



## ***ALO Law Office- IDT Tax / Arbitration / Litigation***

**Date: 05.07.2025**

# **CESTAT Chandigarh- FSSAI Standards Not Mandatory for Basmati Rice Exports**

## **Background of the Case**

*M/s Hightop Trading Pvt. Ltd.*, a rice exporter registered with APEDA, faced punitive action by Customs, Ludhiana, for allegedly misdeclaring “non-basmati rice” as “PUSA Brown Basmati Rice” under CTH 1006 3020.

The customs authorities, relying on a CRCL lab report, claimed the exported rice failed to meet certain parameters under FSSAI standards. Consequently, duty demand, confiscation, penalty, and redemption fine totaling over ₹2 crore were imposed.

## **Key Allegations by the Revenue**

- Exporter falsely declared non-basmati rice as brown basmati rice to evade duty and circumvent export restrictions.
- CRCL report stated that two key parameters (average cooked rice length and elongation ratio) did not conform to FSSAI standards.
- Invoked Sections 113(d), 114A, and 114AA of the Customs Act, 1962.

## **Defense by the Exporter**

- Argued that FSSAI standards are not applicable to export consignments unless explicitly mentioned in the Foreign Trade Policy (FTP).

- Claimed full compliance with conditions listed in ITC (HS) Schedule-II, Sl. No. 57, governing brown basmati rice exports.
- CRCL is not a designated authority for food safety evaluation under the FSSAI regime.
- No rejection of goods by the foreign buyer (UK), nor evidence of diversion or misdeclaration.

### CESTAT's Findings

1. **Scope of FSSAI Standards:** The Tribunal noted that FSSAI's mandate under its parent Act does not include exports. The law only applies to food meant for domestic consumption and imports unless export applicability is explicitly stated in the FTP or law.
2. **Test Report Interpretation:** The rice conformed to 6 out of 8 FSSAI parameters, and fully complied with FTP requirements—including APEDA registration, grain size, inspection certificates, and shipment from a valid EDI port.
3. **FTP Prevails Over FSSAI in Export Control:** The CESTAT ruled that Foreign Trade Policy (FTP) governs export eligibility—not domestic food safety laws. Since DGFT conditions for export were met, no violation of customs law occurred.
4. **Department's Overreach:** The Tribunal criticized the Revenue for relying solely on CRCL's findings and failing to cite any statutory provision or DGFT notification that extended FSSAI rules to exports.

### Final Verdict

The CESTAT set aside the confiscation, duty demand, penalties, and ₹1 crore redemption fine imposed on the exporter. The appeal was allowed with consequential relief.

### Key Takeaway

This ruling reinforces that exports are governed by DGFT and FTP provisions, not domestic food safety standards unless explicitly stated. The judgment provides clarity to exporters of food products, particularly in the agri-export sector, where confusion over FSSAI applicability persists.

### Relevant Legal Provisions Referred

- **Section 113(d)** – Confiscation of misdeclared goods
- **Section 114A & 114AA** – Penalty provisions for fraud/misdeclaration
- **Foreign Trade Policy** – Schedule-II, Sl. No. 57
- **FSSAI Act, 2006** – Sections 1(n), 1(o), and 16

*This Article has been written by Shri Ravi Shekhar Jha, Advocate Delhi High Court based on his interpretation of the law. He can be reached at his email id [intelconsul@gmail.com](mailto:intelconsul@gmail.com) or on his Mobile +91-9999005379.*

**Source: CESTAT Chandigarh**

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**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 60660 of 2024**

[Arising out of Order-in-Original No. COMMR/NA/LDH/CUSTOMS/13/2024 dated 30.09.2024 passed by the Commissioner of Customs, Ludhiana]

**M/s Hightop Trading Private Limited**

Village Sarai Khas, Amanatpur Road,  
Jalandhar, Punjab 144805

**.....Appellant**

*VERSUS*

**Commissioner of Customs, Ludhiana**

Customs House, ICD GRFL Complex,  
G T Road, Sahnewal, Ludhiana, Punjab 141120

**.....Respondent**

**APPEARANCE:**

Shri Sudhir Malhotra, Advocate for the Appellant

Shri Siddharth Jaiswal and Shri Anurag Kumar, 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. 60757/2025**

