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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 76522 of 2024

(Arising out of Order-in-Original No. Kol/Cus/Commissioner/Port/Gr.3/05/2024 dated 14.03.2024 passed by the Commissioner of Customs (Port) Custom House,15/1, Strand Road, Kolkata-700001)

M/s. Rebanta International, **: Appellant**
Village & PO- Trimohini, Sidai Road,
P.S- Hili, West Bengal-733155

VERSUS

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

APPEARANCE:

Shri S. C. Ratho, Consultant for the Appellant
Shri S. Debnath, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO.76057/ 2026

DATE OF HEARING: 04.08.2026
DATE OF PRONOUNCEMENT: 07.08.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed assailing the Order-in-Original No. Kol/Cus/Commissioner/Port/Gr.3/05/2024 dated 14.03.2024 passed by the Commissioner of Customs (Port) Custom House,15/1, Strand Road, Kolkata-700001, wherein the benefit of exemption claimed by M/s. Rebanta International, the Appellant herein Notification No. 99/2011 dated: 09.11.2011, has been rejected and differential customs duty

Rs.65,47,651/- has been confirmed along with interest. Redemption fine of Rs.4,00,000/- and penalty of Rs. 6,00,000/- was imposed.

2. The brief facts of the case are that the appellants, on import of textile items from Bangladesh, claimed clearance of the goods availing exemption on the basis of Country of Origin certificate vide Notification No. 99/2011 dated: 09.11.2011. The value was declared as per the overseas supplier's M/S. Tusher International invoice, who is also a manufacturer of the same. The details are as below:

Item No.	Description of Goods	CTH	Quantity (Pcs.)	Unit Price (USD)	Amount (CF) (USD)	Assessable Value (CIF) (In Rs.)	Assessed Duty (Rs.)
1	Trouser (Men's) (Surplus Quality)	6203493.90	31946	0.71	22681.66	1696178.48	84808.90
2	Short Paint (Men's) (Surplus Quality)	62034990	5490	0.33	1811.70	135482.44	6774.10
3	Sweater (Surplus Quality)	61101190	506	0.50	253	18919.83	946.00

4	Jacket (Boy's) (Surplus Quality)	62033300	1404	0.61	856.44	64046.24	3202.30
5	T-Shirt (Surplus Quality)	61099090	1986	0.20	397.20	29703.39	1485.20
	Total		41332		26000	1944330.38	97216.50

2.1. However, goods were intercepted on the basis of some information of smuggling and 100% examination was conducted. But, nothing incrementing was found and goods were found as declared. In the course of examination, representative samples were drawn and tested in the Customs House Laboratory. On the basis of the test report, the classification of some of the items was disputed. During examination, some goods were found to be branded with brand names like, YOHANS, WRUTH, MANGO, GEMO, AMERICAN EAGLE, HOUSE, ZARA, FILA & KIABI. Notice was served in compliance to Intellectual Property Right (Imported Goods) Enforcement Rules, 2007, but no brands were found to be registered with the Customs or any Right Holders came up to attend the proceedings. Hence under Rule 7 of the aforesaid Rule, the goods were considered as freely importable without any IPR infringement.

2.2. As the goods were found be 'branded goods', valuation of the goods were done as per NIDB data of similar branded goods. However, goods were released provisionally on payment of admitted duty of Rs. 97,217/- and execution of bank guarantee of Rs. 6,00,124/-.

2.3. On finalization of Provisional assessment, Show Cause Notice No. KOL/CUS/COMMR/PORT/GR.3/5/ 2023 dated:03.06.2023, was issued to the Appellant as to why the declared assessable value of Rs.19,44,330/- should not be enhanced to Rs. 44,71,770/-. The goods were also proposed for confiscation u/s 111(m) & 111(q) of Customs Act 1962. The Notice demanded differential customs duty of Rs.65,47,651/-. It was proposed to appropriate the bank guarantee executed for Rs. 6,00,124/- towards the duty demanded. The Notice also proposed imposition of penalty.

