CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60035 of 2026

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-313-314-2025 dated 28.11.2025 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s S.K. Brothers **......Appellant**
Nihal Singh Wala, Distt. Moga,
Punjab 142055

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
Customs House, ICD GRFL Complex, G.T. Road,
Sahnewal, Ludhiana, Punjab - 141120

WITH

Customs Appeal No. 60036 of 2026 [M/s S.K. Brothers]
[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-313-314-2025 dated 28.11.2025 passed by the Commissioner (Appeals), CGST, Ludhiana]

Customs Appeal No. 60041 of 2026 [M/s Sanjeevani Foods Pvt. Ltd.]
[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-315-316-2025 dated 12.12.2025 passed by the Commissioner (Appeals), CGST, Ludhiana]

Customs Appeal No. 60042 of 2026 [M/s Sanjeevani Foods Pvt. Ltd.]
[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-315-316-2025 dated 12.12.2025 passed by the Commissioner (Appeals), CGST, Ludhiana]

Customs Appeal No. 60045 of 2026 [M/s TLG Overseas]
[Arising out of Order-in-Original No. Pr.COMMR/NA/LDH/CUSTOMS/14/2025 dated 06.01.2026 passed by the Pr. Commissioner of Customs, Ludhiana]

APPEARANCE:

Mr. Naveen Bindal & Mr. Aryan Bindal, Advocates for the Appellants

Mr. Maheswar Maji & Ms. Amita Gupta, Authorized Representatives for the Respondent

CORAM: HON’BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON’BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60534-60538/2026

DATE OF HEARING: 10.08.2026
DATE OF DECISION: 18.08.2026

S. S. GARG:

These five appeals are directed against different impugned orders, viz., Order-in-Appeal No. LUD-EXCUS-001-APP-313-314-2025 dated 28.11.2025 and Order-in-Appeal No. LUD-EXCUS-001-APP-315-316-2025 dated 12.12.2025, both passed by the Commissioner (Appeals), CGST, Ludhiana, and Order-in-Original No. Pr.COMMR/NA/LDH/CUSTOMS/14/2025 dated 06.01.2026 passed by the Principal Commissioner of Customs, Ludhiana. By the said orders, the learned Commissioner (Appeals) and the Principal Commissioner dismissed the appeals of the Appellants, confirmed the demand of duty along with penalties, and also imposed a redemption fine on each of the Appellants. The particulars of the appeals are detailed herein-below in the following table:

Appeal No.	**C/60035/2026**	**C/60036/2026**	**C/60041/2026**	**C/60042/2026**	**C/60045/2026**
Party's name	S.K. Brothers	S.K. Brothers	Sanjeevani Foods Pvt Ltd	Sanjeevani Foods Pvt Ltd	TLG Overseas
Period involved	Jan-Feb'2023	Nov'2022-Jan'2023	Feb'2023	Dec'2022	Dec'2022-Jan'2023
Amount (Rs.)	26,96,620/-	38,97,150/-	6,44,834/-	10,27,989/-	60,72,688/-
Order-in-Original date	30.06.2025	30.06.2025	30.06.2025	30.06.2025	06.01.2026
Order-in-Appeal date	28.11.2025	28.11.2025	12.12.2025	12.12.2025	NA

Since the issue involved in all five appeals is identical, and the impugned orders have been passed on the same lines of reasoning based upon a common test report, all five appeals are being taken up together for discussion and disposal.

2. For the sake of convenience, the facts are being drawn from Appeal No. C/60035/2026, filed by the first Appellant, namely M/s S.K. Brothers, as the lead case.

2.1 Briefly stated, the facts of the case are that the Appellant is engaged in the business of exporting rice and holds Import Export Code (IEC) No. 3008006400 for this purpose. The Appellant, in the normal course of business, filed shipping bills at the Ludhiana port for the export of "Parboiled Rice/Indian Parboiled Rice" under CTH 10063010.

2.2 Examination of the consignments was conducted by following the procedure laid down in Instruction No. 29/2022-Customs dated 29.10.2022. Representative samples of the goods were drawn and sent to the Central Revenues Control Laboratory (CRCL), New Delhi. Thereafter, the goods were allowed for export on a provisional basis upon execution of a bond by the Appellant, which was accepted by the competent authority. Subsequently, the test reports received from CRCL, New Delhi, indicated that the samples under reference have characteristics of Non-Parboiled Rice, thus classifiable under CTH 10063090.

2.3 Based on the CRCL report, it appeared to the department that export duty at the rate of 20% was leviable on the goods exported by the Appellant. The department further entertained the view that the Appellant had deliberately mis-declared the goods to wrongly avail the exemption under the relevant notification. Accordingly, the department alleged that the duty was recoverable under Section 28(4) of the Customs Act, 1962, along with interest, fine, and penalty. On these allegations, a Show Cause Notice was issued to the Appellant under the said section for the recovery of duty, interest, redemption fine, and penalty. The Appellant filed a detailed reply to the said Show Cause Notice, contesting the allegations made therein.

2.4 After following the due process of law, the Adjudicating Authority, vide the Order-in-Original, confirmed the demand of duty along with interest, penalty, and redemption fine. Aggrieved by the said adjudication order, the Appellant filed an appeal before the learned Commissioner (Appeals), who subsequently rejected the same. Hence, the Appellant has preferred this appeal (C/60035/2026).

2.5 Similarly, the other Appellants have filed their respective appeals (C/60036/2026, C/60041/2026, C/60042/2026, and C/60045/2026) before this Tribunal against the remaining impugned Orders-in-Appeal and the Order-in-Original.

3. Heard both sides and perused the material on records.

4. The learned Counsel for the Appellants submitted that the impugned orders are not sustainable in law as the same have been passed without properly appreciating the facts and the law and the binding judicial precedents.

4.1 He further submitted that the Appellant had exported parboiled rice under Chapter Heading 10063010 vide various shipping bills. In order to verify the classification, representative samples were drawn and sent to the CRCL, New Delhi, for testing. The provisional assessments were made, and the goods were allowed to be exported under Section 18 of the Customs Act, 1962, upon the execution of bonds by the Appellant, subject to the following condition *inter alia*:

> *"In the event of failure of cargo in the test report the exporter pays to the president the duty finally assessed in respect of the goods mentioned in the shipping bill below along with interest fine and/or penalty if any imposed for violation of Customs Act, 1962 and other allied acts."*

4.2 He further submitted that from the language of bonds itself, it is evident that the Appellant undertook to pay the duty finally assessed in respect of goods mentioned in the shipping bill to the President of India, which makes it further clear that assessment was provisional and bonds were furnished under Section 18 of the Act only. He also contended that the Show Cause Notice is premature because the assessment must be finalized first in accordance with the law; a Show Cause Notice under Section 28 of the Act can only be issued after such finalization, subject to any statutory remedies availed of by the Appellant against the final assessment.

4.3 He further referred to Section 18 of the Customs Act, 1962, as well as the Customs (Finalization of Provisional Assessment) Regulations, 2018, framed vide Notification No. 73/2018-Customs (N.T.) dated 14.08.2018. He argued that as per Regulation 5 of the said Regulations, the proper officer is mandated to finalize the provisional assessment within two months from the date of receipt of the test reports. He contended that since the assessment in the present case was not finalized within the prescribed two-month period from the date of receipt of the test reports, the final assessment has now become time-barred. He also submitted that since the proceedings initiated against the impugned goods are time-barred, the same deserve to be quashed. In this regard, he placed reliance on the following decisions:

- **Saharsh Distributors Pvt Ltd vs. Commissioner of Customs, New Delhi - 2017 (354) E.L.T. 671 (Tri. - Del.)**
- **Commissioner of Central Excise & Customs, Mumbai vs. ITC Ltd - 2006 (203) E.L.T. 532 (S.C.).**

4.4 He further submitted that a letter dated 05.10.2023 was issued to the Appellant stating the department's position on the issue, which the Appellant duly responded to vide letter dated 10.10.2023. In the said reply, the Appellant reiterated that the provisional assessment was made under Section 18 of the Act and had not yet been finalized. Vide the said letter, the Appellant also requested the cross-examination of the chemical examiner who issued the test reports. However, the request of the Appellant was not considered, and the provisional assessment remained unfinalized.

4.5 As regards the classification of the goods, the learned Counsel submitted that the conclusion reached by the department is erroneous due to misinterpretation of the test reports and the absence of comprehensive technical information regarding rice. This fact is clear from the reports themselves. As per the test reports, the samples merely possess the characteristics of non-parboiled rice. The reports do not definitively conclude what kind of rice had actually been exported or the same was non-parboiled rice. He argued that the difference between parboiled rice and non-parboiled rice is razor-thin; therefore, it is natural for a sample to exhibit overlapping characteristics at times.

4.5.1 Further, he submitted that as per the department, the rice exported by the Appellant is an agricultural product and is identified by its length and shape, i.e. long-grain, medium grain and short-grain & the aroma. Parboiling is a hydrothermal process in which the crystalline from of starch present in the paddy rice is changed into an amorphous one. This is accomplished by soaking or steaming, drying and milling the rice. The parboiling process produces physical, chemical and organoleptic modifications in the rice, with economic and nutritional advantages. The major objectives of parboiling are to (i) increase the total and head yield of the paddy (ii) prevent the loss of nutrients during milling (iii) salvage wet or damaged paddy and iv) prepare the rice according to the requirements of consumers. Further, he also submitted that the difference between the parboiled rice and the non-parboiled is that the non-parboiled rice does not go through soaking or steaming, drying before milling, therefore, it is the colour, moisture and size of grain that would help one to identify parboiled rice. The impugned goods pass through the muster on all grounds. He also argued that the test reports do not mention regarding the parameters/range required to be parboiled rice. In the reports, it has also not stated that which tests have been conducted and what are the parameters to determine parboiled rice, therefore, the test reports are inclusive and cannot be relied upon for determine the classification of the impugned goods.

4.5.2 He further submitted that the Appellant had explicitly prayed for the cross-examination of the chemical examiner who authored the test reports. However, the said request was denied by the department, which constitutes a gross violation of the principles of natural justice.

4.5.3 He also submitted that it has been consistently held by various judicial forums that an expert opinion or test report is sought only to understand the technical nature of a product, but it cannot decide the final classification of the goods. Such reports do not have a binding effect, but carry only a persuasive or guiding value for the department, because ultimately, the proper classification of a product remains a quasi-judicial function to be decided solely by the jurisdictional adjudicating authority.

4.6 Regarding the redemption fine and penalties, the learned Counsel submitted that the authorities below have wrongly ordered the confiscation of the impugned goods by classifying them as non-parboiled rice. Since the goods were exported on a provisional basis and had already left the country, a redemption fine under Section 125 of the Act was erroneously imposed in lieu of confiscation.

4.6.1 Further, he argued that the goods are not liable for confiscation under Section 113(i) of the Act, because the goods entered for exportation did correspond in all material particulars with the entry made under the Act. He contended that since the classification declared by the Appellant is correct, the impugned goods are not liable for confiscation at all.

4.6.2 He further submitted that the goods in question were never seized under Section 110 of the Customs Act, 1962, nor were they provisionally released; therefore, the subsequent confiscation is completely unsustainable in law.

4.6.3 Further, he argued that the department cannot legally impose a redemption fine on the Appellant because a fine under Section 125 of the Act is intended to be an option given to the exporter. When the department imposes a mandatory fine on goods that are unavailable, it leaves no actual option for the Appellant. Under Section 125 of the Act, if the Appellant were not to accept the option of redemption fine, the goods can be seized. As the Department has stated, the goods are not available for confiscation, therefore the fine under Section 125 of the Act cannot be imposed. Since the goods are not available for confiscation, redemption fine is not imposable. To support this contention, he relied upon the judgment of the Hon'ble jurisdictional High Court of Punjab & Haryana in the case of **Commissioner of Customs, Amritsar vs. M/s Raja Impex (P) Ltd - 2008 (229) E.L.T. 185 (P&H)**.

4.6.4 He further submitted that no *mala fide* intention has been attributed to the Appellant in the present case; therefore, the confiscation, redemption fines, and penalties are entirely unsustainable in law.

5. On the other hand, the learned Authorized Representative for the department vehemently supported the impugned orders and made elaborate submissions. The main submission of the learned Authorized Representative is that the present case does not involve a provisional assessment under Section 18 of the Customs Act, 1962; rather, it is a case of re-assessment under Section 17 of the Act. He argued that re-assessment is permissible under the provisions of the Act itself when the proper officer does not accept the self-assessment of duty after verifying the same in accordance with sub-sections (2) and (3) of Section 17. In such a scenario, the re-assessment of duty is undertaken by the proper officer as per sub-sections (4) and (5) of Section 17, which is exactly what the proper officer has done in the present case. The learned Authorized Representative also submitted that it is not a case of provisional assessment rather it is a case of provisional release of the goods. In this regard, the reliance is placed on the following decisions which deal with Section 17 of the Customs Act, 1962, and the power of the proper officer to make a re-assessment of goods:

- **TGV SRAAC Ltd vs. Commissioner of Customs, Chennai – (2026) 43 Centax 84 (Tri. Mad.)**
- **Commissioner of Customs vs. Canon India Pvt Ltd – (2024) 24 Centax 117 (SC)**

6. We have considered the submissions made by both sides and perused the material available on record.

7. Firstly, we shall deal with the primary ground raised by the Appellants that the demands in all these appeals are pre-mature because the provisional assessments have not yet been finalized.

7.1 We note that as per the Appellants, they had exported parboiled rice under various shipping bills claiming classification under CTH 10063010. The said goods were examined by the department, and samples were drawn to verify the exact nature of the product, which were then forwarded to the CRCL, New Delhi, for chemical testing. In the meantime, provisional clearance was allowed upon execution of bonds by the Appellants. The explicit condition of these bonds was that in the event of the failure of the cargo in the test reports, the exporter would pay to the President of India the duty finally assessed in respect of the goods, along with interest, fine, and penalty, if any. A close examination of the bonds available on record clearly demonstrates that they were executed by the exporter strictly under Section 18 of the Customs Act, 1962. Once the bonds have been executed under Section 18, it is evident that the goods were permitted for export on the basis of a provisional assessment only. The plain and unambiguous language of the bonds makes it clear that the Appellants had merely undertaken to pay the differential duty that would arise upon final assessment. Therefore, the department's argument that these were not provisional assessments is not sustainable.

7.2 We also find that once a provisional assessment has been made and the goods are allowed to be exported, the assessment is required to be finalized in accordance with the Customs (Finalization of Provisional Assessment) Regulations, 2018, notified vide Notification No. 73/2018-Customs (N.T.) dated 14.08.2018. As per Regulation 5 of the said Regulations, the proper officer is mandated to finalize the provisional assessment within two months from the date of receipt of the test reports. However, in the present case, this statutory time limit has not been complied with, and the final assessment has not been carried out till date. It is a settled law that if the final assessment is not completed within the stipulated timeline, the recovery proceedings initiated under Section 28 of the Act without finalization are pre-mature and legally unsustainable. We may refer to the decision of the Principal Bench of this Tribunal in the case of **Saharsh Distributors Pvt Ltd** (supra), wherein the Tribunal has quashed the proceedings initiated under Section 28 of the Act as the same were initiated before the finalization of the assessment. Relevant findings of the Tribunal are as under:

> "**6.** It is an admitted fact on record that the bills of entry were provisionally assessed and before their finalization, the Department initiated show cause proceedings under Section 28 ibid. Section 28 ibid deals with recovery of duties not levied or short levied or erroneously refunded. On perusal of the said statutory provisions, it reveals that in order to invoke the said statutory provisions, two things must be satisfied, i.e. non-levy of duty or short levy of duty. In the present case, since the assessment is provisional, the duty liability has not been determined by the Department, hence, there is no question of short levy or non-levy. Thus, proceedings initiation under Section 28, which culminated in the impugned order dated 5th March, 2014 in our opinion is not sustainable and will not stand for judicial scrutiny. We find that under Section 11A of Central Excise Act, 1944 (Peri materia with Section 28 ibid), the Hon'ble Supreme Court in the case of ITC Ltd. (supra) held that proceedings under Section 11A cannot be initiated without completing the assessment proceedings. The relevant paragraph in the said judgment is extracted herein below:-
>
> > *17. Section 11A of the Act provides for a penal provision. Before a penalty can be levied, the procedures laid down therein must be complied with. For construction of a penal provision, it is trite, the golden rule of literal interpretation should be applied. The difficulty which may be faced by the Revenue is of*

> *no consequence. The power under Section 11A of the Act can be invoked only when a duty has not been levied or paid or has been short-levied or short-paid. Such a proceeding can be initiated within six months from the relevant date which in terms of sub-section (3)(ii)(b) of Section 11A of the Act (which is applicable in the instant case) in a case where duty of excise is provisionally assessed under the Act or the Rules made there-under, the date of adjustment of duty after the final assessment thereof. A proceeding under Section 11A of the Act cannot, therefore, be initiated without completing the assessment proceedings.*

7. Since the present proceedings were initiated under Section 28 before finalization of the assessment, the same is not maintainable at this juncture. However, the Department is at liberty to take appropriate measures after finalization of the bills of entry in question.

8. In view above, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeals in favour of the appellants”

The above view has been fortified by the Hon’ble Supreme Court in the case of **Commissioner vs. ITC Ltd.** (supra).

7.3 Besides this, we note that the department issued a letter dated 05.10.2023 seeking certain information and calling upon the Appellant to deposit the export duties. In the said letter, the department itself mentioned that the Appellant had executed bonds with a clear condition that in case the test report is adverse to the Appellant, the Appellant would pay to the President of India the duty finally assessed in respect of the goods, along with interest, fine, and penalty, if any. This statement by the department further demonstrates that the matter was yet to be finally assessed. We also note that the Appellant, vide letter dated 10.10.2023, replied to the department's letter dated 05.10.2023 and categorically clarified that the provisional assessment was made and goods were allowed for export under Section 18 of the Customs Act, 1962, and that the assessment had not been finalized till date. Vide the said reply, the Appellant also contested the test results issued by the CRCL, New Delhi, and sought cross-examination of the Chemical Examiner who determined the nature of the impugned goods. However, till date, no communication in this regard has been made by the department.

7.4 Further, we do not find force in the submission of the learned Authorized Representative for the department that this is a case of re-assessment of the shipping bills filed by the Appellants, as no document placed on record proves this assertion except the impugned orders themselves. Therefore, by no stretch of legal imagination can it be said that this is not a case of provisional assessment, especially in light of the various documents placed on record. Consequently, we hold that the Show Cause Notices issued to the Appellants before the finalization of assessment are premature, because the assessment is mandatorily required to be finalized in accordance with the law prior to the issuance of any Show Cause Notice under Section 28 of the Act. Accordingly, in view of this, the present proceedings are legally unsustainable.

8. As regards the alleged mis-declaration of the classification of the goods, we find that the department has primarily relied upon the test reports of the CRCL, New Delhi. These reports merely state that the samples under reference exhibit the characteristics of non-parboiled rice, based on which the department classified the goods under CTH 10063090. However, we note that the test reports do not definitively conclude the exact nature of rice exported. The distinction between parboiled rice and non-parboiled rice is razor-thin. To

determine the correct classification in such cases, reference must be made to the Customs Tariff, the General Rules for the Interpretation of the Customs Tariff, and the HSN Explanatory Notes, which serve as statutory guides. This exercise has not been undertaken in the present case. Furthermore, it is a well-settled principle that a test report is merely an expert opinion. While it serves as a guiding tool to understand the technical nature of a product, it does not have a binding effect on the final classification of goods. The quasi-judicial function of determining the proper classification rests solely with the jurisdictional adjudicating authority, to be decided strictly in accordance with the law. This has not been done in the present case. Additionally, the Appellant's specific request for the cross-examination of the Chemical Examiner, made vide letter dated 10.10.2023, was also denied by the department. Therefore, we are of the considered view that deciding the classification simply on the basis of an inconclusive test report is legally unsustainable. Nevertheless, in the present case, we are not recording any final finding on the absolute merits of the classification of the impugned goods. We are confining our decision to the core issue of whether the assessments were provisional under Section 18 or a case of re-assessment under Section 17 of the Act.

9. As regards the imposition of the redemption fine and penalties, we find that the impugned goods were never seized under Section 110 of the Customs Act, 1962, nor were they provisionally released as claimed by the department. Rather, the goods were allowed to be exported upon the execution of bonds under Section 18 of the Act.

Since the goods have already been exported and are unavailable for confiscation, a redemption fine under Section 125 of the Customs Act, 1962, cannot be legally sustained. This position is well-supported by the judgment of the Hon'ble jurisdictional High Court of Punjab & Haryana in the case of **CC, Amritsar vs. M/s Raja Impex (P) Ltd** (supra). Consequently, the imposition of the redemption fine and penalties is also set aside.

10. In light of our observations above, the impugned orders are set aside, and the appeals filed by the Appellants are allowed, with consequential relief, if any, in accordance with law.

(Order pronounced in the open court on 18.08.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

RA_Saifi