

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD
(E-Hearing)
REGIONAL BENCH - COURT No. I

Customs Stay Application No.70130 of 2026
(on behalf of Appellant)

In
Customs Appeal No.70192 of 2026

(Arising out of Order-in-Appeal No.NOI-CUSTM-000-APP-275-25-26 dated 02.04.2026 passed by Commissioner (Appeals) CGST, Noida)

Pr. Commissioner of Customs, Noida **.....Appellant**

(CONCOR Complex, P.O. Container Depot,
Tilpata, Greater Noida, Distt.-Gautam Buddha Nagar)

VERSUS

M/s Rajat International, **....Respondent**

(Chanda House, 1776/F, Ground Floor, Rampura Mohal,
Near Shiv Dharmshala, Hisar, Haryana-125001)

APPEARANCE:

Shri Abhishek Mukherjee, Authorized Representative for the Appellant
Shri Naveen Bindal, Advocate, Shri Anubhav Goel, Advocate & Shri
Bharat Jain, Advocate for the Respondent

CORAM: HON'BLE MR. P. K. CHOUDHARY, MEMBER (JUDICIAL)

MISCELLANEOUS ORDER NO.- 70166/2026

FINAL ORDER NO.- 70184/2026

DATE OF HEARING : 21.05.2026
DATE OF PRONOUNCEMENT : 28.05.2026

P.K. CHOUDHARY:

This appeal by Appellant-department is for assailing impugned order dated 02.04.2026 passed by Ld. Commissioner (Appeals), CGST, Noida wherein the imported goods have been ordered to be provisionally released, subject to furnishing of Bond and Bank Guarantee of Rs.3 Lakhs.

2. The facts of the case in brief are that the Respondent is a Proprietorship concern engaged in import of gloves. The Respondent imported 'Non-sterile non-measurable powdered latex examination glove Class (A)' under CTH 40151900 from M/s Raybell Engineering, Malaysia vide Invoice No. RJT-122/25

and also filed a Bill of Entry No.3983911 dated 20.08.2025 at ICD, Dadri. Further as per Bill of lading, the port of Discharge was Nhava Sheva.

3. That the imported goods were detained by the Customs Commissionerate. The Respondent vide email dated 29.08.2025 sought clarification regarding the detention of imported goods and vide e-mail dated 01.09.2025, it was replied by Central Drugs Standard Control Organization¹, IGI Airport, that ICD-Dadri was not the notified port as per Rule 43A of the Drugs and Cosmetics Rules, 1945 (hereinafter referred as '1945 Rules') for import of the said goods. That thereafter the goods were examined on 09.09.2025 by the Shed Officer of CMA CGM Logistics Park Pvt. Ltd., Noida Customs Commissionerate. During the scrutiny of documents filed by the Respondent, it was proposed that the examination gloves are item of medical use. The goods appeared to be classifiable under CTH 40151200 i.e., "Articles of apparel and clothing accessories (including gloves, mittens and mitts) for all purposes, of vulcanized rubber other than hard rubber-of a kind used for medical, surgical, dental or veterinary purposes." On 10.09.2025, a Drug Inspector from CDSCO visited ICD Dadri who inspected and physically examined the goods & drew the samples of the impugned consignment.

4. Thereafter, the Import consignment was referred to Joint Commissioner (SIIB) by Deputy Commissioner (Shed), Noida Custom Commissionerate by letter dated 22.09.2025 for necessary action wherein it was observed that goods are classifiable under 4015 1200, and as per Rule 43A of the 1945 Rules, the Respondent have imported the goods at non-notified port. Further, it was observed that no NOC or Registration as per Chapter IIIB of Medical Devices Rules 2017 (herein after 'MDR, 2017'), have been provided by the importer. The Noida Customs vide email dated 30.10.2025 stated that the goods of the Respondent have been detained on account of the port restriction on the goods imported by the Respondent at ICD, Dadri and absence of NOC from the Assistant Drug Controller,