2.4. The Appellant submitted reply vide letter dated: 18.08.2023, wherein they have denied all the allegations raised in the notice. The case was finally adjudicated and vide adjudication Order No. KOL/CUS/COMMISSIONERPORT/GR.3/05/2024 dated: 14.03.2024, Ld. Commissioner of Customs (Port) held that;

(i) declared assessable value of Rs. 19,44,330/- is rejected and value is re-determined at Rs. 44,71,771/-;

(ii) the goods were held liable for confiscation u/s 111(m) & 111(q) of CA62;

(iii) the benefit of exemption Notification No. 99/2011-Cus dated: 09.11.2011 (SAFTA) benefit was dis-allowed;

(iv) differential duty of Rs. 65,47,652/- was confirmed.

(v) Redemption fine of Rs.4,00,000/- and penalty of Rs. 6,00,000/- was imposed.

2.5. Aggrieved against the confirmation of the demands of customs duty along with interest, redemption fine and penalty, the Appellant has filed this appeal.

3. The Appellant submits that there was no mis-declaration of goods imported. On examination of the goods, no concealment or mis-declaration was found as reproduced in para-3 of the O-I-O, except most of the goods were found to be branded goods. Besides, as per the finding of the Adjudicating authority, in para-9 of the order, since none of the brands found on the goods in the impugned import consignment, was found to be registered with Customs under the IPR Rules, 2007, as per ICEs system, the question of infringement of Intellectual Property does not arise. However, in para-13.4 of the impugned order, it was held that, as per the test report, Trouser (Men), Short Pant (Men), Sweater, Jacket (Boys) and T-Shirt imported vide the Bill of Entry no. 4287258 dated: 12.06.2021, which were claimed classification UTH 62034990, 62034990, 61101190, 62033300 & 61099090 were found re-classifiable UTH 62034290, 62034290, 61103010, 62033300 & 61091000, hence the benefit of Country of Origin certificate may not be extendable in light of the Notification No. 81/2020-Cus (N.T.) dated: 21.08.2020 referred as CAROTAR Rules, 2020.

3.1. Further, in his finding from para-40 to 44 of the order, reproducing Rule 14 and Article 6 of the Rules of Determination of Origin (SAFTA) 2006, read with Rule 8 (2) of CAROTAR 2020, it was held that the importer had failed to produce faithful and correct documents before the Customs for eligibility of preferential rate of customs duty under Notification No. 99/2011-cus dated: 09.11.2011, hence the importer is not eligible for preferential rate of duty, as claimed. In this regard, the Appellant submits that, in terms of basic Notification no. 81/2020-cus (N.T.) dated: 21.08.2020, the COO certificate can only be denied under Rule 2, only under certain circumstances, which were not existed in this case.

3.2. Further, in terms of Rule 5 (4) of the Rule CAROTAR, 2020, in case of any dispute the proper officer shall forward a verification proposal in terms of Rule 6 to the Nodal officer nominated for this purpose. In terms of the SAFTA Rule of origin brought into force by Notification No. 75/2006-Cus (N.T.) dated: 30.06.2006 vide Article 21, a proviso has been included that in case of dispute concerning origin determination, classification of products or other matters, the Government authorities concerned in the exporting and importing contracting states shall consult each other with a view to resolving the dispute. Nowhere under any Rule or under this statute Section 28DA of Customs Act, 1962 or in the Rules of Determination of Origin of Goods under SAFTA or in the Notification No. 99/2011 dated: 09.11.2011, there is any such provision to reject the Country of origin certificate. Hence, the appellants submitted that they are entitled to get the benefit of the exemption notification on the basis of Country of origin as claimed.

