**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**
**CHENNAI**

REGIONAL BENCH - COURT No. III

## Customs Appeal No. 41355 of 2025

(Arising out of Order-in-Original No.114339/2025 dated 22.08.2025 passed by Commissioner of Customs, Chennai-II (Imports), Custom House, No.60, Rajaji Salai, Chennai 600 001.)

**M/s.Urban Essentials India Pvt. Ltd. .... Appellant**
Rep. by its Director,
Shri Prince Kapoor,
Shed No.1B, DCB Warehouse,
Survey No.926, 200 ft.Ring Road,
Ennore Express Highway,
Madhavaram,
Chennai 600 060.

*VERSUS*

**The Commissioner of Customs (Imports),**
**Chennai II Commissionerate**
Custom House,
60, Rajaji Salai,
Chennai 600 001. **..... Respondent**

**APPEARANCE :**

Shri Raghavan Ramabadran, Advocate
Shri D. Santhana Gopalan, Advocate
Shri S. Ganesh Aravindh, Advocate
for the Appellant

Smt. O.M. Reena, Authorized Representative for the Respondent

**CORAM :**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**
**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No.40607/2026**

**DATE OF HEARING : 04.02.2026**
**DATE OF DECISION :26.05.2026**

**Per: Shri P. Dinesha**

M/s.Urban Essentials India Private Limited (IEC:AACCU2542E), who is the importer, through their Custom Brokers M/s.Parseray Logistics Private Limited and M/s.4S Logistic Solutions Private Limited, filed Bills of Entry No. 2483649 dated 05.06.2025 (earlier filed Bill of Entry No. 9185414 dated 22.03.2025 which got purged due to failure to regularize the same] (RUD-1) and 9216489 dated 31.03.2025 (RUD-2) under Section 46 (1) of the Customs Act, 1962 for clearance of the goods as detailed in Table-A below and self-assessed the duty under Section 17 (1) thereof. The goods covered under both Bills of Entry have been declared to be purchased from M/s.KAWADA (ZHEJIANG) SANITARY PRODUCTS CO., LTD., China. The goods declared in both the Bills of Entry are as follows:

## Table-A

| B/E No.2483649 dated 05.06.2025 (earlier filed Bill of Entry No.9185414 dated 22.03.2025 which got purged due to failure to regularize the same) | | | | | | |
|---|---|---|---|---|---|---|
| **Sr.No** | **Description of Goods** | **UQC** | **Declared CTI** | **Declared unit Price (USD)** | **Declared Quantity** | **Assessable Value (INR)** |
| 1. | SANITARY NAPKINS 310 MM (INVOICE NO.332-KAWADA/UE/ 140125) | PCS | 96190010 | 0.039667 | 989100 | 3507439.87 |
| 2. | Panty Liner 180MM (30CT*72 Paper Boxes) | PCS | 96190010 | 0.022694 | 691200 | 1402282.31 |
| 3. | Sanitary Napkins 310MM | PCS | 96190010 | 0.039667 | 426600 | 1512762.97 |
| 4. | Sanitary Napkins Pack of 42L+XL | PCS | 96190010 | 0.042107 | 165600 | 623354.8 |
| 5. | Sanitary Napkins Pack of 28L+XL | PCS | 96190010 | 0.039253 | 103680 | 363821.63 |
| 6. | Suspending Sanitary Towel 240MM | PCS | 96190010 | 0.049601 | 139968 | 620640.15 |
| 7. | Sanitary Napkins 360MM | PCS | 96190010 | 0.058810 | 400000 | 2102964.04 |
| 8. | Sanitary Napkins 360MM | PCS | 96190010 | 0.058810 | 2000 | 10514.82 |
| 9. | Sanitary Napkins 285M | PCS | 96190010 | 0.040760 | 101200 | 3687528.32 |
| 10. | Sanitary Napkins 310MM | PCS | 96190010 | 0.039667 | 66600 | 236169.75 |
| 11. | Sanitary Napkins Pack of 28L+XL | PCS | 96190010 | 0.039253 | 13824 | 48509.55 |
| | **Total (A)** | | | | | **14115988** |