¹ CDSCO

CDSCO. That aggrieved by the detention of the goods, the Respondent preferred Writ Petition No. 6143 of 2025 before Hon'ble Allahabad High Court. As a consequence, the Department passed the seizure order dated 03.11.2025, under Section 110 of the Customs Act. Subsequently, when the writ petition was listed before the Hon'ble Court, the Respondent withdrew the said writ with liberty to file fresh petition challenging the impugned seizure order dated 03.11.2025

5. That thereafter, Respondent filed an application under Section 110A of the Act seeking provisional release of the goods. That due to inaction of the department, the Respondent filed Writ Petition No.6657 of 2025 before Hon'ble Allahabad High Court which was disposed of vide order dated 24.11.2025 with the direction that provisional release application be decided on or before 03.12.2025. Ld. Joint Commissioner vide Order-in-Original dated 03.12.2025 rejected the request of provisional release of goods of the Respondent. Aggrieved by the order, the Respondent filed appeal before the Ld. Commissioner (Appeals) who after considering all the materials on record, passed the impugned order dated 02.04.2026 wherein the imported goods were ordered to be released provisionally subject to certain conditions mentioned therein.

6. That aggrieved by the impugned appellate order dated 02.04.2026, the Department has challenged the same on the following grounds:-

- (a) Misclassification of Imported goods
- (b) Non-compliance of Labelling Requirement
- (c) Import from Non-notified port

7. That learned Authorized Representative of the Appellant-Revenue has argued that the imported goods if provisionally released shall pose serious risk to human health without approval from a competent regulatory authority. Further, it has been argued that the Respondent has misclassified the imported goods under CTH 40151900. The goods being imported by the Respondent are 'Non-sterile, non-measuring, Powdered latex Examination Gloves-Class A'. From the description of the goods, it appears that the same are powdered examination gloves and the appropriate classification for the same is 40151200 as per

GIR 3(a), since the heading 40151200 provides the most specific description of the goods. Further, the goods can be used in medical purpose, therefore, the same would have been flagged for NOC to Assistant Drug Controller², thus, the importer in order to avoid NOC from ADC, deliberately mis-classified the goods under CTH 40151900.

8. Further, reliance has been placed upon the letter F. No.29/misc/03/2022-DC(273) dated 03.01.2023 of the CDSCO, New Delhi wherein it is stated that it would be appropriate to forward the bill of entries of any surgical gloves or medical examination gloves which falls under the definition of medical devices, to the concerned ADC's Office for ensuring the compliance of requirement for import of medical devices under the Medical Device Rules³, 2017. Thus, to avoid NOC from CDSCO which is pre-requisite for clearance of the goods, the Respondent has misclassified the imported goods.

9. That another issue raised by the Appellant-revenue is that on 10.09.2025, a Drug Inspector visited ICD Dadri for physical examination and drawing of samples. The samples were sent to Central Drugs Testing Laboratory, Chennai. As per the test report dated 19.11.2025, the Batch number, manufacturing date, manufacturer's name and expiry date are not mentioned on the sample. The labelling requirement are mandated by MDR, 2017. Therefore, the Commissioner (Appeals) order is liable to be set aside with regard to labelling requirement in absence of NOC from CDSCO.

10. That the third issue raised by the Appellant is that as per notification dated 11.02.2020 under Section 3(b)(iv) of the Drugs and Cosmetic Act, 1940, medical examination gloves are categorized as 'Drugs since they are medical devices intended to use in diagnosis, prevention or treatment of disease. Therefore, the latex examination gloves are being classified as 'Drugs' can only be imported from those ports which have been notified as per Rules 43A of the Drug and Cosmetic Rules, 1945. The Commissioner (Appeal) has mis-interpreted Rule 43A and has wrongly accepted the contention of the Respondent that the

² ADC

³ MDR, 2017

goods entered through Nhava Sheva and came to ICD Dadri for clearance. The same is not proper as Nhava Sheva is only a gateway port whereas the actual port is ICD Dadri which is non-notified port. Therefore, the order of the Commissioner (Appeal) needs to be set-aside.