3.3. It is submitted that, in terms of Article 14 of the Rules of Determination of origin of goods under the agreement on South Asean Free Trade Area (SAFTA), the minor discrepancies between the statement made in the certificate of origin and those made in the documents submitted to the customs authorities shall not ipso-facto invalidate the certificate of origin. Further, the amended provision of Section 28DA, the condition of the Customs (Administration of Rules of origin under Trade Agreement Rule, 2020, framed under Section 28DA, published by (CAROTAR), Notification No. 81/2020 – Cus (N.T.) dated: 21.08.2020 or the Rules of origin does not provide any such clause to deny the benefit of Country of origin, due to mismatch in classification at 6 digit level of HS code, when, the COO of the goods is in not in dispute. Hence, the Appellant submits that the allegation brought in the order by the adjudicating authority, denying the benefit of COO is legally not maintainable and liable to be set aside.

3.4. Regarding the re-determination of value of the goods, the Appellant submits that the declared value has been disputed on the basis of NIDB data only, on the basis of description without going into the quality of the fabric, etc. For branded goods, evidences has been relied upon without considering whether these are counterfeits of fake products. By giving the simple name of a brand does not entitled to become the goods counterfeit or branded goods but the value enhancement has been proposed on a hypothetical basis relying on the NIDB data. There is no iota of doubt that the declared value is the true transaction value and the invoice is genuine and of a manufacturer/supplier, contrary to which no evidence has been brought out to reject the invoice as fake or fabricated. Moreover, the value of textile items depends upon the nature of the fabric whether textured or non textured and if textured, the quality and standard thereof, which is vital to arrive at the price of the textile items. Besides, when contemporaneous import as per NIDB data is taken, the lowest such value shall be used to determined the value of the imported goods as per Rule 4(3) of Customs Valuation Rules, 2007, which has not been followed in this case. Thus, the Appellant submits that the arbitrary enhancement of value done in this case, is legally not sustainable.

4. The Ld. A.R. submits that the Appellant has imported branded goods. There is a mismatch between the classification code available in the Country of Origin Certificates submitted by the Appellant and the classification of the goods determined by the authorities. Accordingly, the benefit of country of origin as envisaged in the Notification 99/2011 has been rightly denied. Further, the goods being branded goods, the value of the branded goods have been adopted to determine the differential customs duty. Accordingly, the Ld. A.R. justified the demands confirmed in the impugned order.

5. Heard both sides and perused the appeal documents.

6. We find that the Appellant has imported textile items from Bangladesh and claimed exemption from customs duty on the basis of Country of Origin certificate, as provided under the Notification No. 99/2011 dated: 09.11.2011. The value was declared as per the overseas supplier M/S. Tusher International’s invoice.

6.1. We find that goods were subjected to 100% examination but, nothing incrementing was found and goods were found as declared. In the course of examination, representative samples were drawn and tested in the Customs House Laboratory. On the basis of the test report, the classification of some of the items was disputed as below:

Sl.No.	Item	Classification as per COO	Classification Claimed	Classification re-determined
1.	Trouser (Men's)	62034900 BCD – No rate	62034990 BCD @ Rs.110/- per piece	62034290 BCD @ Rs.135/- per piece
2.	Short Pant (Men's)	-Do-	-Do-	-Do-
3.	Sweater	61113000 BCD – Adv. 20%	61101190 BCD @ Rs.275/- per piece	61103010 BCD @ Rs.85/- per piece
4.	T-Shirt	61099000 No Sub-heading	61099090 BCD @ Rs.50/-	6109100 BCD @ Rs.45/- per piece

			per piece	
5.	Jacket	62033990	62033300	62033300

6.2. From the above table, we find that there is no mis-declaration found on the description of the goods. The supplier in the exporting country has mentioned the classification under a particular heading (six digit code) whereas, the department has claimed that the said goods are classifiable under a different chapter heading (six digit code). We observe that even if it is considered as a mis-match, this would not dis-entitle the Appellant from the benefit available on the basis of country of origin, as there was no dispute regarding the country of origin of the goods. We also find that, even if the goods are re-classifiable under a different Tariff heading as alleged by the Department, the proposed heading also remains well covered within the benefit of the COO certificate and the concerned Notification No. 99/2011-Cus dated: 09.11.2011. The Notification did not allow the benefit only to the items classifiable under heading 2203 to 2203, CTH 220710, CTH 2208 & Chapter 24, but the repurposed headings UTH 62034290, 62034290, 61103010, 62033300 & 61091000, instead of headings claimed under Tariff 62034990, 62034990, 61101190, 62033300 & 61099090 remains covered within the purview of the exemption given under SAFTA benefit. Thus, we observe that the benefit of exemption denied by the Adjudicating authority, is legally not sustainable.

