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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75702 to 75711 of 2025

(Arising out of Order-in-Appeal No. Kol/Cus(Port)/AA/1245-1254/2018 dated 03.07.2018 passed by the Commissioner of Customs(Appeals) 3RD Floor, Custom House, 15/1, Strand Road, Kolkata-700001)

M/s. Annapurna Industries, **: Appellant**
Plot No. 151, Sector-25,
Part-II, Huda, Panipat-132103

VERSUS

Commissioner of Customs(Port), **: Respondent**
3RD Floor, Custom House,
15/1, Strand Road, Kolkata-700001

APPEARANCE:

Shri R. N. Bandyopadhyay, Advocate
Ms. Sukanya Roy, Advocate
Ms. Rupsha Chatterjee, Advocate for the Appellant
Shri S. Debnath, Authorized Representative
Shri S. Chitkara, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NOs.76047-76056/ 2026

DATE OF HEARING: 22.07.2026
DATE OF PRONOUNCEMENT: 07.08.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The brief facts of the case are that M/s. Annapurna Industries, Plot No.151, Sector 25, Part-II, Huda, Panipat-132103 (herein after referred as the appellant) have imported Polyester Quilt Covers from China, through ten Bills of Entry declaring classification under CTH 63022200 and declaring the invoice transaction value ranging between USD 1.20 and USD 1.25 per piece (CIF).

1.2. Customs officers ordered for first-check examination. The examination revealed that the articles were one-side folded and two sides stitched, after which samples were drawn. The Department formed an opinion that the goods were actually folded polyester fabrics capable of being converted into bed sheets by removing the stitches. On this presumption:

- declared value was rejected under Rule 12 of the Customs Valuation Rules, 2007;
- assessable value was enhanced to USD 2.85 per piece;
- goods were confiscated under Section 111(m);
- redemption fine and penalty were imposed.

1.3. Owing to heavy demurrage and detention charges, the appellant waived issuance of Show Cause Notice and personal hearing and paid the enhanced duty, redemption fine and penalty under protest for obtaining release of the goods.

1.4. On appeal, the Ld. Commissioner (Appeals) affirmed the Orders-in-Original, against which the present appeal has been preferred.

2. The Appellant submits that the goods imported must be assessed in the condition in which they are presented. In the present case, the entire case of the Department proceeds on a hypothetical assumption that by removing the stitches the goods may become bed sheets. The Appellant submits that the Customs law recognizes classification on the basis of the goods as imported, not on the basis of what they

may become after further processing. In the present case, the examination report itself records that the imported articles were folded and stitched and were presented as ‘quilt covers’. Therefore, the Appellant submits that the Department has travelled beyond the Customs Tariff by classifying the goods on the basis of a possible future manufacture.

2.1. The Appellant submits that the Department misread Note 7 to Section XI, which speaks of goods produced in finished condition requiring only separation by cutting dividing threads. The Department wrongly equated de-stitching with cutting dividing threads. The imported articles were already stitched articles ready for use and therefore answered the statutory definition of "made-up articles".

2.2. The Appellant further submits that the independent expert opinion obtained in this case supports the classification determined by the appellant. The Textile Committee, the designated expert body, had already opined in an identical matter that similar goods are Polyester Woven Printed Quilt Cases classifiable under Heading 6302. The adjudicating authority ignored this expert evidence completely.

2.3. Regarding valuation of the goods imported, the Appellant submits that the Transaction value has been without any basis. Rule 12 of the Valuation Rules permits rejection of transaction value only where Customs possesses reasonable doubt supported by objective evidence. In the present case:

- no evidence of additional remittance;
- no evidence of relationship;
- no evidence of fabricated invoices;
- no evidence that declared price was false.

2.4. The enhancement rests merely on comparison with unrelated imports. Such rejection is contrary to Sections 14 and the Valuation Rules. The Appellant submits that the contemporaneous imports cited by the Revenue are not legally comparable. The Department merely relied upon imports of "bed sheets". No comparison has been made to ensure that they are actually comparable or not. Thus, the Appellant submits that Rule 5 of the Valuation Rules was not satisfied.

2.5. Regarding acceptance of enhancement for value for the purpose of clearance of the goods, the Appellant submits that filing appeal against the assessment order cannot be considered as estoppel. There is no estoppel in taxation matters. The appellant submits that they have accepted the enhancement only because heavy demurrage was accumulating. Thus, they have accepted the enhancement and later filed appeal against the illegal assessment.

2.6. Regarding Confiscation of the goods and penalty imposed in the impugned order, the Appellant submits that once undervaluation is not proved, there is no foundation for Section 111(m), Section 112(a) and for imposing redemption fine. Mere enhancement of value cannot automatically establish misdeclaration. Thus, the Appellant submits that the Redemption fine imposed in this case is contrary to Section 125 of the Customs Act, 1962. Section 125 requires determination of market price before fixation of redemption fine. In this case, No market enquiry has been conducted. Therefore, redemption fine imposed is legally not sustainable.

2.7. In view of the above submissions, the Appellant prayed for setting aside the demands of customs duty along with interest, penalty and redemption fine confirmed in the impugned order.

3. The Ld. A.R. reiterated the findings in the impugned order. The Ld. A.R. submits that the Appellant has accepted the enhancement of value and hence they have lost the right to file appeal against the order. Accordingly, he supported the demands of customs duty along with interest, fine and penalty confirmed in the impugned order.

4. Heard both sides and perused appeal documents.

5. Before going to the merits of the issue, we would like to examine the preliminary objection raised by the Ld. A.R. It is the submission of the Ld. A.R the Appellant has accepted the enhancement of value and hence they cannot file appeal against the order. We do not agree with the submission of the Ld. A.R. It is the submission of the Appellant that they have accepted the enhancement only because of the heavy demurrage accumulating. Thus, we find that the Appellant have accepted the enhancement to reduce the demurrage and later filed appeal against the assessment. In this regard, we agree with the submission of the Appellant that there is no estoppel in taxation matters. The circumstantial evidences indicate that the Appellant has never accepted the enhancement of value. Filing of appeal against the assessment order itself indicate that the

Appellant has not accepted the enhancement of value. Thus, we hold that there is no infirmity in filing of the appeal by the Appellant. Thus, we reject the objection raised by the Ld. A.R. on this ground.

6. We find that the issues to be decided in this appeal are as under:

1. Whether goods imported as Polyester Quilt Covers can be re-characterised merely because they are capable of subsequent conversion into bed sheets?

2. Whether valuation can be enhanced solely on the basis of contemporaneous imports without satisfying the mandatory requirements of the Customs Valuation Rules?

3. Whether confiscation under Section 111(m) and redemption fine imposed under Section 125 can survive when mis-classification and undervaluation are not legally established?

4. Whether penalty imposed under Section 112(a) of the Customs Act, 1962 is sustainable?

1. Whether goods imported as Polyester Quilt Covers can be re-characterised merely because they are capable of subsequent conversion into bed sheets?

7. We find that the goods imported by the Appellant were ordered for first-check examination. The examination revealed that the articles were one-side folded and two sides stitched. It is a settled principle of law that the imported goods must be assessed in the condition in which they are

presented. In the present case, we find that the examination revealed that the imported articles were folded and stitched and were presented as ‘quilt covers’. We find that the entire case of the Department proceeds on a hypothetical assumption that by removing the stitches the goods may become bed sheets. In this regard, we observe that the Customs law recognizes classification on the basis of the goods as imported, not on the basis of what they may become after further processing. We also find that the Department misread Note 7 to Section XI, which speaks of goods produced in finished condition requiring only separation by cutting dividing threads. In the present case, the Department has wrongly equated de-stitching with cutting dividing threads. The imported articles were already stitched articles ready for use and therefore answered the statutory definition of "made-up articles". We also find that The Textile Committee, the designated expert body, had already opined in an identical matter that similar goods are Polyester Woven Printed Quilt Covers classifiable under the Heading 6302. We find that the adjudicating authority has ignored this expert evidence completely. Thus, we hold that the impugned goods imported by the Appellant are Polyester Woven Printed Quilt Covers appropriately classifiable under the CTH 6302.

7.1. We find that a similar issue came up before this Tribunal in the case of Indra Fab, wherein this Tribunal vide Final Order NO.76493 / 2024 dated 26.07.2024 upheld the classification of the goods under the CTH 6302. For ready reference, the relevant portion of the said order is reproduced below:

8. In this case, the claim of the appellant is that they have correctly classified the impugned goods as "Polyester Quilt Cover" having merit classification under CTH 6304 of the Customs Tariff Act. We observe that the same issue came up before this Tribunal in the case of C.F. Inc., A Unit of Surinder Kumar & Sons (HUF) v. Commissioner of Customs (Port), Kolkata [Final order Nos. 75827-75840 of 2024 dated 30.04.2024 in Customs Appeal Nos. 78658 of 2018 & ors.] wherein this Tribunal has examined the issue and observed as under: -

> *"7. As per the said opinion, it is clearly stated that appropriate classification of the said goods is Polyester woven printed quilts and the imported goods have been presented by the appellants as 'Polyester woven Quilt Cover'. If the same are detached then it will look like bed sheet, which is not the correct view of the Revenue and in similar set of facts, this Tribunal has examined the issue in the case of M/s. Annapurna Industries & Others vide Final Order No.FO/77308-77315/2017 dated 30.08.2017 and held the goods in question are to be classified as Polyester woven printed quilts. Therefore, we hold that the goods imported by the appellants are only 'Polyester Quilt Cover' and accordingly the appellants have paid duty.*

8. In that circumstances, the allegations of mis-classification and under-valuation are not sustainable in the eyes of law.

9. Accordingly, we do not find any merits in the impugned orders and the same are set aside."

9. As the said issue has already been decided by this Tribunal, we hold that the goods imported by the appellant have been rightly declared as "Polyester Quilt Cover" and therefore, the demands raised against the appellant are not sustainable.