| B/E No.9216489 dated 31.03.2025 | | | | | | |
|---|---|---|---|---|---|---|
| **Sr.No** | **Description of Goods** | **UQC** | **Declared CTI** | **Declared unit Prise (USD)** | **Declared Quantity** | **Assessable Value (INR)** |
| 1. | SANITARY NAPKINS PACK OF 12XL (12 PCS 310 & 2 PCS 150)(232 CARTONS) (INV.NO.329-KAWADA/UE/ 090125) | KGS | 96190010 | 4.515152 | 1531.20 | 624144.17 |
| 2. | SANITARY NAPKINS 285 MM (838 | KGS | 96190010 | 5.032099 | 6787.80 | 3083605.70 |

| | | | | | | |
|---|---|---|---|---|---|---|
| | CARTONS) | | | | | |
| 3. | SANITARY NAPKINS PACK of 15 LARGE (15 PCS 285 & 2 PCS 150) (1000 CARTONS) KGS | KGS | 96190010 | 5.179021 | 7150 | 3342984.32 |
| 4. | SANITARY NAPKINS 310MM (18 Cartons) | | 96190010 | 4.530457 | 141.84 | 58012.47 |
| | **Total (A)** | | | | | **7105747** |
| | **Grand Total (A+b)** | | | | | **21224735** |

The import details and relevant dates in the Bill of Entry are as follows :

**Table-B**

| **S.No.** | **Bill of Entry** | **2483649 dated 05.06.2025** | **9216489 dated 31.03.2025** |
|---|---|---|---|
| 1. | Invoice Date | 08.03.2025 | 03.03.2025 |
| 2. | Bill of Lading Date | 22.03.2025 | 17.03.2025 |
| 3. | Inward Date | 04.04.2025 | 02.04.2025 |
| 4. | Bill of Entry filing date | (Old BE 22.03.2025) 05.06.2025 | 31.03.2025 |

2. WHEREAS, the Central Government, Ministry of Textiles, after consulting the Bureau of Indian standards, issued the Medical Textiles (Quality Control) Order, 2024 dated 23.10.2024 (RUD-3) as amended *vide* the Medical Textiles (Quality Control) Amendment Order, 2025 dated 01.01.2025 (RUD-4) [QCO, for short] whereby the goods or article specified in column (2) of the said Schedules, mentioned in

the said order, shall conform to the corresponding Indian Standard specified in column (3) thereof and shall bear the Standard Mark under a licence from the Bureau in accordance with Scheme-l of Schedule-II to the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018 and timeline for implementation of the subject order is 01.01.2025.

3. The amendment on 01.01.2025 prescribed the time limitation for Large and Medium Enterprises and 01.04.2025 (for Small and Micro Enterprises). Based on the above, it was understood by the Revenue that "Sanitary Napkins" shall conform to the Indian Standard IS 5405:2019 and shall bear the Standard Mark under a licence from the Bureau in accordance with Scheme-l of Schedule-II to the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018. In the present case, it appears that the goods covered under both the Bills of Entry are ‘Sanitary Napkins, Sanitary Towel and Panty Liner’. Therefore, these goods shall conform to IS 5405:2019/(Revised IS 5405:2025) and bear Standard Mark under a licence from the Bureau in accordance with Scheme-I of Schedule-II to the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018.

4. Reference was made to Section 17 (1) of the BIS Act, 2016 as per which, no person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, articles, process system or service under sub-section (1) of Section 16, without a Standard Mark, except under a valid licence. Thus, it is mandatory for the person to have valid BIS Certification to import goods and the goods shall bear BIS logo and Manufacturer details. In the case on hand, it appeared that the importer did not have valid BIS Registration Certificate for these goods, which did not bear Standard Mark, Logo and Manufacturer details and therefore failed to comply with the provisions of BIS Act, 2016, as amended. Thus, in the absence of the BIS Registration Certification, the clearance of these goods for home consumption cannot be allowed. The Section 17 (1) of the BIS Act, 2016, as amended, is reproduced hereunder:-

> "17. Prohibition to manufacture, sell, etc., certain goods without Standard Mark.—
>
> 1. No person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under sub-section (1) of section 16 –
>
> (a) without a Standard Mark, except under a valid licence; or

(b) notwithstanding that he has been granted a license, apply a Standard Mark, unless such goods, article, process, system or service conforms to the relevant standard or prescribed essential requirements."

5. The Commissioner having gone through the facts of the case, evidence available on record along with Order dated 27.06.2025 passed by the Hon'ble High Court of Judicature at Madras in W.P. No.20447 of 2025 and W.M.P. No.23065 of 2025 filed by the Importer viz. M/s. Urban Essentials India Pvt. Ltd., along with their submissions made during the personal hearing, regarding release of Goods covered under the Bills of Entry No.2483649 dated 05.06.2025 [earlier filed Bill of Entry No. 9185414 dated 22.03.2025 which got purged due to failure to regularize the same] and 9216489 dated 31.03.2025, framed the following issues to be determined in the present case:

(i) Whether the impugned goods viz. 'Sanitary Napkins/Panty Liner etc.' as detailed in Table-A shall conform to the Indian Standard IS 5405:2019/(Revised 5405:2025) and shall bear the Standard Mark under a licence from the Bureau in accordance with Scheme-I of

Schedule-II to the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018?

(ii) Whether petitioner's request seeking extension of the deadline fixed under the Medical Textiles (Quality Control) Order, 2024 dated 23.10.2024 as amended *vide* the Medical Textiles (Quality Control) Amendment Order, 2025 dated 01.01.2025, issued by the Ministry of Textiles, can be considered, on merits and in accordance with law?

(iii) Whether goods, as detailed in Table-A *supra*, covered under the aforementioned Bills of Entry, become prohibited in nature in the absence of valid BIS Registration Certificate and hence, are liable for confiscation under Section 111 (d) of the Customs Act, 1962?;

(iv) Whether the Importer is liable for penalty to be imposed under Section 112 (a) (i) of the Customs Act, 1962?

6. After considering the issue in the context of arguments, the Adjudicating Authority concluded that the imported goods viz. 'Sanitary Napkins/panty liner' shall conform to the Indian Standard IS 5405:2019(second Revision)/IS 5405:2025 (third revision) and shall bear the Standard Mark under a licence from the Bureau in accordance with Scheme-l of Schedule-II to the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018. However, the impugned Goods viz., 'Sanitary Napkins, Sanitary Towel and Panty Liner' vide aforementioned Bills of Entry are non-conforming to the corresponding Indian Standard and do not bear the Standard Mark under a licence from the Bureau in accordance with Scheme-I of Schedule-II to the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018 and as per Medical Textiles (Quality Control) Order, 2024 dated 23.10.2024 as amended vide Medical Textiles (Quality Control) Amendment Order, 2025 dated 01.01.2025. Therefore, on the first issue, it is undisputed that the imported goods are 'Sanitary Napkins and Panty Liners' which fall squarely under Schedule A of the QCO, requiring conformity to IS 5405:2019 and use of the BIS Standard Mark. The goods under consideration neither conform to IS 5405:2019 nor bear the BIS mark, and no

valid BIS licence was produced. The importer admitted that their overseas supplier's application under FMCS was still pending. Therefore, the requirement of BIS conformity is clearly applicable and stands unfulfilled.

7. On the second issue, the Adjudicating Authority has found that the importer had pleaded that being an MSME unit, they should be allowed the extended timeline upto 01.04.2025 for compliance. However, Alert Notice 02/2025 from Mundra Customs which was also reiterated in the DPIIT's clarification dated 19.03.2025, makes clear that the relaxation provided to MSMEs under the QCO is only for domestic manufacturers to obtain BIS licences and does not extend to imports. Further, BIS's published FAQs categorically clarify that BIS certification is granted only to Manufacturers and not Importers and hence, Appellant being only an Importer cannot claim relaxation.

8. On the third issue, The Adjudicating Authority found that the proviso inserted by the amendment of 01.01.2025 permits disposal of old stock manufactured or imported prior to the commencement date, provided an application for BIS certification had been filed. In the present case, the

consignments were shipped on 17.03.2025 and 22.03.2025 and arrived in India only in April 2025, well after the commencement date of 01.01.2025. Thus, the proviso does not apply. Accordingly, the impugned goods imported without a BIS licence become 'prohibited goods' within the meaning of Section 2 (33) of the Customs Act, 1962 and are liable for confiscation under Section 111(d).

9. The Commissioner thus having ordered confiscation, imposed fine (for re-export) and penalty etc. *vide* Order-in-Original No.114339/2025 dated 22.08.2025 and the same has given rise to the present Appeal.

10. Heard Shri Raghavan Ramabadran, ld. Advocate for the Appellant, along with Shri D. Santhana Gopalan and Shri S. Ganesh Aravindh, ld. Advocates and Smt. O.M. Reena, ld. Additional Commissioner for the Revenue, perused the documents placed on record including the impugned order carefully and we have also gone through the decisions relied upon during the course of arguments.

11. Arguments of ld. Advocate as contended and as per the written synopsis filed, are summarized as under:

- The Impugned Order has ordered for confiscation of the subject goods under Section 111 (d) of the Customs Act, 1962 on the ground that the goods have been imported without BIS Licence and Standard Mark. Consequently, redemption fine (for re-export) and penalty under Section 112 (a) (i) have been imposed on the subject goods.

- However, the Appellant submits that the 2024 Quality Control Order is not applicable to the subject goods since the goods were shipped before the timeline for implementation for Small Enterprises, in March 2025. Therefore, the confiscation of the subject goods under Section 111 (d) as 'prohibited goods' is improper. Consequently, the imposition of redemption fine under Section 125 and penalty under Section 112 (a) (i) must be set aside. The subject goods must also be allowed clearance.

- The Appellant is duly registered as a 'Small Enterprise' under the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act) with valid UDYAM registration.

- The term ‘enterprise’ is defined under Section 2(e) of the MSMED Act. As per Section 2(e) of the MSMED Act, an ‘enterprise’ means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 or engaged in providing or rendering of any service or services.

- The Ministry of Micro, Small and Medium Enterprises, *vide* Letter dated 12.06.2009, clarified that "Retail Trade' is to be categorised as ‘service’. The Appellant, being engaged in retail trade, qualifies as a service provider. Resultantly, the Appellant qualifies as an ‘enterprise’ for the purposes of Section 2(e) of the MSMED Act.

- Further, *vide* Office Memorandum dated 02.07.2021, retail traders were included as ‘MSMEs’ and allowed to register on the Udyam Portal. This apart, the investment and turnover of the Appellant are within

the threshold prescribed under the MSMED Act, the Appellant has been issued with Udyam Registration under the MSMED Act. The Impugned Order has also not disputed the same.

- For these reasons, the Appellant squarely falls within the class of 'Small and Micro Enterprises' referred to in the 2024 QCO, as amended, valid upto 01.04.2025.

- The 2024 QCO has been issued for the subject goods and various other products under Section 16 of the BIS Act, 2016. Further, as per Section 17 of the BIS Act, no person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods without a valid licence and standard mark.

- From Section 17 of the BIS Act, it can be seen that in the case of imported goods, Section 17 of the BIS Act, 2016 imposes a prohibition on import of goods (covered by Quality Control Orders) without valid licence and standard mark. Accordingly, the Importer is under an obligation to ensure that goods imported into India comply with the provisions of the BIS Act,

2016 and the Quality Control orders issued thereunder.

12. Peculiar developments of this Appeal, which we could notice, are that pending Appeal the Petitioner filed an interim application before the Tribunal and the Bench granted an interim stay of the order impugned *vide* order dated 22.12.2025. It appears that a writ petition was filed by the Petitioner for the reasons that they Department did not give effect to the above interim order dated 22.12.2025 and after hearing both the parties through their respective counsel, the Hon'ble High Court of Madras *vide* order [in W.P. No. 50475/2025] dated 26.12.2025 directed the Department to give effect as prayed for in the petition. When the matter stood thus, it appears that the Revenue also filed a writ petition, the date of filing of which is not made available before us but, however, only the order of the High Court in the Revenue's writ petition dated 28.01.2026 has been placed before us and *vide* this order the Hon'ble High Court thought it fit to quash the very same interim order dated 22.12.2025 and our limited understanding of the effect of this order of High court is that our order dated 22.12.2025 stands vacated as on date in entirety. Even this

second order was passed after duly hearing of both the learned counsel for the parties; the Department was also duly represented and the Respondent i.e. the Appellant before us was also duly represented by the Advocate and it is strange that none of the Advocates objected to the hearing of the case since by the order of the Hon'ble High Court, our interim order dated 22.12.2025 stood vacated in entirety. It is also a strange fact to observe here that the Department normally should have filed a Writ Appeal if it was aggrieved by the order of High Court dated 28.12.2025 but chose to file another Writ Petition, separately, and it is further strange that none of the parties before us who are also the parties before the High Court proceedings appears to have NOT pleaded about the order of the very same High Court dated 28.12.2025 since there is no mention anywhere about this order, which has now resulted in two separate orders in respect of a single impugned interim-order. We do not want to comment or even infer as to what was the reason for obtaining two separate orders by filing two separate petitions without apparently disclosing about the existence of an earlier order of same High Court against the very same impugned order, in the later writ petition filed.

We leave it at that as we do not want to draw any conclusions.

13. From a perusal of the impugned order we find that the same is not a speaking order, as directed by the High Court, primarily because the same has not analysed properly the guidance documents on QCO issued by the BIS and the Government mandates that any clarifications should be obtained from the concerned 'line ministry' as the said ministry is supposed to have requisite technical expertise. Though the Commissioner in the impugned order refers to all these QCOs, BIS, etc., but has proceeded to pass the order in a mechanical manner without following the guidelines in the QCOs in letter and spirit. We understand that quoting merely QCOs is not at all sufficient, further the same has to be followed in letter and spirit, which is glaringly lacking in the impugned order.

14. We also find that when the Appellant has contended all along that it is a Micro, Small & Medium Enterprises [MSME]; various benefits as provided under MSMED Act, 2006 are available to it, etc. but apparently the Commissioner has not at all verified these arguments and

hence, the impugned order clearly suffers from impropriety as being a non-speaking order. In view of the above, we deem it appropriate to set aside the impugned order and remand the case back to the file of Commissioner with a direction to pass a speaking order after considering all the contentions of the Appellant.

15. The Appellant has also taken a ground that date of import must be reckoned strictly in terms of the applicable FTP, which according to the Appellant is prior to 01.04.2025. For this the Appellant has relied on HBP as per which the BOL and Shipping Bill are the key documents for deciding the date of import or export, as the case may be. Hence, the Adjudicating Authority shall also consider this argument of the Appellant while passing a de-novo order and if required, he may call for supporting evidence/s from the Appellant. The Adjudicating Authority shall however complete the proceedings and pass a de-novo Adjudication Order within a period of 60 days from the date of receipt of this order and it goes without saying that the Adjudicating Authority shall strictly adhere to the Principles of Natural Justice by affording reasonable opportunities to the

Appellant and the appellant shall not seek unnecessary adjournments. All contentions are left open.

16. Hence, the appeal is allowed by way of remand.

(Order pronounced in open court on 26.05.2026)

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|---|---|
| sd/- | sd/- |
| **(VASA SESHAGIRI RAO)** | **(P. DINESHA)** |
| Member (Technical) | Member (Judicial) |

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