DATE OF HEARING: 29.05.2025

DATE OF DECISION: 04.07.2025

**P. ANJANI KUMAR:**

M/s High-top Trading Private Limited, filed this Appeal  
No. C/60660/ 2024, challenging the Order-in-Original dated  
30.09.2024 (followed by a corrigendum dated 29.11.2024)

2. Brief facts of the case are that the appellants, holding IEC No. 0511068182, are registered with Agricultural and Processed Foods Products Export Development Authority, New Delhi (APEDA) and are engaged in export of rice and are; they entered into contract / PO Number 23-33 dated 11.07.2023 with overseas buyer M/s Flying Trade Limited, Harwich, UK; they filed a shipping bill No.2998107 dated 05.08.2023 for export of 587.50 MT of "brown basmati rice" CTH 10063020 valued at Rs. 5,03,66, 962.50 FOB and "grain discharger machinery & parts" falling under CTH 84378020, valued at Rs. 2,29,381, FOB, under invoice No. HT 222 dated 11.07.2023; there was no dispute as regards grain discharger machinery & parts; customs did not agree with appellant's description of PUSA Brown Basmati Rice; customs drew the samples and sent the same to Central Revenue Chemical Laboratory, New Delhi, vide Test Memo No. 42/EXP/ HTPL/2023 dt. 16.08.2023 to ascertain whether rice was "Brown Basmati Rice or Other; pending test report, goods were allowed to be exported provisionally, on furnishing Test Bond No. 2002161658 dated 18.08.2023 for Rs. 11,13,11,959. CRCL, New Delhi, vide letter F. No. 35-CUS/CRCL/ 2023-24 dated 25.09.2023 submitted a report to the effect that the sample under reference does not meet the specifications of brown basmati rice; on a clarification sought by customs, vide their letter dated 28.10.2023, CRCL, vide their letter F. No. 1-Food Section/CRCL/2022-23 dated 03.11.2023 clarified that *based on tested chemical and physical parameters, the samples under reference does not meet the requirement of*

*basmati rice. Hence, it may kindly be considered as other than basmati rice.*

2.1. A Show cause Notice dated 01.04.2024 was issued to the appellants seeking to confiscate the goods; to classify the exported rice as non-basmati; to recover Customs duty on exported rice and to impose penalties. The impugned order was issued confirming duty of Rs. 1,00,73,392; imposing Penalty of Rs. 1,00, 73,392 under section 114A; penalty of 20,00,000 under section 114AA while imposing Redemption Fine of Rs. 1,00,00,000; Hence, this appeal.

3. Shri Sudhir Malhotra, Learned Counsel for the appellants submits that the brief issue that requires determination in this case is as to whether an exporter is required to satisfy the conditions for export of brown basmati rice under Schedule II of Export Policy (Sl. No. 57 for basmati Rice -de-husked brown) or the condition laid down vide Notification dated 11.01.2023, issued by Foods Safety and Standard Authority of India (FSSAI). He submits that revenue has compared the test report given by CRCL, New Delhi with the parameters of Basmati Rice laid down in FSSAI and alleged / held that impugned goods are other than basmati rice. He submits that the adjudicating authority failed to appreciate that domestic laws are not applicable in respect of goods to be exported and that exports are regulated by conditions laid down in Schedule-II of the Foreign Trade Policy. He submits that even going by the CRCL report, the impugned goods do not conform to only 2 of the eight parameters i.e. average cooked rice length (mm) and Elongation ratio after cooking.

4. Learned Counsel takes us through relevant provisions of the Foreign Trade Policy and submits that the appellant has fulfilled all the conditions laid down for export of basmati rice (de-husked brown) as mentioned at Sl. No. 57 of ITC (HS) - Schedule-II; Tariff Item 1006 3020. He submits that the adjudicating authority has neither considered nor appreciated the submissions of the appellant in this regard and the provisions of ITC (HS) Schedule-II of FTP and held that the Food Safety and Standards Regulations are applicable to sale of food products in India which covers the food products meant for exports also and that it is mandatory to follow guidelines from the Food Safety and Standards Authority of India (FSSAI) for the export of food products from India to prevent the export of sub-standard or unsafe food products from India. He submits that Adjudicating Authority failed to appreciate that FSSAI provisions are not applicable in respect of goods to be exported unless specifically mentioned in the Foreign Trade Policy. He submits that department did not place on record any statutory provision/notification/circular etc, stipulating the applicability of FSSAI provision for export of basmati rice.

5. Learned Counsel submits further that the Adjudicating Authority erred in confiscating impugned goods under section 113 (d) of Custom Act; provisions *ibid* are not applicable in this case as the appellants and goods fulfilled all the necessary criteria laid down in Sl. No. 57 of the Schedule 2 of Export Policy as applicable to goods at ITC(HS) 1006 3020 i.e. brown basmati rice falling under heading 1006 3020; therefore, imposition of redemption fine of Rs. 1 crore is arbitrary and not justified. He submits that imposition of penalty

under any section is not justified as there was no *mala fide* act or intention and no mis-declaration and falsification of documents; adjudicating authority withdrew the penalty imposed under section 114 (i) of Customs Act, and imposed penalty under section 114A and 114AA of the Act.

6. Shri Siddharth Jaiswal, assisted by Shri Anurag Kumar, Learned Authorised Representative for the Revenue, submits that the present case is of deliberate mis-declaration of non-Basmati Rice as "Brown Basmati Rice" under Customs Tariff Heading (CTH) 10063020 to circumvent export restrictions and evade applicable duties; CRCL, vide report dated 22.09.2023 and clarification dated 03.11.2023, established that the exported rice did not meet the prescribed standards for Basmati Rice under the Food Safety and Standards Authority of India (FSSAI) Regulations, 2023; deviations i.e. average cooked rice length of 9.2 mm (against the required 12 mm) and elongation ratio after cooking of 1.25 (against the minimum 1.7), conclusively prove that the exported rice was Non-Basmati Rice (CTH 10063090), which is prohibited for export under DGFT Notification No. 20/2023 (20.07.2023); exporter intentionally misclassified in a willful violation of Section 50(2) & (3) of the Customs Act, 1962; consequently, the exporter's actions attracted penalties under Sections 113(d), 114(i), 114A, and 114AA of the Customs Act, 1962, along with confiscation and redemption fines.

7. Heard both sides and perused the records of the case. Brief question involved in this case is as to whether an exporter required to satisfy the conditions for export of brown basmati rice laid down as

per Sl. No. 57 of ITC (HS) – Schedule-2 – Export Policy for basmati Rice (De- husked brown) or also required to satisfy the condition laid down vide Notification dated 11.01.2023, issued by FSSAI. The appellants claim that the export of goods, including food items, are governed by the Foreign Trade Policy and the conditions prescribed there in and not by the FSSAI; even if the item is required to satisfy the standards of FSSAI, a condition to that effect must be there is the ITC as relevant to the item under respective ITC (HS) Code.

8. Relevant ITC (HS) for the impugned item, 1006 3020, De-husked (Brown), semi milled, milled both in either par - boiled or raw condition, Sl. No. 57 of Schedule-2, lays down the following conditions.

- (i) Exports allowed subject to registration of contracts with the APEDA, New Delhi;*
- (ii) Grain of rice to be exported shall be more than 6.61 mm of length and ratio of length to breadth of the grain shall be more than 3.5;*
- (iii) Export shall be through Custom EDI ports. Export is also permitted through the non-EDI Land Custom Stations (LCS) on Indo-Bangladesh and Indo-Nepal border subject to registration of quantity with DGFT. Regional Authorities (RAs) Kolkata & Patna and such other RAs as notified by DGFT from time to time will be the designated RAs for the purpose of such registration of quantity;*
- (iv) Export to EU Member States and European countries, namely Iceland, Liechtenstein, Norway and Switzerland permitted subject to issuance of certificate of Inspection by Export Inspection Council/Export Inspection Agency.*
- (v) Certificate of Inspection by Export Inspection Council / Export Inspection Agency shall be mandatory*

*for export to remaining European countries with effect from 1st January, 2022*

**(vi)** *Exports to Russian Federation permitted subject to pre-shipment quality certification issued by*

*(1) Insecticide Residue Testing Laboratory.*

*(2) Geo-Chem Laboratories Pvt Ltd.*

*(3) Reliable Analytical Laboratory*

*(4) Arbro Pharmaceuticals Ltd.*

*(5) Shri Ram Institute for Industrial Research, Delhi*

*(6) Shri Ram Institute for Industrial Research, Branch Office Bangalore (7) Delhi Test House; and*

*(8) Vimta Labs. or any other agency as may be notified from time to time."*

**(vi)** *Exports of empty printed gunny bags with Markings indicating the product being Indian Basmati Rice, in whatever manner, are not permitted except when exported along with the consignments of Basmati Rice, in which cases also, the same shall not exceed 2% of the total number of filled gunny bags of Basmati Rice being exported;*

**(vii)** *In case of un-bagged Indian Basmati Rice being exported in bulk or in bags of 50 Kgs or above, the exports of empty printed gunny bags with Markings indicating the product being Indian Basmati Rice, in whatever manner, shall also be permitted to the extent of actual requirements considering the total quantity of the consignment and the sizes of the empty bags being exported;*

**(viii)** *Export of Basmati Rice shall not be permitted on the basis of Documents against Acceptance (D/A) unless such export is covered either by Bank Guarantee or ECGC Guarantee. [Notification No. 18/2015-20 dated 01.08.2016.*

9. The appellants claim that they have fulfilled the conditions as above; basmati rice is exempted from payment of export duty vide

Notification No. 27/2011-Cus dt. 01.03.2011, as amended; the appellant's claims that they have satisfied the conditions laid down as follows.

(i). the appellant entered into purchase contract, PO No. 23-33 dated 11.07.2023 with overseas buyer, M/s Flying Trade Limited and the said contract was registered with APEDA, New Delhi vide RCAC No. 396206 dt. 31.07.2023; test report given by CRCL indicates that the condition No.

(ii). test report given by CRCL indicates that the condition No. (ii) as above, to the extent that the Grain of rice to be exported shall be more than 6.61 mm of length and ratio of length to breadth of the grain shall be more than 3.5, is satisfied. The Revenue submits that DGFT Notification No. 20/2023, Prohibits Non-Basmati Rice (CTH 10063090) and export is permissible only under Compliance with Export Policy conditions and that FTP and DGFT Notifications do not override standards prescribed by FSSAI.

(iii). The Customs, Ludhiana is an EDI port; therefore, condition No (iii) is satisfied.

(iv). Impugned goods are exported to UK, which is not an EU Nation; therefore, condition No (iv) is not relevant.

(v). The appellant submitted certificate of inspection / test report No. EIA/ KOC/LAB/2023-24/2731 dated 20.07.2023 from Export Inspection Agency - Kochi; therefore, condition No (v) stands satisfied.

(vi). As the exports are not to Russian Federation, condition No (vi) is not relevant.

(vii). The appellant has not exported empty bags; 587.500 MT of brown basmati rice contained in 1875 bags was exported; further the appellants have exported rice in loose condition and empty bags with markings indicating the product being Indian Basmati Rice were kept therefore, conditions (vi) and (vii) stand satisfied.

(viii) . the appellants entered into contract, as per PO No. 23-33 dated 11.07.2023, with overseas buyer M/s Flying Trade Limited, wherein terms of payment are 100% cash against document; therefore, condition no (viii) also stands satisfied.

We however, find that the Revenue does not dispute the adherence to these conditions.

10. We find that the Food Safety and Standards Association of India (FSSAI) is the food authority in India established under Section 4 of the Food Safety and Standards Act, 2006; the functions of FSSAI (as laid down in Section 16 of the Act) are to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food; we find that "export" is not mentioned in the Act. We find that FSSAI Act prescribes a Licence for carrying out a business in relation to food items; Section 1(n) of the said Act, defines "food business" to mean any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution of food, import and includes food services, catering services, sale of food or food ingredients; Section 1(o) of the Act defines "food business operator" to mean a person by whom the business is carried on or owned and is responsible for

ensuring the compliance of this Act, rules and regulations made thereunder.

11. We find that the different parameters as analyzed and reported by CRCL, vide report dated 20.09.2023 are as follows.

Sl. No.	Parameters	Standards as per FSSAI	Results as per CRCL report	Remarks
1.	Average Length (mm)	7.0 and above	7.35	Sample conforms to FSSAI Standards
2.	Average length – breadth ratio	<b>3.5 and above</b>	<b>4.22</b>	<b>Do</b>
3.	Average cooked rice length (mm)	<b>12.0 and above</b>	<b>9.2</b>	<b>Does not conform FSSAI Standards</b>
4.	Elongation ratio after cooking ( <u>not less than</u> )	1.7 mm	1.25	Do
5.	Moisture per cent by mass, <u>not more than</u>	14.0	11.9	Sample conforms to FSSAI Standards
6.	Chalky grains (per cent by mass) <u>not more than</u>	7.0	Nil	Do
7.	Broken and fragments (per cent by mass) <u>not more than</u>	5.0	1.32	Do
8.	Damaged discoloured grains (per cent by mass) <u>not more than</u>	1.0	Nil	Do

12. A perusal of the above, reveals that the sample conforms to six out of 8 parameters tested; it does not conform to standards in respect of 2 parameters i.e. Average length – breadth ratio and Average cooked rice length (mm); however, the parameters that the Grain of rice to be exported shall be more than 6.61 mm of length and ratio of length to breadth of the grain shall be more than 3.5, as per entry under Sl.No.57 of the Schedule-II of ITC (HS) for exports.

13. We find that as per Para 2.03 of the Foreign Trade Policy (a) Domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/

environmental/ safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted and (b) However, goods to be utilized/ consumed in manufacture of export products, as notified by DGFT, may be exempted from domestic standards/ quality specifications. We find that in respect of the impugned goods no condition has been prescribed with reference to FSSAI standards and whatever condition that was prescribed has been satisfied by the appellants.

14. We further find that the Commissioner finds, as far as the applicability of FSSAI standards for export goods as follows.

*4.14. The Noticee has contended that the standards of 'Basmati Rice' laid down in FSSAI are applicable in respect of domestic sale and / or in respect of goods imported but are not applicable in respect of goods to be exported. I don't agree with their contention, in so much so, as discussed in the preceding's paras that the Food Safety and Standards Regulations are applicable to sale of food products in India, which covers the food products meant for exports also. It is mandatory to follow guidelines from the Food Safety and Standards Authority of India (FSSAI) for the export of food products from India to prevent the export of sub-standard or unsafe food products from India. Exporters of Food products are also required to obtain License from FSSAI like other Food Business Operators (FBOs) in India. So, the contention of the Noticee that the FSSAI regulations are not applicable in respect of goods to be exported, is not tenable.*

15. We find that the Adjudicating Authority did not appreciate the submission of the appellant that the provisions of FSSAI are not applicable in respect of goods to be exported unless specifically mentioned in the Foreign Trade Policy. We find that except taking the argument that export is at par with sale in India, Commissioner does not refer to any statutory provisions/ Authority/ Notification / Circular etc, stipulating applicability of FSSAI provision for export of basmati rice. Nothing has been brought on record by department. Further, we find that the food security standards vary from one country to the other. There is no evidence or report to the extent that the said consignment was rejected by the importing country i.e. UK for lack of standards. There is no allegation that the consignment did not reach the declared destination but was diverted midway and the transactions made were through non-banking channels etc. We find that under such circumstances, attempts to stop export consignments would seriously impair the country's external trade.

16. We also find that Revenue did not make any efforts to refer to FSSAI to seek opinion on the applicability of the FSSAI to the impugned goods. Revenue has simply relied on the report and opinion of the CRCL, which is not a specialized Testing Laboratory for food standards. Learned Authorised Representative refers to FSSAI Regulations, 2023. Learned Authorised representative submits that the press release given by the FSSAI authorities indicated that the same are applicable to export goods. However, he could not show any provision which stipulates that the Rules and Provisions are applicable to export goods is shown. Under the circumstances and in

the absence of the same and in the absence of any requirement of satisfying the FSSAI standards in India statutorily, we do not find any merit in the impugned order. We are of the considered opinion that the revenue could not establish that the exported goods were mis-declared and therefore, liable for confiscation. When the department failed to establish that the goods are liable for confiscation, imposition of redemption fine, demand of duty and imposition of penalties cannot be sustained.

17. In view of the above, the impugned order is set aside and the appeal is allowed, with consequential relief, if any, as per law.

(Order pronounced in the open court on 04/07/2025)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**

PK