9.1. Accordingly, we do not find any merit in the impugned order and hence, the same is set aside.

10. Consequently, the appeal is allowed with consequential relief, if any.

7.2. In support of our view, we also rely on the following decisions:

(i). CCE v. Terrytex, 2000 (122) ELT 201 (Tri.), wherein it has been held that goods are classifiable according to their condition at the time of clearance.

(ii). Non-Woven (India) Pvt. Ltd. v. CCE, 1999 (107) ELT 648 (Tri.), wherein it has been held that Made-up textile articles cannot be treated merely as fabrics because further processing is possible.

7.3. Thus, by relying on the ratio of the decisions cited sura, we hold that the goods imported by the

Appellant are Polyester Woven Printed Quilt Covers, appropriately classifiable under the CTH 6302.

2. Whether valuation can be enhanced solely on the basis of contemporaneous imports without satisfying the mandatory requirements of the Customs Valuation Rules?

8. Regarding valuation of the goods imported, we find that the department has re-determined the value on the basis of contemporaneous imports. But, we find that the said contemporaneous goods cited by the Revenue are not legally comparable. The Department merely relied upon imports of "bed sheets" and no comparison has been made regarding:

- manufacturer;
- quality;
- GSM:
- fabric construction;
- brand;
- finish;
- commercial level;
- quantity.

8.1. Thus, we find that the Transaction value has been rejected without any basis. Rule 12 of the Valuation Rules permits rejection of transaction value only where Customs possesses reasonable doubt supported by objective evidence. In the present case, we find that there is no evidence of additional remittance; no evidence of relationship; no evidence of fabricated invoices; no evidence that declared price was false. We find that the enhancement rests merely on comparison with unrelated imports. We observe that such rejection is contrary to Sections 14 and the Valuation Rules. Thus, we find that Rule 5 of the Valuation Rules was not satisfied for adopting the value of similar goods.

8.2. In support of our view, we rely on the following decisions:

(i) *Eicher Tractors Ltd. v. Commissioner of Customs 2000, (122) ELT 321 (SC).* Wherein the Hon'ble Supreme Court has held that the declared transaction value cannot be rejected without legal grounds under the Valuation Rules.

(ii) *Mirah Exports Pvt. Ltd. v. Collector of Customs. 1998 (98) ELT 3 (SC).* Wherein it has been held that burden to establish undervaluation lies entirely on Revenue.

(iii) *Union of India v. Mahindra & Mahindra Ltd., 1995 (76) ELT 481 (SC),* wherein the Hon'ble Apex Court has held that Invoice value is to be accepted unless Customs proves otherwise.

(iv) *Spices Trading Corporation v. CC. 1998 (104) ELT 665 (Tri.),* wherein the Tribunal has held that the Department must produce positive evidence before rejecting declared value.

(v) *Pride of India Pvt. Ltd. v. CC, 1995 (80) ELT 403 (Tribunal),* wherein the Tribunal has held that Previous acceptance of identical invoice values is a relevant circumstance in favour of the importer.

(vi) *Sippy Promod Steel Alloys Pvt. Ltd., 1990 (45) ELT 444,* wherein it has been held that Contemporaneous acceptance of identical values supports transaction value.

8.3. Thus, by relying on the ratio of the decisions cited sura, we hold that the Transaction Value declared by the Appellant cannot be rejected.

3. Whether confiscation under Section 111(m) and redemption fine imposed under Section 125 can survive when mis-classification and undervaluation are not legally established?

9. In view of the findings in the preceding paras, we find that the allegations of mis-classification and under valuation has not sustained. Once mis-classification and undervaluation are not proved, there is no foundation for invoking the Section 111(m) for effecting confiscation of the goods. Once the order of confiscation is not sustained, then imposing Redemption fine in lieu of confiscation as provided under Section 125 of the Customs Act, 1962, is not warranted. We also find that Section 125 requires determination of market price before fixation of redemption fine. In this case, no market enquiry has been conducted. Therefore, we hold that the redemption fine imposed is legally not sustainable. Hence, we set aside the order of confiscation as well as redemption fine imposed in the impugned order.

4. Whether penalty imposed under Section 112(a) of the Customs Act, 1962 is sustainable?

10. In view of the findings in the preceding paras, it has been held that the allegations of mis-classification and under valuation has not sustained. Accordingly, it has been further held that the order of confiscation as well as redemption fine imposed in the impugned order are not sustainable. As the allegation against the Appellant are not established, we observe that the ingredients required for imposing penalty under Section 112(a) of the Customs Act, on the Appellant does not exist in this

case. Thus, we hold that the penalty imposed under Section 112(a) of the Customs Act, 1962 is not sustainable and hence we set aside the same.

11. In the result, we set aside the impugned orders and allow the appeals filed by the Appellant, with consequential relief, if any, in accordance with law.

(Order Pronounced in Open court on 07.08.2026)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP