



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 - 20250871MN0000275313

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| क | फ़ाइल संख्या FILE NO. | S/49-73/CUS/MUN/2024-25 |
| 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-170 -25-26 |
| ग | पारितकर्ता PASSED BY | Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad |
| घ | दिनांक DATE | 08.08.2025 |
| ङ | उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO. | Order-in-Original no. MCH/ADC/AK/6/2024-25 dated 09.04.2024 |
| च | अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON: | 08.08.2025 |
| छ | अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT: | M/s. Tulsi Woolens, Village- Guria, P.O. Thathra, District - Varanasi, Uttar Pradesh- 221307 |

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| 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 |



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| | 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 | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench |
| | दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 2 nd 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. | |
| (a) | 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 है, 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

Appeal has been filed by M/s. Tulsi Woolens, Village- Guria, P.O. Thathra, District- Varanasi, Uttar Pradesh- 221307, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AK/6/2024-25 dated 09.04.2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner, Customs House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that Customs Broker (CB) M/s. Sadguru International on behalf of appellant, filed Bill of Entry No. 6778652 dated 21.12.2021 for importation of goods, declared as Raw Wool (Raw Wool 32 Micron & Above) (Not Corded or Combed) Carpet Grade Raw Wool", (hereinafter referred to as 'the said imported goods') falling under CTH 51012900. The goods were stuffed in container no. INKU6654870 and Country of Origin was declared as Turkmenistan. An information was received from National Customs Targeting Centre (NCTC) vide e-mail dated 22.12.2021 informing that the goods covered under Container No. INKU6654870 was categorised as risky cargo. In view of the intelligence communicated by NCTC, the goods covered under Bill of Entry No. 6778652 dated 21.12.2021, were examined thoroughly by the Officers of Special Intelligence & Investigation Branch (SIIB), Customs House, Mundra under Panchnama dated 24.12.2021. Examination of the Cargo was conducted in presence of independent Panchas and Customs Broker representative i.e. Shri Dinesh Bhai V Patel, H-Card holder, who presented himself as representative of the Appellant and Shri Deepak Singh, Executive, Operations of TG Terminals CFS. On inspection of the Container, one Time Bottle Seal No. IGMP 1299 was found affixed on the Container. On visual inspection, the commodity appeared to be 'Raw Wool'. A surveyor of CFS was also present during the examination, as per his report the quantity of the goods found was 62 Bales. The details of the Bill of Entry are as under:

| BE No & date | & Description of Goods CTH & declared | Qty | Rate (Rs.) Per KG | Declared Value (Rs.) | Declared Duty Payable (Rs.) |
|--------------------------|---|--------|-------------------------------------|----------------------|-----------------------------|
| 6778652 dated 21.12.2021 | Raw Wool (Raw Wool 32 Micron & Above) (Not Corded or Combed) Carpet Grade Raw Wool CTH-51012900 | 18,700 | Rs. 42.69 (.60 USD) (USD=77.15 INR) | 8,75,361.26 | 24,072 |



2.1 In view of the examination of the goods under Panchnama dated 24.12.2021, to seek clarification in the matter, Summons to the Appellant dated 29.09.2022 and Shipping Line were issued on 30.05.2023. Further, on the reasonable belief that the Appellant has mis-declared the goods in terms of country of origin with malafide intention to evade customs duty, the goods covered under the instant Bill of Entry were seized in terms of Section 110 of the Customs Act, 1962 under Seizure Memo and handed over for safe custody to the Custodian CFS.

2.2 In response to Summons dated 29.09.2022, a statement of Shri Abhinay Baranwal, Authorized Representative of the Appellant was recorded on 10.10.2022 wherein; on being asked about the import made vide Bill of Entry no. 6778652 dated 21.12.2021, Shri Abhinay Baranwal replied that order for importation of consignment was placed through an indentor and that the Appellant imported goods only from Dubai and never from Pakistan. On being questioned about the movement of container no. INKU6654870 from origin port: PKKHI-KARACHI to NPOD: AEJISA-REBEL ALI, tracked on the website of PICT i.e. pict.com.pk/en/online-tracking it was stated by him that seal number of container is not given in another document of PICT container tracking, seal number of container is 00167 and weight of the container is 22.6 MT's. As the shipment differs in seal number and weight, he stated that PICT container tracking document revealed that the seal number of container and weighment is different on import shipment and container. In other documents, there was no seal number. Therefore, it revealed that the consignment imported was from Dubai and not from Pakistan. He requested for release of goods as there is a possibility that the goods may be damaged and not in usable condition. Assurance was given by them to be present whenever they would be called and co-operate fully in investigation.

2.3 A summons dated 30.05.2023 was issued to the Manager of Shipping Line, M/s. IGM Shipping Pvt. Ltd. and in response of the same, Shri Kaki Praveen Kumar, Operation Manager appeared and tendered his statement under section 108 of the Customs Act, 1962. During the statement he submitted self-attested copies of Bill of Lading from Jabel Ali to Mundra Port and email exchange to Appellant, Dubai Customs Export Documents and also submitting copy of Bill of lading No. IGMKHIJEA2021165 dated 03.12.2021 for container No. INKU6654870 from Karachi Port to Jabel Ali Port.



2.4 On scrutiny of the documents on record and statements of Shri Abhinay Baranwal and Operation manager of shipping line following points were observed: -

- a. The impugned goods i.e "Raw Wool (Raw Wool 32 Micron & Above) (Not Corded or Combed) Carpet Grade Raw Wool" were declared of Turkmenistan (TK) origin and exported from Jabel Ali Port(UAE) by the supplier M/s Siyab AL Khaleej Trading FZ LLC, UAE.
- b. From the Container tracking site available on public domain, it shows that the Container No. INKU6654870 loaded from Karachi, Pakistan Vide BL No. IGM/KHI/JEA/2021165 dated 03.12.2021 having declared description of the goods as "Ready Garments (62 Bales), Total Gross Weight 18.762 Kgs, Net Wt. 18700 Kgs and reached at Jabel Ali port UAE on 07.12.2021.
- c. Thereafter, the container No. INKU6654870 (same which was earlier transported from Karachi to UAE) was loaded from Jabel Ali Port and destined to Mundra Port under BL No. JEAMUN11004241 dated 17.12.2021 having declared description as Carpet Grade Wool (62 Bales), Total Gross Weight 18.762 Kgs, Net Wt.18700 Kgs and reached at Mundra Port.
- d. The consignee in the BL No. IGM/KHI/JEA/2021165 dated 03.12.2021 (From Karachi to Jabel Ali) and Shipper/Exporter in BL No. JEAMUN11004241 dated 17.12.2021 (Jabel Ali to Mundra) both are same i.e M/s Siyab AL Khaleej Trading FZ LLC, add- Business Centre Rakez Ras AL Khaimah, UAE.
- e. The COO Certificate no. TMIR72844950 signed by Director, the Chamber of Commerce & Industry at Turkmenistan, certifying that the goods were produced in Turkmenistan issued on 18.12.2021, however the goods were loaded from Dubai on 16.12.2021. Thus, it appeared to be afterthought and dubious.

2.5 It was evident from the above investigation and evidences/documents available on record that No. of Bales, gross weight and Net Weight and Consignee/ shipper of the BoE remained as such after its loading at



Karachi Port till the Container reached at Mundra. It, therefore, appeared that the imported goods "Raw Wool (Carpet Grade 32 Micron & Above) (Not Carded or Combed) Carpet Grade Raw Wool" imported in Container INKU6654870, BoE No. 6778652 dated 21.12.2021 were of Pakistan origin and not of Turkmenistan origin as claimed by the Appellant. Therefore, it appeared that Appellant had mis-declared the Country of Origin of the said import item in the said Bill of Entry.

2.6 In the instant case, it appeared that the Appellant had mis-declared the Country of Origin as Turkmenistan instead of actual Country of Origin i.e. Republic of Pakistan with intent to evade appropriate Customs Duty (relevant Notification No. 05/2019 dated 16.02.2019) during self- assessment at the time of filing of Bills of Entry. As such, the declaration with respect to the Country of Origin by the Appellant was misleading and this act on the part of Appellant resulted in short levy of Duties, which led to undue monetary benefit to the Appellant. The aforesaid facts shows that the Appellant had resorted to willful mis-declaration of Country of Origin, the relevant Customs Duty Notification number in the Bills of Entry of the said imported goods by suppressing the said material facts, which shows the ulterior motive of the Appellant to evade payment of applicable Customs Duty in respect of said imported goods cleared for home consumption. Thus, as per Notification No. 05/2019-Customs dated 16.02.2019, In the First Schedule to the Customs Tariff Act, in Section XXI, in Chapter 93, tariff item 9806 00 00 the duty on the goods i.e. Raw Wool Carpet Grade imported from the Islamic State of Pakistan 98060000 is leviable @ 200% BCD+10%SWS+18% IGST. The duty calculation on the said imported goods is as under;

Table-A

| BE No & date | & Description of Goods & declared CTH | Qty | Rate (Rs.) Per KG | Declared Value (Rs.) | Revised Duty Payable (Rs.) |
|--------------------------|---|--------|--|----------------------|----------------------------|
| 6778652 dated 21.12.2021 | Raw Wool (Raw Wool 32 Micron & Above) (Not Corded or Combed) Carpet Grade Raw Wool CTH-51012900 | 18,700 | Rs. 42.69 (.60 USD) (USD=77.15 INR) | 8,75,361.26 | 24,30,003/- |

[BCD @200%:17,50,723/- + SWS@10%: 1,75,072/-+ IGST@18%:4,208 = 24,30,003/-]

Since the Appellant had mis-declared the COO and applicable duties in respect of imported goods; hence, in terms of Section 111(m) of the Customs Act, 1962, the said goods were liable for confiscation.



2.7 From the above discussed facts and statutory provisions, it was clear that the imported goods i.e. "Raw Wool Carpet Grade" Classified under CTH 51012900 are originated from Pakistan and were classifiable under CTH 98060000 which attract higher rate of BCD, therefore are appeared to be liable for confiscation under Section 111(m) of the Customs Act, 1962. The total duty payable as in Table-A amounting to Rs.24,30,003/- (BCD@ 200%; SWS@10% & IGST@18%) as per notification no. 05/2019-Customs dated 16.02.2019, is required to be recovered from the Appellant under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. The Appellant appeared to be liable for penalty under Section 114AA for knowingly and intentionally making incorrect declaration for the COO of the goods to evade payment of duty. The Appellant M/s. Tulsi woolens appeared to be liable for penalty under Section 112(a) of the Customs Act, 1962 for rendering the goods liable to confiscation under Section 111 (m) of the Customs Act, 1962.

2.8 Therefore, the appellant, were issued the SCN dtd. 19.09.2023 requiring them to show cause to the Additional Commissioner of Customs, Customs House, Mundra, as to why:

- i. Classification of 18700 kgs. of "Raw Wool (Carpet Grade 32 Micron & Above) (Not Carded or Combed) Carpet Grade Raw Wool" imported vide BE No. 6778652 dated 21.12.2021, BL No. JEAINMUN11004241 dated 17.12.2021 under Chapter Tariff Heading No. 51012900 should not be rejected & the same should not be classified under Chapter Tariff Heading No. 98060000 of the Customs Tariff Act, 1975.
- ii. 18700 kgs. of "Raw Wool (Carpet Grade 32 Micron & Above) (Not Carded or Combed) Carpet Grade Raw Wool" imported vide BE No. 6778652 dated 21.12.2021, BL No. JEAINMUN11004241 dated 17.12.2021 having assessable valued at Rs. 8,75,361/ (Rupees Eight Lakhs Seventy-five Thousand Three Hundred sixty-one) only should not be confiscated under Section 111(m) of the Customs Act, 1962.
- iii. The Customs Duty of Rs. 24,30,003/- (Twenty-four lakhs thirty thousand and three only) should not be recovered by the way of re-assessment under the provisions of Customs Act, 1962.
- iv. Penalty should not be imposed upon them under the provisions of




Sections 112(a) of the Customs Act, 1962.

- v. Penalty should not be imposed upon them under the provisions of Sections 114AA of the Customs Act, 1962.

2.9 Consequently, the Adjudicating Authority passed the following order:

- (i) He ordered to reject the classification of 18700 kgs. of Raw Wool Imported vide BE No 6778652 dated 21.12.2021 under chapter tariff heading No. 51012900 and order to reclassify under chapter Tariff Heading No. 98060000 of the Customs Tariff Act, 1975.
- (ii) He ordered for confiscation of the goods imported vide bill of 6778652 dated 21.12.2021 having assessable value of Rs.8,75,361/- (Rupees Eight Lakhs Seventy-Five Thousand Three Hundred Sixty-One only) under Section 111(m) of the Customs Act, 1962. However, he gave an option to the Appellant to redeem the confiscated goods on payment of redemption fine of Rs. 1,20,000/- (Rs. One Lakh Twenty Thousand Only) under Section 125 of the Customs Act, 1962.
- (iii) He ordered to recover Customs duty of Rs. 24,30,003/- (Twenty-four Lakhs Thirty Thousand and Three Only) by way of re-assessment under the provisions of Customs Act, 1962.
- (iv) He imposed a penalty of Rs. 2,10,000/- (Rs. two Lakh Ten Thousand Only) on the Appellant M/s. Tulsi woolens under Section 112(a)(ii) of the Customs Act, 1962.
- (v) He also imposed a penalty of Rs. 1,05,000/- (Rs. one Lakh five Thousand only) on the Appellant M/s. Tulsi woolens under Section 114AA of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-



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3.1 The appellant has submitted that the Adjudicating Authority grossly erred in holding that, *'the subject goods (e. 'Raw wool (Raw Wool 32 Micron & above) (Not Carded or Combed)' covered under the Bill of Entry No. 6778652 dated 21.12.2021 with the declared COO as Turkmenistan have been originated from Pakistan and Initially shipped from Karachi Port, Pakistan to Jebel Ali Port, UAE. Therefore the same goods with same container & seal no. have been shipped by the supplier to the consignee. M/s. Tulsi Woolens, Varanasi, Uttar Pradesh. I find that the importer had mis-declared the COO in order to evade the customs duty in respect of the imported goods.'* The Adjudicating Authority has upheld the allegations of the Investigation Agency, without application of mind. The Appellant vehemently denies the allegation of mis-declaration of the COO of said imported goods.

3.2 It is submitted that the allegation of the mis-declaration of the country of origin is solely based on the reasoning that tracking of container no. INKU66548770 on the PICT (Pakistan International Container Terminal Ltd.) website shows the same container no. INKU66548770 loaded from Karachi, Pakistan vide BL. No. IGMKHIJEEA/20211165 dated 03.12.2021 with goods declared as "Ready Garments (62 Bates) with total gross wgt. 18.762 Kgs. Net Wgt. 18770 kgs and reached at Jebel Ali Port on 07.12.2021. This reasoning is absolutely incorrect and misplaced. The Adjudicating Authority has failed to consider that the data reflecting on PICT website against the given container no. INKU66548770 differs from the subject consignment. The screenshot of the PICT website reflects the seal number as 001677 and the weight of the container as 22.6 Kg as alleged by the department. However, in the present matter, the BL. No. JEAMUN11004241 mentions the seal no. IGM412299 and the description of the goods as "Carpet Grade Wool" in the BL. No. JEAMUN11004241 whereas PICT website shows the description of the goods as "Ready Garments" as alleged by the department. Thus, it is clearly evident that the consignment shipped vide BL. No. IGMKHIJEEA/20211165 dated 03.12.2021 (from Karachi to Jebel Ali port) is a different consignment and not the same which was shipped vide BL. No. JEAMUN11004241. Thus, the inferences drawn from the PICT website by the department are incorrect and cannot be a basis to assume that the subject goods are of Pakistani origin and have been loaded from Karachi.

3.3 It is also submitted that the above factual position was brought out by Shri Abbinay Baranwal before the investigating officers during the recording of his statements on 10.10.2022. However, the investigating agency proceeded



with the assumption that the subject goods have travelled through Pakistan, which is completely misconstrued and unfounded. The impugned SCN dated 19.09.2023 has also relied upon the statements of Manager of Shipping line wherein he submitted the copy of Bill of Lading No. IGMKHJUEA2021166 dated 01.12.2021 for container no. INKU6654870 from Karachi Port to Jebel Ali Port. Based on the said statements, it is alleged that the consignee in the BL. No. IGMKHJUEA2021166 (from Karachi to Jebel Ali) and shipper/exporter in BL. No. JEAMUN1100414 (from Jebel Ali to Mundra) is the same, M/s. Siyab AL. Khaleej Trading LLC, Ras Al Khaimah, UAE. However, no material evidence has been produced by the department to support the said allegation. It is merely based on the alleged BL. No. IGMKHJUEA2021166 (provided by the Manager of Shipping Line, which has not been provided to the Appellant. Thus, the department has proceeded on the basis of the statements and documents which was never supplied to the Appellant and which is against the established principles of judicial discipline.

3.4 Therefore, it is submitted that the allegation of import of goods of Pakistani origin is merely an assumption without any substantive evidence and hence, cannot be given any credence.

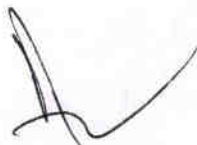
3.5 The Respondent has grossly erred in holding that the COO Certificate No. TMIR72844950 signed by Director the Chamber of Commerce & Industry at Turkmenistan was issued on 18.12.2021 however the goods were loaded from Dubai on 16.12.2021 thus, it appears to be the afterthought and dubious The said findings of the Ld. Respondent are absolutely incorrect and unfounded. It is submitted that the COO certificate is issued only upon inspection of the goods and after the inspection is completed the goods are loaded in the container Thus, the issuance of Certificate by the concerned ministry takes some time and is mostly issued after the goods are loaded in the container This is a common trade practice. In the present case, the goods were loaded on 17 12.2021 and not on 16.12.2021 as evidenced by the BL No. JEAMUN11004241 and screenshot of the ICEGATE Sea IGM tracking to establish the same. The fact that the COO certificate is issued only a day after the goods were loaded is a matter of trade practice. The delay in issuance of the certificate cannot be construed as an afterthought nor it can be attributed to the Appellant (importer) in any case. Hence, the allegations as to the genuineness of the COO certificate is absolutely frivolous and devoid of any merits. Screenshot of the ICEGATE IGM tracking is attached hereto



3.6 The Respondent has summarily rejected the various documentary evidences produced by the Appellant which substantiates that the imported goods are of Turkmenistan origin. The Certificate of Origin dated 18.12.2021 issued by the Director, the Chamber of Commerce & Industry at Turkmenistan certifies that the goods are produced in Turkmenistan. Further, the Appellant had also submitted a declaration by the overseas supplier stating that the goods supplied to them are brought from the local markets of UAE which are of Turkmenistan origin and thus, no movement of container was involved from Turkmenistan to UAE through the supplier. Despite of the evidences on record, the Adjudicating Authority dismissed the contentions of the Appellant and held that the goods are of Pakistani Origin. However, there is no evidence or documents on record to suggest that the subject goods have in fact travelled through Pakistan.

3.7 It is submitted that the country of origin certificate issued by the Director of Director, the Chamber of Commerce & Industry at Turkmenistan is a valid document and cannot be rejected based on the mere assumption and presumption of the department. In case of any doubt as to the authenticity of the COO, the investigation should have been conducted at the Ministry of Commerce of Turkmenistan. However, no such investigation was done in the present case. Without conducting a thorough examination, the Adjudicating Authority concluded that the goods were imported from Pakistan, alleging that the Appellant evaded customs duty.

3.8 Even if it is assumed that the imported goods were routed through Pakistan and UAE, that by itself does not conclude that the goods are of Pakistani Origin as has been held by co-ordinate bench of this Tribunal in the case of Jupiter Dychem Pvt. Ltd. vs. Commissioner of Customs, 2023 (3) TMI 670. This position has also been upheld in the recent judgement of CESTAT Ahmedabad in Amglo Resources Pvt. Ltd. vs. Commissioner of Customs, Appeal No. 10772 Of 2023. It is a settled legal principle that in matters concerning the origin of country of goods, the burden of proof lies with the party making the claim. In the present case, the department alleges that the said goods were imported from Pakistan instead of Dubai, the burden is cast upon them to prove the same. They are obligated to provide evidence supporting their assertion. However, in this case, instead of substantiating this claim, the Adjudicating Authority held that the subject goods were imported from Pakistan without




fulfilling the requisite burden of proof. Hence, the allegations raised in the Impugned SCN and the consequent Impugned Order are unfounded and devoid of any merits.

3.9 The Adjudicating Authority has grossly erred in not appreciating that the Appellant had acted bonafidely in declaring the country of origin as Turkmenistan in the Bill of Entry. It is submitted that the Appellant had imported the goods from UAE through Indentor. The sales contract between the Appellant (Importer), Indentor & the supplier for Import of Carpet Grade Wool from UAE are already on record. The Bill of Entry No. 6778652 dated 21.12.2021 was filed by the Appellant as per the Import documents such as Commercial Invoice, Packing List, Bill of Lading and Certificate of Origin provided by the supplier. It is not a disputed fact that there is any discrepancy between the said Bill of Entry and the Import documents. Accordingly, the origin of the imported goods was declared as 'Turkmenistan' as per the country of origin certificate provided by the foreign supplier, which was issued by the competent authority of Ministry of Chamber of Commerce reproducibility in Turkmenistan. Thus, the Appellant has no reason to even doubt the genuineness of the certificate of origin and hence, relied upon the same. In such circumstances, if there is any doubt as to the authenticity of the Certificate, the Appellant cannot be held liable for the same when they have acted bonafidely based on the documents supplied to them.

3.10 It is settled law that charge of mis-declaration cannot be sustained against Importer when bill of entry was filed based on documents received from supplier. No documents proof whatsoever has been produced by authorities to establish that the COO certificate is not genuine or to say the least, the Appellant had any prior knowledge that COO Certificate are purportedly not genuine. In the instant proceedings, the Appellant presented a certificate of origin (COO) NO. TMIR72844950 signed by Director, the Chamber of Commerce & Industry at Turkmenistan, certifying that the goods are produced in Turkmenistan issued on 18.12.2021, which clearly indicates the actual origin of goods. However, the department deemed them dubious without providing any corroborating evidence of their doubts. The Adjudicating Authority also aligned with the department's view without providing any reasonable explanations and consequently, passed the Impugned order asserting that the certificate of origin was dubious. Hence, The Impugned Order is arbitrary, unsustainable and deserves to be set aside.



3.11 The Impugned Order has erred in holding the goods liable for confiscation under Section 111(m) of the Act. It is submitted that the said provision cannot be invoked in the present case since it is established above that there is no mis-declaration on the part of the Appellant. The Bills of Entry were filed as per the supplier's invoice and country of origin certificate. It is submitted that nothing incriminating has been found against the Appellant to establish that there was any intention to mis-declare the origin of the imported goods. Further, there is no material evidence on record to show that the goods are of the Pakistani origin. Thus, charge of mis-declaration against the Appellant is unsustainable and therefore the imposition of confiscation under Section 111(m) of the Act is liable to be set aside.

3.12 With regards to invocation of Section 112(a) of the Act, it is submitted that since the Appellant cannot be held liable for the confiscation of goods as established above, the question of imposing penalty under Section 112(a) of the Act does not arise.

3.13 It is also submit that Section 114AA has no application to the present case. Section 114AA applies where a person "knowingly" or "intentionally" makes, signs or uses or causes to be made signed or used any false or incorrect declaration statement or document. In other words, Section 114AA provides for imposition of penalty only where incorrect or false declarations are furnished with intention and prior knowledge. Thus, it is important to establish mens rea to invoke this section. It is submitted that the Appellant has not made any incorrect or false declarations in the present case. It is established above that the bill of entry dated 21.12.2021 was filed by the Appellant as per the documents provided by the foreign supplier. Further, no evidence has been produced by the department that proves that the country of origin declared as Turkmenistan is incorrect. In such a case, mis-declaration cannot be alleged and hence, the question of "knowingly" or "intentionally" furnishing or declaring any false statement, does not arise. Therefore, by no stretch of imagination, Section 114AA can be invoked against the Appellant. Reliance is placed upon the following judicial precedents which emphasis on the requirements of Section 114AA, in the absence of which, the same cannot be invoked:

- Kamal Sehgal vs. Commissioner of Customs, 2020 (1) E.L.T. 742 (Tri - Del)




- Shree Ayanar Spinning & Weaving Mills Ltd. Vs. C.C. Tuticorin, 2019 (370) E.L.T. 1681 (Tri. Chennai)
- Commissioner of Customs Vs. Sri Krishna Sounds and Lightings 2019 (370) E.L.T 595 (Tri. Chennai)

3.14 In view of the aforesaid, it is submitted that none of the conditions required for imposing penalty under Section 114AA exists in the present case. Hence, the penalty imposed under Section 114AA of the Act are liable to be set aside. In view of the aforesaid circumstances, it is submitted that Impugned order dated 09.04.2024 is liable to be set aside. Therefore it is submitted that the imposed fine and penalties on the Appellant may please be dropped and set aside.

3.15 It is submitted that the Appellant is suffering significant loss every day on account of high demurrage charges since the consignment is in the custody of customs for more than 2 years. The imported raw wool is a natural wool which is prone to get infected with moth infestation if not given proper air and light and it is most likely that the consignment has been completely perished. Thus, the Appellant has no option but to waive off the title to the goods and request that the same may be disposed off by the customs authorities. It is submitted that their case needs a lenient view and sympathetic consideration, looking at the overall facts and circumstances of the case, it is prayed that the Appellant may please be exonerated from all the charges in view of his fullest cooperation and the fine and penalties imposed upon them may please be dropped.

PERSONAL HEARING:

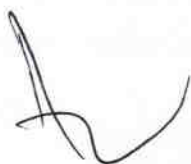
4. Personal hearing was granted to the Appellant on 12.06.2025, following the principles of natural justice wherein Ms. Pragya Mishra, Advocate appeared for the hearing and she re-iterated the submission made at the time of filing the appeal. She filed additional submissions as under :-

- (i) The present appeal filed against the captioned OIO dtd 09.04.2024 involves only the question of country of origin of imported goods i.e. Carpet Grade Raw Wool declared as Turkmenistan Origin. It is the allegation of the department that the country of origin appears to be



of Pakistani origin instead of declared COO as Turkmenistan'

- (ii) The goods have been imported from the overseas supplier in dubai (UAE) through an indenter under the contractual arrangement which specifically mentions the description of Carpet Grade Wool of Turkmenistan origin. Various documentary evidences were furnished by the appellant to substantiate the genuineness of the COO such as; Sales contract between the involved parties, declaration by the overseas supplier stating that the subject goods have been brought from local markets of dubai of Turkmenistan origin and hence, no movement of goods involved from Turkmenistan to UAE, Valid COO dtd 18.12.2021 and Veterinary Certificate, both issued by the Director, the Chamber of Commerce & Industry at Turkmenistan, certifying that the goods shipped in container
- (iii) The documentary evidences are sufficient proof to conclude that the declared COO as Turkmenistan is correct. It is not the case that the COO is forged or fabricated and no such allegations regarding the genuineness of the COO has been raised by the Respondent.
- (iv) The entire case against the Appellant has been made out on the basis of PICT website which shows the movement of the same container no INKU6654870 from Karachi to Jebel Ali. However, the allegation that the description and the weight of the shipment is same is absolutely incorrect to falsely implicate the Appellant as PICT website shows the description of goods as "Ready Garments" and seat no as 00167 which is different from the declared description. Thus, the department deemed them dubious without providing any corroborating evidence of their doubts. The Ld. Respondent also aligned with the department's view without providing any reasonable explanations and consequently, passed the Impugned order asserting that the certificate of origin was dubious. Hence, The Impugned Order is arbitrary, unsustainable and deserves to be set aside.
- (v) It is therefore humbly urged before your honour that the impugned OIO is devoid of any merits and may please be set aside along with consequential confiscation and penalties imposed upon the Appellant.




She also submitted compilation of following case laws in support of their arguments :-

- HAZARI TRADING CO Versus COMMISSIONER OF CUSTOMS, MUMBAI reported at 2012 (284) E.L.T. 91 (Tri. - Mumbai)
- JAI GOVERDHAN ENTERPRISE Versus COMMISSIONER OF CUSTOMS reported at (2024) 19 Centax 374 (Tri.-Ahmd)
- SABOO GEORGE Versus COMMISSIONER OF CUSTOMS, KANDLA reported at 2008 (230) E.L.T. 535 (Tri. - Del.)
- SREE AYYANAR SPINNING & WEAVING MILLS LTD Versus C.C., TUTICORIN reported at 2019 (370) E.L.T. 1681 (Tri. - Chennai)

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs 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 required to be decided in the present appeals which are as follows:

- (i) Whether the reclassification of "Raw Wool" from CTH 51012900 to CTH 98060000 and the consequent demand for differential Customs Duty are legally sustainable.
- (ii) Whether the confiscation of goods under Section 111(m) and the imposition of redemption fine under Section 125 of the Customs Act, 1962, are legally sustainable.
- (iii) Whether the imposition of penalties under Section 112(a)(ii) and Section 114AA of the Customs Act, 1962, are legally sustainable and proportionate.

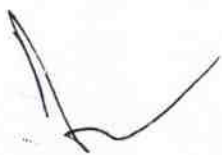


5.2 The core of the Revenue's case for reclassification and higher duty is the alleged misdeclaration of the Country of Origin (COO). If the goods are indeed of Pakistani origin, then Notification No. 05/2019-Customs dated 16.02.2019 applies, which imposes a BCD of 200% on "All goods originating in or exported from the Islamic Republic of Pakistan" under CTH 98060000.

5.3 The adjudicating authority's findings are based on compelling evidence:

- Container Tracking Data: The container (INKU6654870) was tracked, showing it was loaded from Karachi, Pakistan, with a Bill of Lading (BL No. IGM/KHI/JEA/2021165 dated 03.12.2021) declaring "Ready Garments". The same container then moved to Jebel Ali Port and was subsequently shipped to Mundra under a different BL (JEAMUN11004241 dated 17.12.2021) declaring "Carpet Wool". This complex routing and change in declared goods strongly suggest a deliberate attempt to conceal the true origin and nature of the cargo.
- Discrepancy in COO Certificate: The COO certificate from Turkmenistan was issued on 18.12.2021, after the goods were loaded from Dubai on 16.12.2021. This temporal inconsistency raises serious doubts about the authenticity and validity of the COO certificate. A certificate issued after the goods have already been shipped from an intermediate port (Dubai, which itself is not Turkmenistan) for a consignment that originated elsewhere (Pakistan) is highly suspicious.
- Inference of Pakistani Origin: The adjudicating authority reasonably inferred that the goods were of Pakistani origin based on the initial loading from Karachi and the deceptive routing.

5.4 The Appellant's argument, relying on Jai Goverdhan Enterprise and Hazari Trading Co., that the COO certificate cannot be doubted without a retroactive check under Rule 9 of the relevant Origin Rules is misplaced in this specific context. While Rule 9 mandates a retroactive check for doubts about authenticity, here the doubt is not merely about authenticity but about the factual accuracy of the origin claim, clearly contradicted by the physical movement of the container and the timing of the certificate's issuance. The evidence points to a fraudulent scheme rather than a simple doubt requiring a




procedural check. The cases cited by the Appellant, such as Jai Goverdhan Enterprise, typically deal with situations where the certificate itself is not inherently flawed in its issuance or timing, but external statements are used to doubt it. Here, the certificate's timing vis-a-vis the goods' movement is a fundamental flaw.

5.5 The Appellant's claim that the misdeclaration was due to the supplier and they had no prior knowledge is not credible given the elaborate scheme of trans-shipment and the blatant discrepancy in the COO certificate. Such a complex operation points to a deliberate and orchestrated attempt to misrepresent the origin, not a mere "mistake.". Therefore, the reclassification of "Raw Wool" from CTH 51012900 to CTH 98060000 and the consequent demand for differential Customs Duty are legally sustainable based on the strong evidence of misdeclaration of Country of Origin and the clear intent to evade duty.

5.6 Section 111(m) of the Customs Act, 1962, provides for confiscation of goods where "any document filed by the importer or exporter is false or incorrect in any material particular." In this case, the Bill of Entry and associated documents (like the COO certificate) contained false particulars regarding the country of origin and the loading port. These are material particulars, as they directly affect the levability of duty. Since the goods were imported based on false declarations regarding their origin, they are clearly liable for confiscation under Section 111(m). Section 125 allows for redemption of confiscated goods on payment of a fine, in lieu of confiscation. The adjudicating authority has imposed a redemption fine of ₹1,20,000/-. This amount is reasonable considering the reassessed duty liability of ₹24,30,003/-. The option to redeem allows the importer to clear the goods after paying the fine, which is a mitigating factor. Therefore, the confiscation of goods under Section 111(m) and the imposition of redemption fine under Section 125 of the Customs Act, 1962, are legally sustainable.

5.7 Section 112(a) provides for a penalty on any person who does or omits to do any act which would render any goods liable to confiscation under Section 111. Since the goods have been found liable for confiscation under Section 111(m) due to the Appellant's misdeclaration of COO, the imposition of penalty under Section 112(a)(ii) is a direct and legally justifiable consequence. The quantum of penalty of ₹2,10,000/- is well within the statutory limits (which can be up to five times the duty sought to be evaded, or the value of goods,

whichever is higher). Given the deliberate nature of the misdeclaration and the significant duty evasion, this penalty is proportionate.

5.8 Section 114AA imposes a penalty on any person who "knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in the transaction of any business relating to Customs, which is false or incorrect in any material particular, knowing or believing such declaration, statement or document to be false or incorrect, or not believing it to be true.". This section requires a very high standard of mens rea – direct, personal knowledge or belief of the falsity of the document. In this case, the evidence of complex routing, the timing discrepancy of the COO certificate, and the clear benefit derived from misdeclaration strongly point to the Appellant's knowledge and intentional participation in filing false documents. The Appellant's claim of being unaware of the COO being incorrect is not credible in light of the concerted efforts to conceal the true origin.

5.9 The cases cited by the Appellant, such as Kamal Sehgal and Shree Ayyanar Spinning & Weaving Mills Ltd., often emphasize the need for strong evidence of mens rea for Section 114AA. In the present case, the circumstantial evidence, including the elaborate scheme to route goods through multiple ports and the issuance of a back-dated COO certificate, provides sufficient grounds to infer that the Appellant knowingly or intentionally caused false declarations to be made. This is not a case of mere negligence or technical breach, but a deliberate act of misrepresentation. The penalty of ₹1,05,000/- is also proportionate to the gravity of the offense. Therefore, the imposition of penalty under Section 114AA of the Customs Act, 1962, is legally sustainable and proportionate.

6. In view of the detailed discussions and findings above, this appellate authority concludes that the appeal filed by M/s. Tulsi Woolens is not sustainable on merits. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- (i) The reclassification of imported "Raw Wool" from CTH 51012900 to CTH 98060000 and the consequent demand for differential Customs Duty of ₹24,30,003/- by the impugned Order-in-Original No. MCH/ADC/AK/6/2024-25 dated 09.04.2024, is hereby upheld.




- (ii) The confiscation of goods under Section 111(m) of the Customs Act, 1962, and the imposition of a redemption fine of ₹1,20,000/- under Section 125 of the Customs Act, 1962, are hereby upheld.
- (iii) The imposition of penalty of ₹2,10,000/- on the Appellant under Section 112(a)(ii) of the Customs Act, 1962, is hereby upheld.
- (iv) The imposition of penalty of ₹1,05,000/- on the Appellant under Section 114AA of the Customs Act, 1962, is hereby upheld.

7. The appeal filed by M/s. Tulsi Woolens is hereby rejected.



સત્યાપિત/ATTESTED
અધીક્ષક/SUPREINTENDENT
સીમા શુલ્ક (અપીલ્સ), અમદાવાદ.
CUSTOMS (APPEALS) AHMEDABAD


(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

Date: 08.08.2025

F. No. S/49-73/CUS/MUN/2024-25 AHMEDABAD

By Registered post A.D/E-Mail

2864

To,
M/s. Tulsi Woolens,
Village-Guria, P.O. Thathra,
Dist-Varanasi,
Uttar Pradesh – 221307.

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom, Custom House Mundra.
4. Guard File.