

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH,
COURT NO. I

CUSTOMS APPEAL NO. 55311 OF 2023

[Arising out of the Order-in-Original No. 04/COMMR/VC/Leakless Gasket/ICD-PPG/2022-23 dated 28/12/2022 passed by The Commissioner of Customs, ICD, Patparganj, New Delhi-110096.]

M/s Leakless Gasket India Pvt. Ltd.Appellant
Plot No. 124, Sector – 6,
Industrial Growth Centre, Bawal,
District – Rewari – 123 501 (Haryana).

Versus

Commissioner of Customs,Respondent
ICD, Patparganj,
New Delhi – 110 096.

**WITH
CUSTOMS APPEAL NO. 51887 OF 2021**

[Arising out of the Order-in-Appeal No. CC (A) CUS/D-II/Prev./NCH/666-667/2021-22 dated 09/08/2021 passed by The Commissioner of Customs (Appeals), New Customs House, New Delhi – 110 037.]

M/s Leakless Gasket India Pvt. Ltd.Appellant
Plot No. 124, Sector – 6,
Industrial Growth Centre, Bawal,
District – Rewari – 123 501 (Haryana).

Versus

**Principal Commissioner of Customs
(Preventive),**Respondent
New Customs House,
New Delhi – 110 037.

**AND
CUSTOMS APPEAL NO. 51904 OF 2021**

[Arising out of the Order-in-Appeal No. CC (A) CUS/D-II/Prev./NCH/666-667/2021-22 dated 09/08/2021 passed by The Commissioner of Customs (Appeals), New Customs House, New Delhi – 110 037.]

M/s Leakless Gasket India Pvt. Ltd.Appellant
Plot No. 124, Sector – 6,
Industrial Growth Centre, Bawal,
District – Rewari – 123 501 (Haryana).

Versus

**Principal Commissioner of Customs
(Preventive),**Respondent
New Customs House,
New Delhi – 110 037.

APPEARANCE:

Dr. Prabhat Kumar and Shri Pralabh Mathur, Advocates for the appellant.

Shri Mukesh Kumar Shukla, Authorized Representative for the Department

CORAM:

HON'BLE JUSTICE MR. DILIP GUPTA, PRESIDENT

HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51638-51640/2025

DATE OF HEARING : 28.05.2025

DATE OF DECISION: 31.10.2025

P.V. SUBBA RAO

M/s Leakless Gasket India Pvt. Ltd.¹ filed appeals No. 51887 of 2021 and 51904 of 2021 to assail the order-in-appeal dated 09.08.2021 passed by Commissioner of Customs (Appeals), whereby he upheld the orders-in-original dated 06.03.2020 and 13.03.2020 passed by the Additional Commissioner of Customs (Preventive), New Delhi and rejected the appeals filed by the appellant.

2. The appellant filed Customs Appeal No. 55311 of 2023 to assail the order-in-original dated 28.12.2022 passed by the Commissioner of Customs in which he confirmed demand of differential duty of Rs. 2,15,09,182/- with respect to 20 Bills of Entry filed by the appellant during 2018-2019 along with interest and penalties. The details of the three appeals are given below :-

1. appellant

I. Appeal No. : C/55311 of 2023

Order-in-Original No. 04/COMMR/VC/Leakless Gasket/ICD-PPG/2022-23 dated 28.12.2022

Bills of Entry : 20 Bills of Entry (2018-2019)

Amount Involved :

Duty – Rs. 2,15,09,182/-

Interest – Rs. 39,75,280/-

Penalty – Rs. 2,15,09,182/-

II. Appeal No. : C/51887 of 2021

Order-in-Original No. DLI/CUSTOM/PREV/DM/ADC/309/2020 dated 18.03.2020

Order-in-Appeal No. CC (A) CUS/D-II/Prev./NCH/666-667/2021-22 dated 09/08/2021

Bills of Entry : 6375354 dated 07.01.2020

Amount Involved :

Duty – Rs. 11,29,899/- (approx.)

Penalty – Rs. 11,29,899/-

III. Appeal No. : C/51904 of 2021

Order-in-Original No. DLI/CUSTOM/PREV/DM/ADC/301/2020 dated 06.03.2020

Order-in-Appeal No. CC (A) CUS/D-II/Prev./NCH/666-667/2021-22 dated 09/08/2021

Bills of Entry : 6775152 dated 06.02.2020

Amount Involved :

Duty – Rs. 11,30,604/-

(Includes voluntarily paid interest and reduced Penalty).

3. We have heard Dr. Prabhat Kumar, learned counsel for the appellant and Shri Mukesh Kumar Shukla, learned authorized representative for the Revenue and perused the records.

4. Three questions which need to be decided in this case are as follows :-

- (a) Whether "Twaron Para Aramid Pulp" imported by the appellant merits classification under **Customs Tariff Item² 5601 22 00**, as claimed by the appellant or under **CTI 5601 30 00**, as held in the impugned orders?
- (b) Whether extended period of limitation under section 28(4) of the Customs Act, 1962³ was correctly invoked in this case?
- (c) Whether penalty under section 114A of the Act was correctly imposed on the appellant?

5. The appellant imported 'Twaron Para Aramid Pulp' under several Bills of Entry. It self-assessed the goods classifying them under **CTI 5601 22 00**. The goods imported by Bill of Entry No. 637554 dated 07.01.2020 were examined by the officers of Commissioner of Customs (Preventive), New Delhi and they found it to be yellowish cotton like material. It was stuffed in 5 kg packets and 3 such packets were in each pallet. The officers detained the goods under section 110 of the Act, and gave the appellant an option of warehousing the goods in order to avoid demurrages. They recorded the statements of Shri Niraj Srivastava, DGM of the appellant and authorized representative of the appellant under section 108 of the Act.

2. CTI
3. the Act

The appellant paid the differential customs duty and also deposited the reduced penalty and prayed that no show cause notice or notice of personal hearing may be issued to them and the matter may be decided on merits. By a challan dated 13.03.2020, the appellant had also deposited differential duty in respect of goods which had already been cleared.

6. It was felt by the department that the imported goods were liable to confiscation under section 111 (m) of the Act and that the importer had suppressed facts by not disclosing the complete description and correct classification of the goods. It was also felt that the appellant was liable to penalty under section 114.

7. The appellant resisted the proposals in the show cause notice, which were, however, confirmed by the Additional Commissioner. On appeal, the Commissioner (Appeals), in the impugned order, upheld the order of the Additional Commissioner. Three separate show cause notices dated 02.07.2021, 24.11.2021 and 22.12.2021 along with corrigendum dated 24.11.2022 were decided by the Commissioner of Customs (ICD, Patparganj) by order dated 28.12.2022 confirming the demand of Rs. 2,15,09,182/- under section 28 (4) of the Act covering 22 Bills of Entry. She also held the goods worth Rs. 17,33,79,588/- liable to confiscation under section 111 (m), but did not confiscate them as they were not available. She confirmed the demand of interest

under section 28AA on the differential duty and imposed penalty equal to the amount of the differential duty under section 114A of the Act.

Submissions on behalf of the appellant :-

8. Learned counsels for the appellant made the following submissions in respect of Customs Appeal No. 55311 of 2023:-

- (a) The impugned order is improper and illegal as it did not consider the appellant's submissions ;
- (b) Twaron is the brand name and the product is Para Aramid Pulp which is a raw material specifically engineered to make non-asbestos gasket jointing sheets. In the absence of any statutory definition, the functional character of a product must guide its classification. Since Twaron para-aramid pulp is functionally distinct from textile flock, it cannot be classified under that category.
- (c) The chemical composition and manufacturing process of para-aramid pulp in the brochure shows that it is polyparaphenylene terephthalamide (PPTA), synthesized from the monomers p-phenylene diamine (PPD) and terephthaloyl dichloride (TDS).
- (d) It cannot be classified under **CTI 5601 30 00** merely because the fibres are under 5 mm in length. It is primarily a pulp as distinct from textile flock. The difference between pulp and flock are as follows :-

Textile Flock	Twaron Para-Aramid Pulp
1. Used for blending with other fibres and spinning into yarns, for making imitation suedes, for coating or decorating wallpaper, as a basis for face powder or make up etc.	1. Used as raw material for manufacture of non-asbestos gasket jointing sheet or any other friction material
2. Obtained as waste during various finishing operations and, in particular, from the shearing of velvets. It is also produced by cutting textile tow or fibres.	2. Obtained by fibrillation of para-aramid (PPTA) yarn. In the process of fibrillation the surface of the fibers is partially damaged and a lot of fibrils connected with the basic yarn are formed.
3. Physical form is non-pulp.	3. Physical form is pulp.

- (e) Textile flock is raw material for producing Twaron Para-Aramid Pulp.
- (f) The appellant changed the classification of 05.11.2012 on department's verbal instructions. The appellant accepted the classification by the department and paid duty accordingly.
- (g) The department did not change the classification after 2012. The burden of changing the classification is on the department.
- (h) Extended period of limitation could not have been invoked as there was no suppression of facts and all facts were known to the department.
- (i) Mere wrong classification or incorrect claim for exemption does not amount to suppression or mis-statement. The finding that the goods were liable to confiscation and that the appellant was liable to penalty under section 114A are not correct.
- (j) The impugned order may therefore be set aside and the appeal may be allowed.

8.1 Learned counsels for the appellant made the following submissions in respect of Customs Appeal Nos. 51887 and 51904 of 2021:-

- (a) The impugned order of the Commissioner of Customs (Appeals) is improper and illegal.
- (b) The appellant imported Twaron Para Aramid Pulp and it cannot be classified as Flock. The Commissioner (Appeals) erred in upholding the order of Additional Commissioner and rejecting the appellant's appeal. The goods cannot be classified under CTI 57601 30 00. The onus of classification lies on the department. Confiscation of the goods and of redemption fine is not voluntarily.

Submissions on behalf of the Department:-

9. Learned authorized representative vehemently supported the impugned orders and made the following submissions :-

- (a) The appellant classified the good under CTI 5601 22 00 (as wadding of man-made fibres) but it deserves to be classified under CTI 5601 30 00 (textile flock and dust and mill neps) based on the fibre length and physical characteristics. The goods were imported by the appellant and as per the test report which the appellant had submitted along with the Bill of Entry, the goods consist of less than 5 mm yellowish cotton fibre.

- (b) As per HSN explanatory notes to heading, 5601 Textile Flock consists of very high fibres using cotton from textile materials by cutting or grinding. Wadding consists of layer of fibres that are compressed into sheets. The goods, in question, were manufactured by breaking the yarn into fibres of less than 5 mm length which appear fluffy yellowish and cotton like. This description squarely fit within the scope of textile flock. The goods were not in sheets or rolls nor in layer or compressed form which would characterise goods under CTI 5601 30 00. Therefore, the disputed goods were correctly classifiable under 5601 30 00.
- (c) As far as invocation of extended period of limitation is concerned, the appellant had been classifying the goods under CTI 5601 30 00 until November 2012 and thereafter changed the classification to CTI 5601 22 00 without informing the department or seeking a ruling from the customs. Besides, the appellant had not disclosed the fibre length which was a deliberate omission. The test reports showed that the fibre length was less than the 5 mm. These facts clearly establish that there was suppression of material facts with an intent to evade proper classification and evade duty. Therefore, there was sufficient justification to invoke extended period of limitation under section 28 (4).

- (d) Penalty under section 114A can be imposed if duty is not paid or short paid by reasons of collusion, willful statement or suppression of facts. These are the same factors required to invoke extended period of limitation.
- (e) For the reasons stated above, invocation of extended period of limitation as well as imposition of penalty under section 114A are justified. In view of the above, the confirmation of demand and imposition of penalty is justified.
- (f) The impugned orders may be upheld and all appeals may be dismissed.

Findings

10. We have considered the submissions advanced by both the sides and perused the records.

11. The three issues to be decided in these three appeals are:

- (a) Classification of "Twaron Para Aramid Pulp 3091" and "Twaron Para Aramid Pulp D0707" under **CTI 5601 22 00** (as asserted by the appellant) or under **CTI 5601 30 00** (as held in the orders impugned in these appeals) and consequential demand of duty with interest;
- (b) Invocation of extended period of limitation under section 28(4) in Customs Appeal No. 55311/2023;

(c) Penalty under section 114A imposed on the appellant in Customs Appeals No. 51887/2021 and 51904/2021.

Classification

12. The relevant portion of the Customs Tariff covering the two competing entries is as follows:

5601	WADDING OF TEXTILE MATERIALS AND ARTICLES THEREOF; TEXTILE FIBRES, NOT EXCEEDING 5 MM IN LENGTH (FLOCK), TEXTILE DUST AND MILL NEP
5601 21	- Wadding of textile materials and articles thereof
	-- Of cotton :
5601 21 10	--- Absorbent cotton wool
5601 21 90	--- Other
5601 22 00	--- Of man-made fibres
5601 29 00	--- Other
5601 30 00	--- Textile flock and dust and mill neps

13. The relevant portion of the General Explanatory Notes to Import Tariff is as follows:

"Where in column (2) of this Schedule, the description of an article or group of articles under a heading is preceded by "-", the said article or group of articles shall be taken to be a sub-classification of the article or group of articles covered by the said heading. Where, however, the description of an article or group of articles is preceded by "- -", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-", where the description of an article or group of articles is preceded by "---" or "----", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-" or "—".

14. The relevant portion of the HSN Explanatory notes is as follows:

(A) WADDING OF TEXTILE MATERIALS AND ARTICLES THEREOF

The wadding referred to here is made by superimposing several layers of carded or air-laid textile fibres one on the other, and then compressing them in order to increase the cohesion of the fibres. Wadding is sometimes lightly punched in order to increase the cohesion of the fibres and, in some cases, to fix the layer of wadding on a support of woven or other textile fabrics.

Wadding takes the form of a flexible spongy, high-bulk sheet, of even thickness, the fibres in which are readily separable, it is generally made of cotton fibres (absorbent or other cotton waddings) or of artificial staple fibres. Low-grade wadding made from waste from carding or garneting usually contains a proportion of neps or yam waste.

Wadding is classified here whether or not bleached, dyed or printed. The heading also covers wadding on which a small quantity of agglutinating substance has been dispersed in order to improve the cohesion of the surface fibres, - in contrast to nonwovens, the fibres of the inner layers of such wadding are readily separable.

It should, however, be noted that wadding treated with an agglutinating substance and in which that substance has penetrated into the inner layers is classified as a nonwoven in heading 56.03, even if the fibres of the inner layers are readily separable.

Wadding which has been fixed to an internal or external textile support by lightly punching, and wadding covered on one or other sides with paper, textile or other material either by sewing or glueing also remain classified here provided their essential character is that of wadding and that they do not constitute products of heading 58.11.

Wadding is largely used for padding (e.g. in the manufacture of shoulder pads, interlinings for clothing, pads for jewel boxes, etc., in upholstery and in laundry pressing machines), as packing material, or for sanitary use.

This heading also covers wadding in the piece or cut to length, and articles of wadding other than those covered more specifically by other headings of the Nomenclature (see exclusions below).

56.01 The articles of wadding classified here include:

- (1) Window, door or similar draught excluders consisting of rolls of wadding spirally covered with yams, but excluding those completely covered with textile, fabric (heading 6307).
- (2) Articles of wadding used for decoration, other than those having the character of articles of Chapter 95.

Among the articles of wadding not classified here are:

- (a) Wadding or articles of wadding, impregnated or coated with pharmaceutical substances, or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes (heading 30.05)
- (b) Wadding, impregnated, coated or covered with substances or preparations (e.g. perfumes or cosmetics (Chapter-33) soaps or detergents (heading 34.01), polishes, creams or similar preparations (heading 34.05), fabric softeners (heading 38.09) where the textile material is present merely as a carrying medium.
- (c) Cellulose wadding and articles thereof (generally Chapter 48)
- (d) Carded cotton in silver form as used by hairdressers (e.g., barbers' "wadding") (heading 52.03)
- (e) Quilted textile products in the piece, composed of one or more layers of textile materials assembled with wadding by stitching or otherwise, other than embroidery of heading 58.10 (heading 58.11)
- (f) Clothing pads (heading 61.17 or 62.17)
- (g) Artificial flowers, foliage or fruit and parts thereof (heading 67.02)
- (h) Theatrical wigs, false beards and other articles of heading 67.04
- (i) Festive, carnival or other entertainment articles, Christmas tree decorations and other articles (e.g., dolls' wigs) of Chapter 95.
- (j) Sanitary towels (pads) and tampons, napkins (diapers) and napkin liners for babies and similar articles of heading 96.19.

(B) TEXTILE FIBRES, NOT EXCEEDING 5 MM IN LENGTH (FLOCK) AND TEXTILE DUST

“Textile flock” consists of textile fibres not exceeding 5 mm in length (silk wool, cotton, man-made fibres, etc.) it is obtained as waste during various finishing operation and, in particular, from the shearing of velvets. It is also produced by cutting textile tow or fibres.

Textile dust is obtained as waste, or by grinding textile fibres to a powder. Textile flock and dust fall in this heading even if bleached or dyed or if the fibres have been artificially curled. These products are used for a wide variety of purposes (e.g. for lending with other fibres and spinning into yarns, for making imitation sudas for coating or decorating wallpaper, as a basis for face powder or “make-up”)

Perfumed textile flock and dust, however, are excluded (heading 33.07).

15. The question to be decided is if the imported goods are ‘Wadding of textile materials of man-made fibres’ as claimed by the appellant or ‘Textile flock and dust and mill neps’ as held in the impugned orders. The literature from the manufacturer submitted by the appellant shows that the manufacturer sells four types of products- Short cut fiber, Powder, **Pulp** and Jet- spun fibrils or pulp. Of these, the imported goods are Pulp of two types- Twaron Para Aramid Pulp 3091 and Twaron Para Aramid Pulp D 0707. These are said to have high tensile strength, high thermal stability, high bond strength and high chemical resistance. They are also said to have high fibrillation and are of short fiber length. They are described as ‘Fibrillated fibres for general application in dry friction materials and calendered gaskets’ and the intended end uses of the gaskets were described as ‘Calendered gaskets are used to seal flange connections in pipelines.’

16. It is undisputed that the appellant used the imported pulp to make gaskets. The imported goods were, as per the description in the literature of the manufacturer, fibrillated fibres intended to manufacture gaskets. They were not described as textile wadding. Wadding, as indicated in the HSN explanatory notes, is a flexible spongy, high-bulk sheet of even thickness. It is said to be largely used for padding such as shoulder pads, interlinings in clothing, for sanitary use, etc. The **CTI 5601 22 00** claimed by the appellant is a sub-set of single dash (-) under **CTH 5601** which reads as 'Wadding of textile materials and articles thereof'. Nothing in the literature of the product produced by the appellant shows that the imported goods are 'wadding'; it was sold as 'pulp' and the intended use was also not of wadding but of the textile pulp.

17. The **CTI 5601 30 00** under which the goods were classified by the department is 'textile flock and dust and mill neps'. Textile flock, according to the HSN explanatory notes, are textile fibers not exceeding 5 mm in length. The 'Test Report' from the supplier submitted by the appellant described that the length of the material is less than 5 mm. Therefore, the goods squarely fall under **CTI 5601 30 00** and not under **CTI 5601 22 00**. Consequently, the differential duty with applicable interest is payable. **We decide the question of classification of the imported goods in favour of the Revenue and against the appellant.**

Extended period of limitation under section 28(4)

18. Extended period of limitation has been invoked in the order impugned in **Customs Appeal no. 55311/2023** on the following grounds:

- a) the appellant had failed to declare true and complete description of the goods;
- b) the fact of mis-classification was admitted by the appellant in statement dated 6.3.2020 recorded under section 108 of the Act; and
- c) the importer suppressed the fact that the fibers were of less than 5 mm length.

19. As per the aforesaid impugned order itself, the goods were described in the Bills of Entry as "Twaron Para Aramid Pulp D0707 (Industrial Man Made Fibre)" and "Twaron Para Aramid Pulp 3091 (Industrial Man Made Fibre)" which is the exact description in the product literature. During examination, officers found the material to be 'pulp, which was yellowish cotton like material'. If the assessing officer or the examining officer had any doubts about the nature of the material, he could have got samples tested or sought additional documents. There was no mis-declaration of the nature of the goods by the appellant. The allegation that the appellant had suppressed that the length of the fibre was less than 5 mm also cannot be sustained. In the Bill of Entry, the nature of the goods is required to be declared and not all the parameters of the test reports. If the officers had any doubt about the length of the

fibre, they could have sought clarification or got samples tested. The term 'suppression' means actively not disclosing what one is required to disclose with a malafide intent. There is not even an iota of evidence that the appellant had suppressed the length of the fibre. The third ground for invoking extended period of limitation is that Shri Niraj Srivastava, DGM Operations of the appellant, had, in his statement recorded under section 108, agreed to the classification of the goods under **CTI 5601 30 00**. This also cannot be a ground for invoking extended period of limitation because it does not establish 'collusion, wilful misstatement or suppression of facts'. In fact, the statements recorded under section 108 could not have been used at all because the Commissioner had not admitted them after examining the persons who made the statements as witnesses under section 135B. **In short, there is no ground whatsoever to invoke extended period of limitation. It is simply a case of self-assessment of the goods by the appellant differently from what has now been decided in the impugned orders. We decide the question of limitation against the Revenue and in favour of the appellant.**

Penalty under section 114A

20. Penalty under section 114A can be invoked if duty is not paid, short paid or erroneously refunded by reason of collusion, wilful mis-statement or suppression of facts. In other words, the factors which must be established to invoke

extended period of limitation under section 28(4) are the same as those for imposing penalty under section 114A. Since we have decided in favour of the appellant on the question of extended period of limitation under section 28(4), we do not find any reason to take a different view on the question of penalty under section 114A. **We decide in favour of the appellant and against the Revenue on the question of penalty under section 114A.**

21. In view of the above, we dispose of all three appeals upholding the classification of the imported goods under **CTI 5601 30 00** and confirmation of demand of duty within the normal period of limitation with appropriate interest. We set aside the demand of duty for extended period of limitation and the penalties imposed on the appellant under section 114A. All three appeals are disposed of as above. All three appeals are remanded to the adjudicating authorities only for the purpose of computation of demand of duty within the normal period of limitation and applicable interest. The appellant will be entitled to consequential relief, if any.

(Order pronounced in open court on 31/10/2025.)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)