6.3. In the impugned order, the Ld. Adjudicating authority has observed that the importer had failed to produce correct documents before the Customs authorities for eligibility of preferential rate of customs duty, as provided under Notification No. 99/2011-cus dated: 09.11.2011 and hence the importer is not eligible for preferential rate of duty, as claimed. In this regard, we observe that, in terms of basic Notification no. 81/2020-cus (N.T.) dated: 21.08.2020, the COO certificate can only be denied under Rule 2, which states that,

> "Notwithstanding anything contained in these rules, the claim of preferential rate of duty may be denied by the proper office without verification if the certificate of origin-
>
> a) is incomplete and not in accordance with the format as prescribed by the Rules of Origin;
> b) has any alteration not authenticated by the Issuing Authority;
> c) is produced after its validity period has expired'; or
> d) is issued for an item which is not eligible for preferential tariff treatment under the trade agreement.

6.4. We observe that none of the above situations are established in this case to deny the benefit of country of origin. Further, in terms of Rule 5 (4) of the Rule CAROTAR, 2020, in case of any dispute the proper officer shall forward a verification proposal in terms of Rule 6 to the Nodal officer nominated for this purpose. In terms of the SAFTA Rule of origin brought into force by Notification No. 75/2006-Cus (N.T.) dated: 30.06.2006 vide Article 21, a proviso has been included that in case of dispute concerning origin determination, classification of products or other matters, the Government authorities concerned in the exporting and importing contracting states shall consult each other with a view to resolving the dispute. Nowhere under any Rule or under this statute Section 28DA of Customs Act, 1962 or in the Rules of Determination of Origin of Goods under SAFTA or in the Notification No. 99/2011 dated: 09.11.2011, there is any such provision to reject the Country of origin certificate. Thus, we observe that the Appellant are entitled to get the benefit of the exemption notification on the basis of Country of origin, as claimed by them.

6.5. Further, in Article 14 of the Rules of Determination of origin of goods under the agreement on South Asean Free Trade Area (SAFTA), it has been mentioned that minor discrepancies, if any, between the statement made in the certificate of origin and those made in the documents submitted to the customs authorities shall not *ipso-facto* invalidate the certificate of origin. Further, the amended provision of Section 28DA, the condition of the Customs (Administration of Rules of origin under Trade Agreement Rule, 2020, framed under Section 28DA, published by (CAROTAR), Notification No. 81/2020 – Cus (N.T.) dated: 21.08.2020 or the Rules of origin does not provide any such clause to deny the benefit of Country of origin, due to mismatch in classification at 6 digit level of HS code, when, the COO of the goods is in not in dispute.

6.6. This view is supported by the decision in the case of CC, Chennai Vs. K B Autosys India Pvt. Ltd, reported in (2025) 28 Centax 438 (Tri-Mad.), where in para-16.6, the Tribunal has held as under:

" 16 .6 It is important to note that the benefit of Country-of-Origin Certificate cannot be legally denied, if all the conditions in terms of Customs Tariff (Determination of Origin of Goods Under the Preferential Trade Agreement Between the Governments the Republic of India and Republic of Korea) Rules, 2009 are satisfied. We also note that exporting country can mention on the Country-of-Origin Certificate the HSN Code of the importing country thus indicating that the HSN Code of the commodity in exporting country cannot be the sole basis for its classification under the Indian Customs Tarriff Act, 1975. As such, we hold that classification of any imported goods has to be determined in terms of the provisions of Customs Tariff Act, 1975 including Section Notes and Chapter Notes read with the General Rules for Interpretation of Tariff (GIR). In the case of Sharp India Ltd. v. Commissioner of Customs (Imports), Nhava Sheva, Raigad [2019 (366) E.L.T. 153 (Tri.-Bom)], the Tribunal Bombay has held that the classification of imported goods to be determined in accordance with Indian Customs Tariff and not solely on the basis of code mentioned in Certificate-of-Origin. In the context of import of RBD Palmolein mixture under Indo-Sri Lanka Free Trade Agreement (ISFTA), in the case of Sheel Chand Agrolls P. Ltd. v. Commissioner of Customs (Preventive), New Delhi [2016 (331) E.L.T. 251 (Tri.-Del)], the Tribunal Delhi has held that the Country of Origin requirements were satisfied even if the goods

were classified differently in the Country of Origin Certificate issued.

6.7. Thus, by relying on the ratio of the decision cited supra, we hold that the allegation of mis-classification brought in the order by the adjudicating authority for denying the benefit of COO to the goods imported by the Appellant, is legally not sustainable and liable to be rejected. Accordingly, we hold that the differential customs duty confirmed in the impugned order along with interest and penalty is not sustainable and hence the same are set aside. As there is no mis-declaration established, the confiscation of the goods and the consequent imposition of redemption fine is not sustainable and hence the same are set aside. The bank guarantee submitted by the Appellant for provisional release of the goods is also liable to be released.

7. Regarding the valuation of the goods adopted by the Ld. Adjudicating authority, we observe that as per the finding of the Ld. Adjudicating authority, in para-9 of the order, some of the goods were found to be branded goods. However, he has categorically observed that none of the brands found on the goods in the impugned import consignment, were registered with Customs under the IPR Rules, 2007, as per ICEs system. Thus, the Ld. Adjudicating authority has concluded that the question of infringement of Intellectual Property does not arise. However, we find that the Ld. Adjudicating authority has adopted the price of 'branded goods' of similar brands, without any basis. In this regard, we observe that once it is concluded that there was no infringement of Intellectual Property Rights, the

impugned goods cannot be considered as goods similar to branded goods of the same brand.

7.1. We find that the declared value has been disputed on the basis of NIDB data only, on the basis of description without going into the quality of the fabric, etc. For branded goods, we find that there was no investigation carried out to ascertain whether these goods are counterfeits of fake products. By giving the simple name of a brand does not entitle it to become the counterfeit good or branded goods. Thus, we observe that the value enhancement has been done on a hypothetical basis relying on the NIDB data. There is no evidence brought on record to show that the declared value is not genuine. Moreover, the value of textile items depends upon the nature of the fabric whether textured or non textured and if textured, the quality and standard thereof, which is vital to arrive at the price of the textile items. Thus, we observe that the value enhancement has been done in an arbitrary manner without following the procedure prescribed under the Valuation Rules. Accordingly, we hold that the transaction value declared by the appellant cannot be rejected and the re-determined value by the adjudicating authority, is legally not sustainable.

8. In view of the above findings, we pass the following order:

(i) The goods imported by the Appellant are eligible for the benefit of country of origin as envisaged in the Notification 99/2011 dated 09.11.201.

(ii) The differential customs duty confirmed in the impugned order along with interest and penalty is not sustainable and hence the same are set aside.

(iii) As there is no mis-declaration established, the confiscation of the goods and the consequent imposition of redemption fine is not sustainable and hence the same are set aside.

(iv) We hold that the transaction value declared by the appellant cannot be rejected and the re-determined value by the adjudicating authority, is legally not sustainable.

(v) The bank guarantee submitted by the Appellant for provisional release of the goods is liable to be released.

(vi) The appeal filed by the Appellant is allowed with consequential, relief, if any, as per law.

(Order Pronounced in Open court on 07.08.2026)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP