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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75553 of 2023

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/KS/295/2023 dated 28.04.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Elvance Overseas LLP **: Appellant**
No. 105, H-3, Vardhman Plaza Tower,
Netaji Subhash Place, Pitampura,
New Delhi – 110 034

VERSUS

Commissioner of Customs (Port) **: Respondent**
Special Investigation Branch,
Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri R.N. Bandyopadhyay, Advocate,
Ms. Sukanya Roy, Consultant,
Ms. Rupsha Chatterjee, Advocate,
For the Appellant

Shri Subrata Debnath, Authorized Representative,
For the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76129 / 2026

DATE OF HEARING: 20.07.2026

DATE OF DECISION: 25.08.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been preferred by M/s. Elvance Overseas LLP, Delhi [hereinafter referred to as the "appellant"], against the Order-in-Appeal No. KOL/CUS(PORT)/KS/295/2023 dated 28.04.2023 passed by the Commissioner of Customs (Appeals), Kolkata, whereby the ld. lower appellate authority upheld Order-in-Original No. KOL/CUS/JC/PORT/15/SIB/2021 dated 27.04.2021 passed by the Joint Commissioner of Customs (Port), Kolkata confirming the proceedings initiated against the appellant.

2. The facts of the case are that the appellant is engaged in the import of textile fabrics and, during the relevant period, the appellant imported consignments declared as "Mixed Lot of Polyester Knitted Fabrics" of Chinese origin from overseas suppliers, namely, M/s. Dauer International Ltd., U.K. and M/s. LCL Group Co. Ltd., H.K. The appellant filed six (06) Bills of Entry for clearance of the aforesaid imported goods, having a cumulative assessable value of Rs.2,17,57,575.51/-, by classifying the goods under Customs Tariff Item No. 6006 9000 of the First Schedule to the Customs Tariff Act, 1975 and simultaneously claiming the benefit of concessional Basic Customs Duty at the rate of 10% under Serial No. 169 of Notification No. 82/2017-Customs dated 27.10.2017. On the basis of such self-assessment, Customs duty amounting to Rs.36,00,879/- was discharged and the goods covered under the said Bills of Entry were cleared for home consumption. The details of the impugned Bills of Entry are provided in the table given below: -

Sl. No.	Bill of Entry No.	Bill of Entry Date	COO	Supplier	Declared Item Description	Assessable Value (in Rs.)
1	8229928	27.09.2018	CN	Dauer International Ltd., U.K.	Mixed lot of Polyester Knitted Fabric (Rolls of Assorted colors and weights)	28,42,278.51
2	8056261	15.09.2018	CN	Dauer International Ltd., U.K.	Mixed lot of Polyester Knitted Fabric (Rolls of Assorted colors and weights)	49,21,368.00
3	8445114	13.10.2018	CN	LCL Group Co. Ltd., H.K.	Mixed lot of Polyester Knitted Fabric (Rolls of	28,21,408.00

					Assorted colors and weights) (non printed)	
4	8444937	13.10.2018	CN	LCL Group Co. Ltd., H.K.	Mixed lot of Polyester Knitted Fabric (Rolls of Assorted colors and weights) (non printed)	28,51,792.00
5	7939366	06.09.2018	CN	Dauer International Ltd., U.K.	Mixed lot of Polyester Knitted Fabric (Rolls of Assorted colors and weights)	54,67,566.00
6	8338285	05.10.2018	CN	Dauer International Ltd., U.K.	Mixed lot of Polyester Knitted Fabric (Rolls of Assorted colors and weights) (non printed)	28,53,163.00
Total						2,17,57,575.51

3. Subsequently, the Revenue entertained the view that the classification adopted by the appellant in respect of the imported goods, viz. "Polyester Knitted Fabrics", is not correct. The department was of the view that the classification of the said goods would not fall under the residual Tariff Entry Item No. 6006 9000, but were liable to be appropriately classifiable under the Tariff Entry No. 6006 3200 applicable to knitted fabrics of 'synthetic fibres'. Thus, it was alleged that the consequential benefit of concessional Basic Customs Duty under Notification No. 82/2017-Customs had been wrongly availed.

4. Chapter 60 of the First Schedule to the Customs Tariff Act, 1975 classifies knitted or crocheted fabrics under six principal headings, namely:

Heading	Description
6001	Pile fabrics, including "long pile" fabrics and terry fabrics, knitted or crocheted
6002	Knitted or crocheted fabrics of a width not exceeding 30 cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than those of Heading 6001
6003	Knitted or crocheted fabrics of a width not exceeding 30 cm, other than those of Heading 6001 or 6002
6004	Knitted or crocheted fabrics of a width exceeding 30 cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than those of Heading 6001
6005	Warp knitted fabrics (including those made on galloon knitting machines), other than those of Headings 6001 to 6004
6006	Other knitted or crocheted fabrics

5. According to the Department, the tariff structure under Heading 6006, classifies goods on the basis of their constituent material, namely wool or fine animal hair, cotton, synthetic fibres, artificial fibres and "other", as reproduced below: -

6006: Other Knitted or Crocheted Fabrics				
HS Code	**Level**	**Item description**	**Unit**	**Effective BCD** **(N82/2017)**

6006 10 00	-	*Of wool or fine animal hair*	Kg.	10%
	-	*Of cotton:*		
6006 21 00	--	Unbleached or bleached	Kg.	10%
6006 22 00	--	Dyed	Kg.	10%
6006 23 00	--	Of yarns of different colours	Kg.	10%
6006 24 00	--	Printed	Kg.	10%
	-	*Of Synthetic fibres:*		
6006 31 00	--	Unbleached or bleached	Kg.	20%
6006 32 00	--	Dyed	Kg.	20%
6006 33 00	--	Of yarns of different colours	Kg.	20%
6006 34 00	--	Printed	Kg.	20%
	-	*Of artificial fibres:*		
6006 41 00	--	Unbleached or bleached	Kg.	20%
6006 42 00	--	Dyed	Kg.	20%
6006 43 00	--	Of yarns of different colours	Kg.	20%
6006 44 00	--	Printed	Kg.	20%
6006 90 00	-	*Other*	Kg.	10%

5.1. Chapter Heading 6006 itself is divided into five principal groups represented by the single-dash entries in the Harmonised System, namely:

Level	**Article / Group**	**Relevant Tariff Items**
–	Of wool or fine animal hair	60061000
–	Of cotton	60062100, 60062200, 60062300, 60062400

–	Of synthetic fibres	60063100, 60063200, 60063300, 60063400
–	Of artificial fibres	60064100, 60064200, 60064300, 60064400
–	Other	60069000

5.2. Proceeding on the aforesaid tariff structure, the Revenue was of the view that the expression "Polyester Knitted Fabric" itself indicated that the goods were manufactured from polyester, which, in terms of Chapter Note 1 to Chapter 54 of the Customs Tariff Act, constitutes a 'synthetic fibre'. It was, therefore, prima facie considered that the goods could not appropriately fall under the residual Tariff Entry No. 6006 9000, which was intended to cover articles other than those specifically classifiable under the preceding entries. The Revenue also noted that for prior imports, the appellant had adopted the classification under Customs Tariff Item No. 6006 3200.

6. On the aforesaid basis, it is the case of the Revenue that the imported goods are appropriately classifiable under Customs Tariff Item No. 6006 3200, being knitted fabrics of synthetic fibres, and consequently attracted Basic Customs Duty at the rate of 20% under Serial No. 168 of Notification No. 82/2017-Customs; Accordingly, it is alleged that the appellant has deliberately mis-classified the subject goods under Customs Tariff Item No. 6006 9000, so as to avail the benefit of Basic Customs Duty at the rate of 10% provided under Serial No. 169 of Notification No. 82/2017-Customs with the intention to evade payment of applicable customs duty.

7. Accordingly, a Show Cause Notice dated 06.10.2020 came to be issued proposing rejection of the classification claimed by the appellant under Customs Tariff Item No. 6006 9000 and denial of the corresponding exemption benefit under Notification No. 82/2017-Customs dated 27.10.2017. The Notice further proposed reclassification of the imported goods under Customs Tariff Item No. 6006 3200, recovery of differential Customs duty amounting to Rs.25,13,000/- together with applicable interest and imposition of penalty under Section 114A of the Customs Act, 1962.

7.1. The above Notice was adjudicated vide the Order-in-Original No. KOL/CUS/JC/PORT/15/ SIB/2021 dated 27.04.2021, whereby the adjudicating authority confirmed the differential duty demand of Rs.25,13,000/- along with applicable interest, by rejecting the classification claimed by the appellant under Customs Tariff Item No. 6006 9000 and reclassifying the imported goods under Customs Tariff Item No 6006 3200 and denying the benefit of Notification No. 82/2017-Customs dated 27.10.2017 (Sl. No. 169) as claimed by the appellant. The ld. adjudicating authority also imposed a penalty equal to the differential duty demanded above, under Section 114A of the Customs Act, 1962.

7.2. The appellant thereafter preferred an appeal before the Commissioner of Customs (Appeals), Kolkata, who, vide the impugned Order-in-Appeal No. KOL/CUS(PORT)/KS/295/2023 dated 28.04.2023, upheld the findings recorded in the Order-in-Original dated 27.04.2021 and rejected the appeal.

7.3. Aggrieved thereby, the present appeal has been filed before this Tribunal.

8. During the course of arguments, the Ld. Counsel appearing on behalf of the appellant made various submissions in support of their contentions, which are summarized as follows: -

(I) Burden of Proof in Tariff Classification:

(i) The law is now well settled that— Revenue must establish that the classification adopted by the importer is incorrect. A mere suspicion is insufficient.

(ii) The Department must produce technical evidence/ scientific evidence/ expert opinion/ literature laboratory report before rejecting the declared classification. Following Citations are relied upon:

- *HPL Chemicals Ltd. v. CCE [2006 (197) E L T 324 (S.C.)]. - burden to prove classification lies upon Revenue.*
- *CCE v. Wockhardt Life Sciences Ltd. [2012 (277) 239 (S.C.)] - classification cannot be changed merely by assumptions.*

(II) Necessity of Laboratory Testing:

(i) The Classification under Chapter 60 depends upon fiber composition, weight, predominance, textile construction etc. These cannot be determined merely from invoice, packing list, visual examination.

(ii) No Textile Committee report, No CRCL report, No NABL laboratory report, no scientific analysis has been adduced so far. Therefore, Revenue completely failed to follow these norms. Without any laboratory report classification cannot be altered. Particularly textile matters involved with 1. Polyester, 2. knitted fabrics, 3. woven fabrics and 4. mixed textile goods.

(III) Interpretation of Chapter 60:

(i) This chapter is required to be properly analyzed regarding Section XI of the First Schedule of the Customs Tariff Act, 1975, the HSN Explanatory Notes of this chapter, difference between CTH 6005 and 6006, meaning of Warp Knitted Fabrics, meaning of Synthetic Fabrics, meaning of Artificial Fabrics, meaning of Mixed Textile Materials. The HSN commentary is required to be clarified extensively.

(ii) The mixed lots cannot automatically be treated as 100% synthetic fabrics unless fiber composition is scientifically determined. Nothing has been followed in the instant case.

(IV) Contemporaneous Assessment at Other Ports:

(i) The Nhava Sheva, Chennai, Mundra and other Customs Houses where identical goods having identical description were accepted under CTH 6005 9000 / CTH 6006 9000. The Tribunal has repeatedly held that contemporaneous assessment is an important piece of evidence. If Revenue departs from uniform practice, it must explain why. Otherwise, classification becomes arbitrary.

(V) Assessment Already Completed:

(i) The Proper Officer examined assessed, enhanced value and accepted classification. Later, without any fresh evidence classification has been changed. This itself shows change of opinion rather than discovery of new evidence.

(ii) The decisions of reopening where the assessment has got finality are beyond the capacity of Law where there is no new material.

(VI) No Evidence Produced by Revenue

(i) The Revenue has failed to produce Test report, Technical literature, Textile Committee opinion, Expert witness, Chemical Examiner's report, Market enquiry, Manufacturer's specification, Fibre composition, Yarn composition, GSM analysis etc. Therefore, there is absolutely no evidence.

(ii) Denial merely because Revenue believes that another heading should apply without any positive proof or evidence which is illegal.

8.1. In view of the above submissions, the Ld. Counsel for the appellant contends that the goods in question are rightly classifiable under Customs Tariff Item No. 6006 9000, and thus, the appellant is entitled to the benefit of Sl. No. 169 of Notification No. 82/2017-Customs dated 27.10.2017. Accordingly, they have prayed for setting aside the impugned order and allowing the appeal, with consequential reliefs.

9. On the other hand, the Ld. Authorized Representative of the Revenue reiterated the findings of the authorities below. He submits that the appellant themselves declared the impugned goods imported as "Polyester Knitted Fabric"; that this description indicates that the goods were manufactured from polyester, which, in terms of Chapter Note 1 to Chapter 54 of the Customs Tariff Act, constitutes a 'synthetic fibre'. It is his contention that polyester knitted fabrics manufactured out of synthetic fibres are appropriately classifiable under the Customs Tariff

Item No. 6006 3200. Thus, the Ld. Authorized Representative of the Revenue contends that the appellant has mis-classified the goods imported with a view to avail undue benefit of concessional rate of duty. In view of these submissions, he prays for rejection of the instant appeal.

10. Heard both the sides and perused the records available before us.

11. After considering the submissions made by the parties and the documentary evidence placed on record, we find that the issue which arises for our consideration is whether the goods imported by the appellant under the six Bills of Entry in question merit classification under Customs Tariff Item No. 6006 9000, as claimed by the appellant, or under Customs Tariff Item No. 6006 3200, as re-determined by the Revenue.

12. At the outset, we find that the appellant imported goods declared in the respective Bills of Entry as "Mixed Lot of Polyester Knitted Fabric (Rolls of Assorted Colours & Weight)" and sought classification thereof under Customs Tariff Item No. 6006 9000 as "Other" knitted fabrics, with a view to availing the benefit of Sl. No. 169 of Notification No. 82/2017-Customs dated 27.10.2017. Upon scrutiny, the Department entertained the view that the imported goods, being polyester knitted fabrics, were appropriately classifiable under Customs Tariff Item No. 6006 3200 as knitted fabrics of synthetic fibres and consequently denied the benefit of the aforesaid notification, resulting in the impugned demand of differential duty.

13. We find it necessary to note that at the time of assessment of the Bills of Entry, the appellant had declared the goods therein as "Mixed Lot of Polyester Knitted Fabric (Rolls of Assorted Colours & Weight)" and had claimed classification under Customs Tariff Heading 6006 9000. The said Bills of Entry were duly assessed by the proper officer under the declared classification and the goods were thereafter cleared. Significantly, the original assessment so made was not challenged by the Department at the relevant time. It is trite that once the Proper Officer has assessed the Bill(s) of Entry and allowing the classification claimed therein, the same cannot be departed from merely on the basis of a subsequent change of opinion, without establishing any mala fides or wilful suppression on the part of the importer. Thus, the original assessment assumes significance in the peculiar facts of the present case.

13.1. In this connection, it may be noted that at the stage of assessment, the Customs authorities had at their disposal the Bills of Entry, invoices and other contemporaneous import documents, and had the requisite statutory powers to examine the goods, verify the declarations and, where the nature or composition of the goods so warranted, subject the goods to physical examination or draw representative samples for testing. The record before us, however, does not disclose that any such laboratory testing of the imported fabric was undertaken by the Revenue for the purpose of establishing that the goods, in their actual composition, necessarily merited classification under Customs Tariff Item No. 6006 3200. In the absence of such affirmative evidence, a subsequent change in the classification cannot, by itself, furnish a sufficient basis for unsettling the assessment originally accepted by the proper officer.

13.2. The matter assumes greater significance having regard to the description of the goods themselves. The appellant had declared them as "Mixed Lot of Polyester Knitted Fabric (Rolls of Assorted Colours & Weight)". The expression "Mixed Lot", in the context in which it has been used, cannot be treated on the same footing as a homogeneous or prime category of polyester knitted fabric of established composition. The appellant has explained that such mixed lots represent leftover fabric available from manufacturing establishments in China and may comprise fabrics of varying composition and characteristics. Whether a particular lot, or the individual fabrics comprising such lot, answers the description of knitted fabric of synthetic fibres for the purposes of a specific tariff entry is essentially a matter which may require examination of the actual goods and, where necessary, appropriate technical testing. In these circumstances, it was incumbent upon the Department, if it sought to discard the classification originally accepted under Customs Tariff Item No. 6006 9000 and substitute a specific classification under Customs Tariff Item No. 6006 3200, to place on record cogent and reliable material establishing that the goods actually imported possessed the characteristics warranting such classification. This assumes particular importance when, admittedly, no testing of the fabric appears to have been undertaken for determining its precise composition. The fact that the Department had raised queries and had even proceeded to enhance the declared assessable value cannot, by itself, obviate the necessity of establishing the correct tariff classification by appropriate evidence.

14. It is also a settled principle that each Bill of Entry constitutes a separate assessment and the classification of the goods covered thereunder must necessarily be determined with reference to the goods actually imported under that particular Bill of Entry and the evidence available in relation thereto. A classification cannot be sustained merely by drawing an assumption from the broad description of the goods or in respect of earlier imports made, particularly when the goods are admittedly described as a mixed lot and their precise composition has not been established by any technical or laboratory evidence.

15. In the factual backdrop obtaining herein, we are of the opinion that the Department, having accepted the declared classification at the stage of original assessment and having failed to undertake any testing or otherwise produce definitive evidence demonstrating that the imported goods were of such composition as to merit classification under Customs Tariff Item No. 6006 3200, could not subsequently displace the original classification merely on the basis of a different perception regarding the appropriate tariff entry. The requirement is not merely to merely adopt a different classification, but to establish, by cogent evidence, that such classification more appropriately answers the description and characteristics of the goods actually imported. Accordingly, we are unable to sustain the reclassification adopted by the Revenue under Customs Tariff Item No. 6006 3200. In the absence of the requisite evidentiary foundation to dislodge the classification originally accepted under Customs Tariff

Item No. 6006 9000, we hold that the reclassification undertaken by the Revenue is not proper and cannot be sustained.

16. Moreover, it has also been submitted before us that, in separate proceedings pertaining to the very same Bills of Entry, the enhancement of the declared assessable value had been challenged by the appellant before the learned Commissioner (Appeals), who set aside such enhancement by the concerned Order-in-Appeal. The appellant has further pointed out that despite the aforesaid order having been passed prior to the adjudication of the present proceedings, the differential duty in the instant case has been worked out on the basis of the enhanced value. Although we do not propose to enter into any detailed examination of the said aspect since the same is not an issue presently before us, nevertheless, it is relevant to observe that the consequential demand of duty in the present case on such enhanced valuation alternatively also suffers from legal infirmity in view of the prior order of setting aside the enhancement of value in respect of the Bills of Entry in question, as rightly pointed out by the appellant.

17. We also take note of the appellant's submission that the very classification under Customs Tariff Item No. 6006 9000 has been adopted by other importers in respect of identical goods and that such classification has been accepted by the Customs authorities in the corresponding Bills of Entry. A sample Bill of Entry showing the above said

classification is reproduced below for ready reference: -

...TAILS

NO.:8266699 BE DATE :01/10/2018 CC :H TYPE :H Invoice No,Item No:1 / 1

n Desc:POLYESTER KNITTED FABRIC (W/EMROIDERY/DECORATED) CORG:CN Qty /Unit:858 KGS

Brand:NA Model:NA

n Desc:FABRIC End Use:GNX200

m Acc:No Mnf Nm:NEW BLUE JAY

	Sch Code	Ritc Code	Customs Tariff Head	Central Excise Tariff Head		
Declared		60069000	60069000	NOEXCISE	1.2	USD
Assessed		60069000	60069000	NOEXCISE	2.25	USD

Custom Duty	Declared Rate	Flg	Amounts	UQC	Notn-Sr. No.	Duty	Duty FG	Assess Val
BCD	10				082/2017-169	9184.9	15912.9	91849.14
CAIDC						0.0	0.0	
Ed Cess	0				-	0.0	0.0	
SH Ed-Cess	0				-	0.0	0.0	
CVD	0				-	0.0	0.0	
EAIDC						0.0	0.0	
SCD	10				-	918.5	0.0	
IGST AMT						5097.6	0.0	
Total Duty						15201.00		

Custom Duty	Assessed Rate	Flg	Amounts	UQC	Notn-Sr. No.	Duty	Duty FG	Assess Val
BCD	10				082/2017-169	17221.7	29836.5	172217.13
CAIDC						0.0	0.0	
Ed Cess	0				-	0.0	0.0	
SH Ed-Cess	0				-	0.0	0.0	
CVD	0				-	0.0	0.0	189438.83
EAIDC						0.0	0.0	
SCD	10				-	1722.2	0.0	
IGST AMT					001/2017-I221	9558.1	0.0	
Total Duty						[illegible]		

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17.1. The aforesaid contemporaneous practice, therefore, constitutes a relevant circumstance to be taken into consideration, particularly when no material has been placed before us to demonstrate that the said classification adopted in such comparable imports was disputed or disturbed by the Revenue. Viewed in conjunction with the findings recorded hereinabove, we find merit in the appellant's contention that the goods in question are appropriately classifiable under Customs Tariff Item No. 6006 9000. Accordingly, the classification claimed by the appellant under the said tariff entry merits acceptance. Accordingly, we uphold the classification of the impugned goods under the CTH 6006 9000 and reject the re-classification of the impugned goods under the CTH 6006 3200. Thus, we hold that the demand of differential customs duty confirmed in the impugned order is not sustainable and hence the same are set aside.

18. Insofar as the penalty imposed under Section 114A of the Customs Act, 1962 is concerned, we note that the dispute in the present case pertains to the classification of the imported goods, which is essentially interpretational in nature. We do not find any cogent material on record to establish deliberate suppression, wilful misstatement or any mala fide intention on the part of the appellant to evade payment of customs duty. As the classification adopted by the appellant is upheld, we do not find any reason to impose penalty under Section 114A of the Customs Act, 1962. Accordingly, we set aside the penalty imposed upon the appellant under Section 114A of the Customs Act, 1962.

19. In view of the foregoing discussions and findings, we hold as under:

(i) We reject the re-classification of the imported goods as adopted by the Revenue under Customs Tariff Item No. 6006 3200 and hold that the said goods merit classification under Customs Tariff Item No. 6006 9000 as declared by the appellant-importer.

(ii) Consequently, the demand of differential Customs Duty amounting to Rs.25,13,000/- (Rupees Twenty-Five Lakh Thirteen Thousand only), together with the applicable interest thereon, is set aside.

(iii) The imposition of penalty under Section 114A of the Customs Act, 1962 is set aside.

20. In these terms, the appeal is allowed, with consequential relief, if any, as per law.

(Order pronounced in the open court on **25.08.2026**)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd