/- under Section 125 of the Act. He also imposed penalty of Rs. 2,72,545/- under section 112(a) and Rs. 38,20,368/- under section 114 AA of the Act. The Commissioner (Appeals) upheld the order of the Additional Commissioner.

Submissions on behalf of the appellant

7. In the appeal, the following submissions have been made:

(i) The impugned order has been passed violating principles of natural justice and hence it is bad in law;

(ii) The Commissioner denied re-testing of the samples;

(iii) The goods were not liable to confiscation under section 111(l) and (m) of the Act;

(iv) Penalty is not imposable on the appellant;

(v) The impugned order may be set aside the appeal may be allowed.

Submissions on behalf of the Revenue

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6 Act

8. Learned authorized representative for the Revenue vehemently supported the impugned order and submitted as follows:

(i) There are three issues for consideration in these appeals- whether the imported goods should be classified as "100% Polyester Knitted Cut Fabric" under **CTI 6001 92 00** instead of "100% Polyester Knitted Long Pile Fabric" under **CTI 6001 10 90**?

(ii) Whether the appellant mis-declared the goods with an intent to evade duty?

(iii) Whether the goods were liable to confiscation and whether the appellant was liable to penalties;

(iv) As far as the reclassification of the goods was concerned, it was necessary because what was declared was "long pile fabrics" and on examination, Textile Committee found the fabric to be 'Cut pile fabrics" and accordingly the correct classification is **CTI 6001 10 90;**

(v) In addition to mis-declaring the nature of the goods, the appellant also mis-declared the quantity of the goods which was discovered on examination of the goods;

(vi) In view of the above, the goods were correctly held liable to confiscation under section 111 and penalties were correctly imposed;

(vii) The impugned order may be upheld and the appeal may be dismissed.

Findings

9. We have considered the submissions in the appeal and submissions advanced by the learned authorized representative and perused the records.

10. The quantity of the goods was mis-declared which was discovered during examination.

11. On testing by the Textile Committee, the correct nature of the fabrics was discovered. The relevant entries in the Customs Tariff are reproduced below:

6001 PILE FABRICS, INCLUDING LONG PILE FABRICS AND TERRY FABRICS, KNITTED OR CROCHETED

6001 10	***"Long pile" fabrics:***
6001 10 10	Of cotton
6001 10 20	Of man-made fibres
6001 10 90	**Of other textile materials**
	Looped pile fabrics
6001 21 00	Of cotton
6001 22 00	Of man-made fibres
6001 29 00	Of other textile materials
	Other
6001 91 00	Of cotton
6001 92 00	**Of man-made fibres**

12. A perusal of the above tariff entries shows that there is no dispute that the goods fall under the four-digit **Customs Tariff Heading of 6001.** Under this CTH, there are three sub-headings, long pile fabrics, looped pile fabrics and others. Cut pile fabrics imported by the appellant were, as per the test report, neither long pile fabrics nor looped pile fabrics and hence they fall under 'others'. The 'others' are further sub-classified into 'of cotton' and 'of man-made fibres'. Since the fabrics were made of polyester, they fall under **CTI 6001 92 00** as those made of man-made fibres. Therefore, the demand consequent upon such re-classification must also be upheld. **We, therefore, find that the impugned order needs to be upheld insofar as the classification of the goods and the consequential demand is concerned.**

13. Next is the question of confiscation of the goods under section 111(l) and (m) of the Act. These read as follows:

> **"Section 111. Confiscation of improperly imported goods, etc. -** The following goods brought from a place outside India shall be liable to confiscation: -
> ****
> (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77 ;
> (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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54 ;"

14. Since the goods were mis-declared in terms of quantity and type of goods, they were correctly confiscated by the Commissioner in the impugned order under section 111(l) and (m).

15. The facts of the case show that the goods were mis-declared in terms of quantity and nature and some goods were not declared at all. The actions on the part of the appellant rendered the goods liable to confiscation. Therefore, the penalty imposed under section 112 needs to be upheld.

16. The impugned order dated 14.06.2019 passed by the Commissioner (Appeals) is upheld the appeal is dismissed.

[Order pronounced on **<u>07/01/2026</u>**]

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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