IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Customs Appeal No. 50695 of 2017

[Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-389-16-17 dated 20.10.2016 passed by the Commissioner (Appeals) Customs, Central Excise & Service Tax, Indore, MP]

M/s. Scorpion International **Appellant**

Vs.

Commissioner of Customs **Respondent**
Indore

Appearance:

Shri Rohit Chaudhary and Ms Preeti Khiwani, Advocate for the Appellants
Shri K Poddar, DR for the Respondent

<u>CORAM</u>:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing : 10.08.2017
Date of Decision : 05.09.2017

FINAL ORDER NO. 56422 /2017

Per: V. Padmanabhan:

The appeal is against Order-in-Appeal No. BHO-EXCUS-001-APP-389-16-17 dated 20.10.2016. The appellant imported various types of readymade garments, fabrics, footwear etc. and filed Bill of entry No. 164 dated 24.5.2013 at ICD Dhanbad, Indore. Out of many items imported in the above Bill of Entry, dispute arose regarding the classification of readymade garments declared as 'girl tight'. The importer declared classification under CTH 61152100 as "articles of apparel-knitted or crocheted" whereas Department was of the view that the goods were classifiable under CTH 62046990 as "gents trousers-knitted or crocheted". To resolve the matter, sample of the items was sent to the Textile Committee for their opinion. In their test report dated 15.6.2013, it was reported that goods were made of 24.8% of synthetic fibres (Viscose -75.2%, Polyamide-22.4% and Poly Urethane -2.4%). As the major component is of other than synthetic fibre, the goods were held as classifiable under Chapter Head No. 62046990 instead of 61152100 as declared in Bill of Entry and other supporting documents. The provisional assessment, originally ordered, was finalized by the Assistant Commissioner vide his order dated 18.6.14. On appeal, vide impugned order, the Commissioner (Appeals) approved the classification under Chapter 62. Aggrieved by the order, the present appeal has been filed.

2. With the above background, we heard Shri Rohit Chaudhary, Ms. Preeti Khiwani and Shri K Poddar, learned counsels for the parties.

3. Learned Counsel for the appellant submitted that the customs department has wrongly finalized the classification under Chapter 62

on the basis of composition of the cloth contained in the imported goods. Composition is not relevant for deciding whether the item is tight or trouser. He finally argued that the right classification for the "girls tight" is under Chapter 61.

4. Learned DR justified the impugned order. He argued that the classification has been decided under Chapter 62 not only on the basis of composition but also upon the fact that the goods were not knitted but were woven as has been accepted by the importer vide para 6 of their letter dated 31.1.2014.

5. Heard both sides and perused the record. The dispute is with reference to classification of the item declared as "girls tight". The department was of the view that the correct classification of the item will be as "girls trouser" and not as "girls tight". The test report from the Textile Committee gave the composition of the fibre used to make the item, whose major content was other than synthetic fibre. We also find from the record that the appellant vide his letter dated 31.1.2014 has agreed that the goods are made of woven fabric containing different synthetic fibre and viscose. From a perusal of Chapter 61 and 62 of the Customs Tariff, we note that Chapter 61 covers only "articles of apparel and clothing, accessories knitted or crocheted" and same is clearly specified under Chapter Note 1 to Chapter 61. On the other hand, Chapter 62 covers the same items when not knitted or crocheted. Hence, the classification is required to be decided on the basis of

whether the imported item is made up of fabric, which is nor knitted or crocheted article.

6. It stands admitted that the disputed goods are made of woven fabric. Consequently, the classification under Chapter 61, as claimed by the appellant is ruled out and the classification under Chapter 62046990 is upheld.

6. In view of the above, we find no reason to interfere with the impugned order, which is upheld and appeal rejected.

(Pronounced in the open Court on 05.09.2017)

(Justice (Dr.) Satish Chandra) **President**	**(V. Padmanabhan)** **Member (Technical)**

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