

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

PRINCIPAL BENCH,
COURT NO. I

CUSTOMS APPEAL NO. 55126 OF 2023

[Arising out of the Order-in-Original No. 11/COMMR./VC/Chogori India/ICD-PPG/2022-23 dated 07/03/2023 passed by The Commissioner of Customs, New Delhi.]

M/s Chogori India Retail Ltd., ...**Appellant**
A-16, Lower Ground & First Floor,
Rear-Side, Mohan Cooperative Industrial Estate,
Main Mathura Road, New Delhi – 110 044.

Versus

Commissioner of Customs, ...**Respondent**
ICD Patparganj & Other ICDs,
New Delhi – 110 096.

APPEARANCE:

Ms. Madhumita Singh and Shri Jatin Mandovaria, Advocates 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. 50290/2026

DATE OF HEARING : 18.11.2025

DATE OF DECISION: 23.02.2026

P.V. SUBBA RAO

M/s Chogori India Retail Ltd.¹ filed this appeal to assail the order dated 07.03.2023² passed by the Commissioner of Customs, Inland Container Depot, Patparganj in which he

-
1. the appellant
 2. impugned order

decided the proposals made in following three show cause notices³ :-

- (i) SCN dated 06.07.2021 issued by the Inland Container Depot, Patparganj, New Delhi ;
- (ii) SCN dated 01.07.2021 issued by the Inland Container Depot (Import), Tughlakabad, New Delhi ;
- (iii) SCN dated 27.08.2021 issued by the Air Cargo Complex (Import), New Customs House, New Delhi.

All three SCNs were issued based on the investigation conducted by officers of Customs (Preventive), New Customs House, New Delhi.

2. The facts which led to the issue of the impugned order are that the officers of the Customs (Preventive), New Delhi, acting on intelligence, put an alert on Bill of Entry No. 4171376 dated 22.07.2019 and examined the goods. The goods were declared to be readymade garments of various types. On examination, it was found that the readymade garments declared as "women's knitted jackets" were in fact, of woven fabric. Accordingly, samples were drawn in the presence of the customs broker and authorized representative of the importer and two independent witnesses. When questioned, Shri Kuldeep Bhandari – Authorized Representative of the appellant made a statement agreeing that the jackets were of woven

3. SCN

fabrics and deserve to be classified under Customs Tariff Item 6202 93 90. The details of the fabrics are as below :-

Description of goods/ jacket as declared in the B/E	Invoice no. & date	Style No.	Chapter No. as filed in BOE	Chapter No. as agreed after physical inspection
Woven Knitted Jacket color Black 94% Polyester 6% Elastene (Columbia Brand) (with zip) (1)	9017630454 dated 25.06.2019	1514721	61023010	62029390
Woven Knitted Jacket color Black 94% Polyester 6% Elastene (Columbia Brand) (with zip) (3)	9017630455 dated 26.06.2019	1514721	61023010	62029390

3. Similar investigation was conducted in respect of the goods imported through the other ports also and accordingly three show cause notices were issued.

4. In addition to the alleged mis-classification of the women’s woven jackets as woven knitted fabrics, it was also found during investigation that the appellant had entered into a distribution agreement with Columbia brands, U.S.A. and had incurred substantial advertisement and promotion expenses but had not included them in the assessable value of the imported goods. The show cause notices proposed recovery of differential duty both on account of change in the classification of the two items mentioned above and proposing to include the advertisement and promotion expenses incurred by the appellant in the value. However, the Commissioner, after considering the submissions made by the appellant dropped the demand of differential duty of Rs. 1,16,13,543/-

under section 28 (4) of the Customs Act, 1962⁴ on account of inclusion of the advertisement and promotion expenses incurred by the appellant to promote Columbia brand garments. There is no appeal by the Revenue insofar as this part of the demand is concerned and, therefore, the issue has attained finality.

5. The Commissioner, however, confirmed differential duty of Rs. 4,04,306/- under section 28 (4) of the Act on account of the classification of the imported goods under CTI 6202 93 90 instead of 6102 30 10 as claimed in the Bills of Entry. She also imposed a penalty of Rs. 4,04,306/- under section 114A of the Act holding that the duty was sought to be evaded by reason of collusion or willful mis-statement or suppression of facts.

Submissions on behalf of the appellant :-

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

- (i) The appellant had rightly classified the imported goods under CTI 6102 30 10 because it is a specific heading whereas CTI 6202 93 90 is of general description ;
- (ii) The Commissioner has wrongly relied on the statements of Shri Kuldeep Bhandari for confirming the demand. The Commissioner has not considered

4. the Act

the fact that Chapter Heading 6102 relates to items other than 6104 ;

- (iii) The appellant had correctly classified the imported goods and consequently was paying IGST at higher rate and, therefore, the appellant had no incentive to mis-classify the goods. Reliance is placed on a decision of the US Customs placed at page 406-407 of the appeal ;
- (iv) The impugned order may be set aside and the appeal may be allowed.

Submission on behalf of the Revenue :-

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

- (i) The importer's authorized representative accepted that the jackets were woven and not knitted and deserve to be classified accordingly ;
- (ii) The mis-classification of the goods directly resulted in payment of lower rate of duty and revenue loss. Therefore section 28 (4) of the Act was correctly invoked ;
- (iii) The appellant had accepted the classification and, therefore, cannot challenge it now ;
- (iv) The advertisement and promotionally expenses on account of which duty of Rs. 1,16,13,543/- were

demand in the show cause notice has been dropped by the Commissioner on the basis of binding that the advertisement and promotion expenses did not found a condition for sale in the matter ;

(v) Therefore, only a demand of Rs. 4,04,306/- was confirmed under section 28 (4) of the Act with interest under section 28AA of the Act ;

(vi) Penalty under section 114A imposed in the facts of the case is fully justified ;

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

Findings :

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

9. Two issues were for consideration before the Commissioner – one of classification of the jacket declared as knitted jacket and second of the inclusion of the advertisement and promotion expenses in the assessable value of the goods. The bulk of the demand pertain to the advertisement and promotion expenses which has already been dropped by the Commissioner.

10. The only issue before us is the classification of the jackets imported by the appellant. The first question whether the jackets were knitted or woven. They were declared as

“knitted jacket” but, on examination found to be of woven fabrics. When the importer’s representative was asked, he agreed that they were not made of knitted fabrics but were made of woven fabrics. Accordingly, he also agreed with the classification proposed by the department. He could have, if he had any doubt about the nature of fabric, asked for sample to be sent for testing. It is not very difficult to distinguish woven garments (such as a shirt) from a knitted garment, (such as a T-shirt or a banian). There is no dispute that the imported garments were declared as knitted jackets but were found to be woven.

11. This takes us to the next question of classification. Chapter 61 of the Customs Tariff covers “articles of apparel and clothing accessories, knitted or crocheted”. Chapter 62 of the Customs Tariff covers articles of apparel and clothing accessories not knitted or crocheted. Since the goods in question were woven and not knitted fabric, they deserve to be classified under Customs Chapter 62. The two competing entries under the Customs Tariff are as follows :-

Sr. No.	HSN	Description	Rate of Duty
6102 : WOMEN'S OR GIRLS' OVERCOATS, CAR-COATS, CAPES, CLOAKS, ANORAKS (INCLUDING SKIJACKETS), WIND-CHEATERS, WINDJACKETS AND SIMILAR ARTICLES, KNITTED OR CROCHETED, OTHER THAN THOSE OF HEADING 6104			
1.	6102 30	Of man-made fibers	
2.	61023010	Of synthetic fibers	10% or Rs. 475 per piece, - whichever is higher
By Department			
Sr. No.	HSN	Description	Rate of Duty
6202 : WOMEN'S OR GIRLS' OVERCOATS, CAR-COATS, CAPES, CLOAKS, ANORAKS (INCLUDING SKIJACKETS), WIND-CHEATERS, WIND-JACKETS AND SIMILAR ARTICLES, OTHER THAN THOSE OF HEADING 6204 ---- Overcoats, raincoats, car-coats, capes, cloaks and similar articles :			
1.	6102 93	Of man-made fibers	
2.	62029390	Other	25% or Rs. 220 per

			piece , whichever is higher
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12. As may be seen, women’s coats and jackets which are knitted or crocheted fall under the 4 digit Customs Tariff Heading 6102. Those which are made of manmade fibers fall under 6102 30. Within that those which are made of synthetic fibers fall under 6102 30 10.

13. However, women’s jackets which are not knitted or crocheted do not fall under Chapter 61 at all. They fall under Chapter 62. Within that Chapter Heading 6202 and further Customs Tariff Item 6202 93 90 will be the appropriate classification. We, therefore, find in favour of the Revenue and against the assessee on the question of classification.

14. However, it is perfectly possible for the appellant to have misunderstood and wrongly classified the imported goods during self-assessment of the Bills of Entry. The remedy against wrong self-assessment is re-assessment by the officer. Such re-assessment does not necessarily mean the appellant had any intention to evade paying duty at the correct rate. Therefore, elements necessary to invoke extended period of limitation under section 28 (4) or to impose penalty under section 114A of the Act, namely, fraud, collusion or any willful mis-statement are not present in the matter. Consequently the penalty imposed under section 114A cannot be sustained.

15. In view of the above the appeal is partly allowed upholding the classification of the goods and demand of duty but setting aside any demand of duty beyond the normal period of limitation and the penalty under section 114A. The appeal is partly allowed and the impugned order is modified to the extent indicated above. The appellant would be entitled to consequential relief, if any.

(Order pronounced in open court on 23/02/2026.)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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