



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

**OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,**

चौथी मंज़िल **4th Floor**, हडको भवन **HUDCO Bhawan**, ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**  
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad - 380 009**  
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20250671MN000000DFDA

क	फ़ाइल संख्या FILE NO.	(1)S/49-149/CUS/MUN/23-24 (2) S/49-150/CUS/MUN/23-24
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-058 to 059-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
	दिनांक DATE	10.06.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original No. MCH/641/AC/KRP/Gr.II1/2023 24 dated 05.12.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	10.06.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. HLG Trading Space E, 3rd Floor Surya Kiran Building 92, The Mall, Ludhiana - 141001.





1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the





	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.
	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.





**ORDER-IN-APPEAL**

Two appeals have been filed by M/s. HLG Trading, Space E, 3rd Floor, Surya Kiran Building, 92, The Mall, Ludhiana-141001 (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original No. MCH/641/AC/KRP/Gr III/2023-24 dated 05.12.2023 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Import Assessment (Gr-III), Custom House, Mundra (hereinafter referred to as the 'adjudicating authority') as per Table-I below

**Table-I**

Sr No.	Appeal No.	OIO NO. & date	Bill of Entry No. & date
1	S/49-149/CUS/MUN/2023-24	MCH/641/AC/KRP/Gr III/2023-24 dated 05.12.2023	7906356, dtd. 19.09.2023
2	S/49-150/CUS/MUN/2023-24	MCH/641/AC/KRP/Gr III/2023-24 dated 05.12.2023	7906591, dtd. 19.09.2023



2. As the issue involved is same in both the appeals, both are taken up together for disposal. Facts of the case, in brief, are that the Appellant filed two Bills of Entry Nos. 7906356 and 7906591 both dated 19.09.2023 through Customs Broker (CB), M/s. Radhika Shipping Services for import of "Polyester Knitted Fabric" declared under 60063200 and availed the benefit of Sr.No. 646 of Notification No. 50/2018-Customs dated 30.06.2018. The complete description of the item as per import documents is "Polyester 100% Knitted Fabric lot of mix/leftover rolls." The subject Bills of Entry were kept on hold by Special Intelligence and Investigation Branch (SIIB) for examination. Examination of both the consignments was done by SIIB on 05.10.2023 in presence of H Card holder of M/s. Radhika Shipping Services, CB who has filed the subject Bills of Entry on behalf of the Appellant. Two representative samples from each consignment were drawn for testing purpose in the presence of CB and forwarded to CRCL, Kandla.

2.1 The test reports testified the sample as 'Warp Knitted Fabric of Polyester Yarn'. The test reports have been shared with the CB M/s. Radhika Shipping Services vide email dated 10.11.2023 and the CB in reply vide their email dated 10.11.2023 accepted the test reports and requested to the process the Bills of Entry as per the relevant provisions of the Act.

2.2 The outcome of the investigation was communicated by the Deputy



Commissioner (SIIB), Custom House, Mundra to the Assistant Commissioner (Import Group) vide their letters F.No. CUS/SIIB/70/2023-SIIB-O/o Pr Commr-Cus-Mundra dated 14.11.2023 and 18.11.2023 to the effect that the imported items are more suitably classifiable under HSN-60053790 as Warp Knitted Fabrics of Polyester instead of HSN-60063200 as classified by the Appellant.

2.3 The Appellant had declared the goods as falling under CTH 60063200 and COO was also issued for CTH 600632; however, appropriate/suitable CTH for the goods imported under the above said Bills of Entry is 60053790. Therefore, the benefit under APTA Notification No. 50/2018-Customs dated 30.06.2018 becomes inadmissible to the Appellant in as much as the actual description/CTH of the goods in question is different than that declared/mentioned in the COO and hence, misdeclared. Therefore, subject Bills of Entry were reassessed after disallowing the benefit under APTA Notification No. 50/2018-Customs dated 30.06.2018. Accordingly, an assessment order in terms of Section 17(5) of the Customs Act, 1962 was issued for the subject Bills of Entry.

2.4 The adjudicating authority vide the impugned order as ordered as under:

i. He disallowed the benefit of preferential duty claim available at Sr.No. 646 of APTA Notification No. 50/2018-Customs dated 30.06.2018 under Section 28DA(10)(ii) of the Customs Act, 1962 and violation of Section 46(4) of the Customs Act, 1962 in respect of the goods imported under Bills of Entry Nos. 7906356 and 7906591 both dated 19.09.2023 for their act of mis-declaration and mis-classification in the said Bills of Entry.

### **3. SUBMISSIONS OF THE APPELLANT:**

Being aggrieved with the impugned order, the Appellant has filed the present two appeals separately against each of the two Bills of Entry as shown in Table-I above wherein they have submitted similar grounds which are as under:-

3.1 The Adjudicating Authority has not disclosed the basis such as Bill of Entry or NIDB data of contemporaneous imports of identical/similar goods in compliance with the provisions of Rule 12(2) of the Customs Valuation Rules 2007 before discarding the duty amount and before enhancing the duty amount



under Section 17(4) of the Customs Act, 1962.

3.2 The duty amount with and without benefit of APTA in respect of both Bills of Entry are given in the Table-II below:

**Table-II**

Bill of Entry number & date	Description of goods	Duty amount with benefit of SAPTA	Duty amount without benefit of SAPTA	Differential duty in Rs.
7906356 dt. 19.09.2023	Polyester Knitted Fabric mix lot/odd lot	Rs. 3,60,969/-	Rs. 3,60,969 + 71,025 = 4,37,089/-	Rs.71,025/-
7906591 dt.19.09.2023	Polyester 100% Knitted Fabric Lot of Mix/Left Over Rolls	Rs. 3,61,924/-	Rs. 3,61,924 + 73492 = 4,35,387/-	Rs.70,748/-

3.3 In the present case without disclosing any evidence of Contemporaneous import, value available for enhancement the duty amount or doubting the truth on duty amount has been enhanced arbitrarily. Principal of natural justice demand, whenever a document/report is sought to be used against the Appellant for the purpose of rejecting their declared value and re-determining the same, and all information pertaining to the same ought to be furnished to the Appellant and Appellant also to be afforded opportunity of justifying their declared duty. But in the instant case this rule has not been followed in the letter and spirit.

#### **PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 27.05.2025 following the principles of natural justice wherein Shri B. Satish Sunder, Advocate, appeared on behalf of the Appellant in virtual mode. He reiterated the submissions made in the appeal memorandum

#### **DISCUSSION AND FINDINGS:**

5. I have carefully gone through the case records, impugned order passed by the Assistant Commissioner, Import Assessment (Gr-III), Custom House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that following issues are to be decided in the present appeals:

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- (i) Whether the re-classification of the imported goods from CTH 60063200 to CTH 60053790 is correct.
- (ii) Whether the denial of preferential duty benefit under Notification No. 50/2018-Customs dated 30.06.2018 is justified.
- (iii) Whether there was a violation of natural justice in the re-assessment process.

5.2 The core of the dispute lies in the classification of "Polyester Knitted Fabric." The Appellant declared it under CTH 60063200, while the department re-classified it under CTH 60053790. The description as per Customs Tariff is as under :-

- CTH 6005: This heading specifically covers "Warp knit fabrics (including those made on galloon knitting machines), other than those of heading 6001 to 6004." CTH 60053790 is for "Other" under "Of synthetic fibres."

• CTH 6006: This heading covers "Other knitted or crocheted fabrics." CTH 60063200 is for "Of synthetic fibres" under "Other."

5.3 The test reports from CRCL, Kandla, unequivocally state that the samples are "Warp Knitted Fabric of Polyester Yarn." As per Rule 1 of the General Rules for Interpretation (GRI) of the Customs Tariff, goods are to be classified according to the terms of the headings and any relative Section or Chapter Notes. CTH 6005 specifically provides for "Warp knit fabrics." CTH 6006 is a residual heading for "other knitted or crocheted fabrics" not covered by preceding headings (6001 to 6005). Therefore, since the goods are definitively identified as "Warp Knitted Fabric" by a scientific test report, their classification under the specific heading CTH 6005 is correct and takes precedence over the general residual heading CTH 6006. The adjudicating authority's finding on classification is thus upheld.

5.4 The benefit of Notification No. 50/2018-Customs dated 30.06.2018 (SAPTA/APTA) was claimed by the Appellant under Sr. No. 646, which corresponds to CTH 600632. However, based on the test report, the correct classification of the goods is CTH 60053790. Section 28DA(10)(ii) of the Customs

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Act, 1962, explicitly states that preferential tariff treatment may be refused if the "complete description of goods is not contained in the certificate of origin." In this case, the Certificate of Origin (COO) was issued for CTH 600632, which is different from the actual classification of CTH 60053790. When the declared CTH in the Bill of Entry and the COO does not match the actual classification of the goods, the conditions for availing preferential tariff treatment are not met.

5.5 The Appellant has raised concerns about the violation of natural justice, particularly the lack of prior intimation/hearing before re-assessment and non-supply of test reports. I examine this issue stepwise as under:-

- a) Re-assessment under Section 17(5): Section 17(5) of the Customs Act, 1962, allows the proper officer to re-assess the duty if it is found that the self-assessment was incorrect. While principles of natural justice require an opportunity of being heard, the impugned order states that the test reports were shared with the Customs Broker (CB) M/s. Radhika Shipping Services via email dated 10.11.2023, and the CB, in reply, accepted the test reports and requested to process the Bills of Entry. The CB acts as an agent of the Appellant, and communication with the CB is deemed communication with the Appellant. The acceptance of the test reports by the CB implies that the Appellant was aware of the re-classification based on the scientific findings.
- b) Non-supply of Test Reports: The Appellant claims non-supply of test reports. However, the impugned order explicitly states that "The test reports were shared by SIIB with the CB M/s. Radhika Shipping Services vide email dated 10.11.2023 and the CB in reply vide their email dated 10.11.2023 has accepted the test reports and requested to process the Bills of Entry as per the relevant provisions of the Act." This directly contradicts the Appellant's claim. The onus was on the Appellant to follow up with their CB for the documents.
- c) Arbitrary Enhancement of Duty/Valuation: The Appellant's argument about arbitrary enhancement of duty without disclosing evidence of contemporaneous imports or doubting the truth of the declared value seems to confuse classification with valuation. The re-assessment was primarily due to a classification change based on scientific test results, which directly impacted the applicable duty rate, not necessarily a re-



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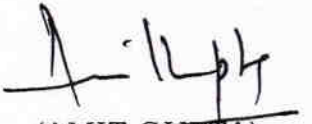
valuation of the goods' assessable value. The original assessable value was not disputed.

5.6 The Appellant's claims of natural justice violation are rebutted by the fact that their Customs Broker was informed of the test results and accepted them. The CB acts on behalf of the Appellant, and their actions bind the Appellant. The argument about arbitrary enhancement of duty is misplaced as the increase in duty is a direct consequence of the correct classification of the goods under a different CTH, which attracts a higher duty rate, not an arbitrary re-valuation. The legal provisions of Section 28DA(10)(ii) are clear that if the COO does not accurately reflect the goods' description/classification, the preferential benefit can be denied.

6. In view of the detailed discussions and findings above, I find that the adjudicating authority was correct in re-classifying the imported goods as "Warp Knitted Fabric of Polyester Yarn" under CTH 60053790, based on the conclusive test reports from CRCL, Kandla. Consequently, the denial of preferential duty benefit under Notification No. 50/2018-Customs dated 30.06.2018 is justified, as the goods do not fall under the CTH for which the benefit was claimed in the COO. The alleged violations of natural justice are not sustained, as the Customs Broker, acting on behalf of the Appellant, was duly informed of the test results and accepted them. Therefore, the impugned order is found to be legally sound.

7. Accordingly, I uphold the impugned order and reject both the appeals filed by the Appellant.



  
(AMIT GUPTA)

Commissioner (Appeals),  
Customs, Ahmedabad


Date: 10.06.2025

F.No. S/49-149/CUS/MUN/2023-24

F.No. S/49-150/CUS/MUN/2023-24

2366

सत्यापित/ATTESTED

  
अधीक्षक/SUPERINTENDENT  
सीमा शुल्क (अपील), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD.



By Registered post A.D/E-Mail

To,  
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Space E, 3rd Floor,  
Surya Kiran Building, 92,  
The Mall, Ludhiana-141001



Copy to:

- ✓ 1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Deputy/Assistant Commissioner of Customs, Import Assessment, Gr-III, Custom House, Mundra.
4. Guard File.



UNRECORDED

RECORDED  
25/05/2025  
25/05/2025