11. *Per Contra*, Learned Counsel for the Respondent has vehemently opposed the argument advanced by the Counsel of the Appellant. It is argued that Ld. Commissioner (Appeals) has rightly appreciated the facts of the case and the appeal of the Appellant-Revenue deserves to be dismissed as they have not approached this Tribunal with clean hands. That pursuant to the findings of the Commissioner (Appeals) that the labelling is apparent from the sample affixed by the Respondent in the appeal, the department vide letter dated 09.04.2026 scheduled re-examination of goods for 15.04.2026 to verify whether labelling is affixed on the imported goods as recorded by the Commissioner (Appeals). The re-examination was conducted in presence of the Respondent and labelling was found on each of the bulk packaging which was recorded vide panchnama dated 15.04.2026. However, the Department has failed to place on record the said proceedings, including the panchnama dated 15.04.2026, in the present appeal. That suppression of such a material document, which directly supports the findings recorded by the Ld. Commissioner (Appeals), amounts to concealment of relevant facts and non-disclosure of material evidence. Therefore, their argument of non-labelling cannot be sustained. Further, the Appellant has relied upon the test report dated 19.11.2025 of the samples which were sent to Central Drugs Testing Laboratory, Chennai which mentions that no labelling is mentioned on the sample. Commissioner (Appeals) while considering this averment has stated that the CDSCO inspector while collecting sample ought to have recorded that the labelling was apparent on the bulk packing but he has failed to do so.

12. With regard to the mis-classification, it is submitted that the entire dispute sought to be raised by the Appellant is wholly academic and revenue neutral in nature, as there is admittedly no duty implication involved in the present matter. The Respondent has already discharged the assessed Customs Duty

amounting to Rs.9,03,135/- and there is neither any short payment of duty nor any allegation regarding evasion of customs duty. Consequently, no further duty, interest, or financial liability is payable by the Respondent even if the classification suggested by the Appellant-revenue is assumed, without admitting, to be correct. Therefore, the entire exercise undertaken by the Appellant is devoid of any practical or legal consequence insofar as the provisional release of the goods is concerned.

13. With regard to the import of goods from non-notified port, Ld. Counsel submits that Prior to the enactment of MDR, 2017 the import of only those medical devices as notified under Section 3(b)(iv) of the Drugs and Cosmetic Act, 1940 was governed under Drugs and Cosmetic Rules, 1945 under Part IV of the said Rules which specifically included Rule 43A providing that the said notified medical devices shall be imported only through notified ports. However, after the enactment of the MDR, 2017 all the medical devices are regulated under the MDR, 2017 and there is no such restriction of importing medical devices through notified port under Chapter V of MDR, 2017. That further as per Bill of Lading, the port of discharge was Nhava Sheva which is a notified port and the goods have arrived at ICD-Dadri for only clearance, therefore, it cannot be said that goods have been imported at non-notified port.

14. I have heard the arguments of both sides and perused the records of the case.

15. That the foremost contention of the Appellant-department that the goods being imported by the Respondent-importer are 'Non-sterile, non-measuring, Powdered latex Examination Gloves-Class A'. As per the BoE filed by the Respondent, same are classified by the respondent under CTH 40151900, however, the same are powdered examination gloves and the appropriate classification for the same is 40151200 as per GIR 3(a), since the heading 40151200 provides the most specific description of the good. That it is apt to consider here that even if the contention of the department is accepted, there is no differential duty involved nor any restriction is imposed qua the imported goods. Therefore, this court is not dwelling into the issue of classification as the same shall be subject matter of Show Cause

Notice which is pending for adjudication. The issue in the present case is related to provisional release of the imported goods.

16. That it is undisputed that the goods imported falls under the category 'Class-A'. That as per G.S.R. 777(E) dated 14.10.2022, all Class A (non-sterile and non-measuring) devices are exempted from the provisions of Chapter IV, V, VII, VIII and XI of the Medical Devices Rules, 2017 subject to the conditions that the manufacturer or importer registers such devices under Chapter IIIB of the Medical Devices Rules, 2017. It is not in dispute that the respondent was duly registered. However, relying upon the said notification, the appellant has alleged that though the import of Class-A medical device are exempted from fulfilling the conditions prescribed under various clauses, still, the importer has to fulfill the conditions of Chapter VI which is relating to labelling.

17. That as brought to the notice of this Court by the Respondent, pursuant to the order passed by the Commissioner (Appeals), the department has conducted re-examination of the imported goods to verify as to whether labelling has been affixed or not and from the perusal of the panchnama dated 15.04.2026, the labels are found affixed on the bulk packing. However, the department while filing appeal has suppressed this material facts.

18. That the Appellant has relied upon the test report dated 19.11.2025 stating that as per the report, the labelling was not mentioned on the sample drawn. However, on the contrary, Ld. Commissioner (Appeals) has noted the fact that the labels are available and pasted on bulk package. Further, the department has drawn samples from the plastic bags on which the labelling was duly done and there was no requirement for pasting any label on individual glove(s) since the same were being imported in bulk. Therefore, the contention of the department that conditions of labelling was not fulfilled by the respondent lacks merit and cannot be sustained.

19. The next contention of the Department is that the imported goods have been imported from non-notified port which is against Rule 43A of the Drug and Cosmetic Rules, 1945. That while considering this argument, the Ld. Commissioner

(Appeals) has held that the goods entered India through Nhava Sheva which is a notified port and the goods came for clearance at ICD-Dadri, therefore, the same cannot be held to be against Rule 43A. That Tribunal in the case of **M/s CC., ICD, TKD, New Delhi versus Roshanlal Aggarwal and Sons Pvt. Ltd. 2009 (2)TMI 577-CESTAT NEW DELHI** while considering the same objection by the department has held that the goods imported by sea into India are to be treated as imported through Nhava Sheva port as they entered India through Nhava Sheva. Hence, they have not violated the port restriction provided under Rule 43A. In the facts of present case, as per Bill of Lading, the port of discharge was Nhava Sheva. The case of the respondent is squarely covered by the said judgment.

20. If viewed from another angle as well, the alleged violation of importing the goods through a non-notified port cannot constitute a ground for denying provisional release or issuance of NOC when all other statutory conditions stand fulfilled. It is pertinent to note that, in respect of earlier Bills of Entry pertaining to imports made through the same port, the CDSCO had already granted NOC. Therefore, the contention of the department that the goods cannot be released merely because they were imported through a non-notified port is devoid of any rationale.

21. The department has also failed to produce any evidence as to how the release of goods will pose risk to the health of the public. On the contrary, the goods are Class-A which are under risk category- low. Therefore, the vague argument cannot be countenanced without any actual proof.

22. The appellant-revenue has further alleged that NOC from CDSCO is mandatory to release the goods. In this regard, it is held that the goods cannot be withheld by the department on the ground that the CDSCO has not given NOC, once the respondent fulfils all the statutory requirements as provided under the law. I also find that the Test report of CDSCO have not raised or flagged any objection save and except labelling, which have already been considered by this Tribunal. Further, it is noteworthy that on earlier occasions, under Bill of Entry No.5214362 dated 23.08.2024 and Bill of Entry No.6580301

dated 09.11.2024, similar goods were released for home consumption.

23. Therefore, considering the totality of the facts & circumstances, I find no impropriety in the impugned order. Thus, the appeal is liable to be dismissed and is accordingly dismissed.

24. I find that the present Stay Application has been filed by the Appellant-Revenue in a routine and mechanical manner and the same is without any merits. Accordingly, the Stay petition filed by the Appellant-Revenue is dismissed being devoid of any merits.

25. The Appellant-Revenue is directed to release the imported goods forthwith within 7 days from the receipt of this order.

26. A copy of this order be issued to the parties **Dasti** or urgently for compliance.

(Order pronounced in open court on - **28.05.2026**)

Sd/-

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

LKS