IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75280 of 2022

(Arising out of Order-in-Appeal No. Kol/Cus(CCP)/KA/139/D/2020 Dated 18.03.2020 passed by Commissioner of Customs(Appeals) 3rd Floor, Custom House, 15/1, Strand Road Kolkata-700001)

M/s. N. K. Hand & Sons (Garments) **: Appellant**
Q-24, Double Story, Lajpat Nagar
New Delhi-110024

VERSUS

The Commissioner of Customs(Preventive) West Bengal **: Respondent**
Customs House, 15/1 Strand Road
Kolkata-700001

<u>APPEARANCE</u>:

Shri Shovendu Banerjee, Advocate for the Appellant

Shri Ashwini Kr. Chowdhary, Authorized Representative for the Respondent

<u>CORAM</u>:

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.<u>75445/2026</u>

DATE OF HEARING / DECISION:26.03.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The appellant has filed this appeal against the imposition of penalty in the Order-in-Original dated 27.11.2017, which has been upheld in the Order-in-Appeal dated 18.03.2020.

2. The facts of the case are that the appellant has imported readymade garments in the month of June, 2013 and filed Bill of Entry for clearance at Petrapole Land Customs Station (LCS). The goods were cleared after due assessment by the Customs authorities, based on Pre-Shipment Certificate issued by the Bangladesh University

of Textiles. Later, a Show Cause Notice dated 30.01.2016 was issued to the appellant alleging that Bangladesh University of Textiles is not an accredited authority and accordingly the Pre-Shipment Certificate issued by Bangladesh University of Textiles was not considered as an authorized document. The Notice thus proposed to confiscate the goods and to impose penalty on the appellant herein.

3. On adjudication, the ld. adjudicating authority vide Order-in-Original No. 39/JC(P)/CUS/WB/17-18 Dated 27.11.2017 has inter alia imposed a penalty of Rs.2,48,000/- under Section 112 of the Customs Act, 1962.

4. On appeal, the Ld. Commissioner (Appeals) vide the impugned order has rejected the appeal filed by the appellant and upheld the penalty imposed on him by the ld. adjudicating authority.

5. During the course of hearing, it has been submitted by the appellant that the Pre-Shipment Certificate issued by Bangladesh University of Textiles is an accredited laboratory authorized to issue such certificates. It is also submitted that the Deputy High Commission of the People's Republic of Bangladesh vide letter bearing No. BDHC/COM-12/2004 dated 17.11.2005 addressed to the Assistant Commissioner, Petrapole Land Customs Station, certified that College of Textile Technology (now 'Bangladesh University of Textiles') is a government organisation authorized to issue certificates regarding AZO and hazardous dyes.

6. Accordingly, he contends that the Pre-Shipment Certificate issued by Bangladesh University of Textiles in this case is a valid document and that the Customs authorities had rightly allowed the goods to be cleared initially on the basis of the said certificate.

7. In view of the above, the Ld. Counsel for the appellant submits that the penalty imposed on the

appellant in this case is legally unsustainable and therefore prays for setting aside the same.

8. The Ld. Authorized Representative of the Revenue reiterates the findings in the impugned order. Accordingly, he prays for rejection of the present appeal.

9. Heard both sides and perused the appeal records.

10. I find that the appellant has imported the goods in the month of June, 2013 and the said goods were allowed to be cleared by the Officers of the Petrapole Land Customs Station on the basis of the Pre-Shipment Certificate issued by Bangladesh University of Textiles. I take note of the fact that no objection was raised by the Customs authorities at the time of assessment of the goods. Later, the Show Cause Notice came to be issued, on 30.01.2016, alleging that the certificate issued by Bangladesh University of Textiles is not a valid document. In this regard, I find that the Deputy High Commission of the People's Republic of Bangladesh vide letter bearing No. BDHC/COM-12/2004 dated 17.11.2005 has certified that the College of Textile Technology (now 'Bangladesh University of Textiles') is a government organisation authorized to issue certificates regarding AZO and hazardous dyes.

11. No corroborative evidence to the contrary has been brought on record by the Revenue to substantiate its allegations. Thus, I find that the Pre-Shipment Certificate issued by the Bangladesh University of Textiles is a valid document, on the basis of which the goods had been cleared by the Customs authorities. Therefore, I do not find any infirmity in the assessment order passed by the Ld. Assistant Commissioner, Petrapole Land Customs Station which had allowed clearance of the goods. Accordingly, I hold that the appellant has not committed any offence warranting penalty under Section 112 of the Customs Act, 1962.

12. In view of the above, I set aside the penalty imposed on the appellant and allow the appeal, with consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP