

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

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 60100 of 2018**

[Arising out of Order-in-Original No. Commr/ASR/LUD/CUSTM/06/2017 dated 28.06.2017 passed by the Commissioner of Customs, Ludhiana]

**Anil Kumar, Proprietor of Gajraj  
Hosiery Factory**

**.....Appellant**

446, Naulakha Garden Colony, Benjamin Road,  
Ludhiana, Punjab - 141008

*VERSUS*

**Commissioner of Customs, Ludhiana**

**.....Respondent**

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

**APPEARANCE:**

Shri Anil Kumar, Proprietor

Shri Anurag Kumar, Authorized Representative for the Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)**

**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO.61785/2025**

DATE OF HEARING: 11.11.2025

DATE OF DECISION: 19.12.2025

**P. ANJANI KUMAR:**

The Appellant, M/s. Gajraj Hosiery Factory, imported a consignment, declared as "*Women Knitted Scarves, Shawl Assorted and others*" and classified under Customs Tariff Heading (CTH) 61171040 and filed Bill of Entry No. 8581773 dated 16.02.2017;

on specific intelligence, the Special Intelligence and Investigation Branch (SIIB), Customs, Ludhiana, examined the consignment on 04.03.2017 and 07.03.2017 and it appeared that out of the declared goods, 5896 pieces of 'ponchos' and 1350 pieces of 'capes' were mis-declared as "*Women Knitted Scarves, Shawl Assorted*"; The Textiles Committee, Ludhiana, on being asked to examine the goods, confirmed, vide report dated 20.03.2017, that the goods were indeed 'ponchos' and 'capes', not shawls or scarves; the goods were seized under Section 110 of the Customs Act, 1962. and a Show Cause Notice (SCN) dated 30.05.2017 was issued proposing to Confiscate goods under Section 111(m); Re-classify the same under CTH 61023010/ 61023020; demand differential duty of ₹38,78,650 and to impose Penalty under Section 112(a). Adjudicating Authority, duly according personal hearing, passed the Order-in-Original dated 28.06.2017 confirming Differential duty of ₹38,78,650 and imposing redemption fine of ₹2,00,000 and Penalty of ₹50,000. Hence, the appeal.

2. Shri Anil Kumar, proprietor of the appellant M/s. Gajraj Hosiery Factory, appears in person and reiterates the grounds of appeal and submits that the impugned goods are actually different styles of shawls and scarves and not ponchos as considered by the department; even the ponchos are being cleared as scarves in other custom stations under CTH 6117; it is not feasible to demand customs duty of Rs. 565 per piece whereas the market price of the goods is Rs. 200 to Rs.350; Hon'ble High Court of Punjab and Haryana while passing the order in CWP 8835/2017 has ordered that

the goods be released to the appellants; Hon'ble Supreme Court vide order dated 15.01.2018, while dismissing special leave petition 18751/2017, ordered that the appellant may seek alternate remedy. He submits that the appellant is incurring heavy demurrage and detention charges.

3. Shri Anurag Kumar, Learned Authorized Representative for the revenue reiterates the findings of the impugned order submits that the goods are mis-declared as shawls, whereas, they are confirmed to be ponchos/capes, as per the report given by the Textiles Committee, an expert body under the Ministry of Textiles' HSN Explanatory Notes and Customs Tariff explicitly include 'ponchos' under 'capes' in CTH 6102; the Appellant's reliance on trade parlance or marketability is irrelevant when the tariff provides a specific definition. He submits that the submission by the appellants, that Similar goods were cleared at other ports under CTH 6117, is irrelevant as each import is an independent transaction and must be assessed on its own merits; the mere fact that similar goods were cleared elsewhere does not create a legal right or estoppel against the department; moreover, the Appellant has not provided any evidence of such clearances being legally upheld; the appellants' averment that the duty demanded is not feasible as the market price is low is not acceptable as the duty is levied as per the Customs Tariff Act and not based on market feasibility.

3.1. Learned Authorized Representative submits that the appellant has mis-declared the goods and classified them wrongly, which in

itself shows the intent to evade payment of duty; the Appellant cannot allege that the principles of natural justice have been violated as the personal hearing was held several times; all the relied upon documents were supplied and all their contentions have been considered. The goods have been correctly held liable for confiscation as per Section 111(m) of the Customs Act, 1962, which provides that goods which do not correspond in value or description with the entry made under the Act, are liable for confiscation.

3.2. Learned Authorized Representative takes us through the relevant section/ Chapter notes, HSN Explanatory Notes and submits that the impugned correctly establishes that classification of the impugned goods under CTH 61023010 as Capes are explicitly named in Heading 6102; Ponchos are authoritatively defined as a type of cape as per the HSN Explanatory Notes and the Textiles Committee's Classification Guidelines and the material composition (Acrylic i.e. synthetic fibre) precisely places the goods under Tariff Item 61023010.

4. Heard both sides and perused the records of the case. We find that the appellants have imported goods declared as women knitted scarves, shawl assorted and other falling under CTH 61171040. On being asked to examine the goods vide letter dated 20.03.2017, Shri M.S. Kamal, Assistant Director, Textile Committee, Ludhiana visited the import shed, ICD and examined the goods in the presence of independent witnesses and reported that the goods are appropriately classifiable as 'ponchos' and 'Capes'. We find that

when the expert has given a report on the impugned goods, the same cannot be brushed aside without any substantial evidence to counter the same. We find that the appellant has not produced any substantiated evidence to consider that the said report of the Textile Committee is incorrect. Moreover, we find that there is nothing on record to indicate whether the appellant has challenged the said report. Under the circumstances, we are not inclined to accept the contention of the appellant on the classification of the goods.

5. We find that the learned Commissioner has considered the Chapter notes of 6101 and 6102 of Customs Tariff Act, 1975, explanatory notes to HSN under those Chapters and the guidelines issued by Textile Committee for classification of knitted or woven garments. We find that the learned Commissioner records that the appellants have accepted during the personal hearing that the impugned goods are of acrylic. The fact is not disputed by the appellant even during the present proceedings. We further find that note 1 of the notes of Chapter 54 of First schedule to the customs tariff, provides that:

Throughout this Schedule, the term 'man made fibres' means staple fibres and filaments of organic polymers produced by manufacturing processes either:

(a) By polymerisation of organic monomers to produce polymers such as polyamides, polyesters, polyolefins or polyurethanes, or by chemical modification of polymers produced by this process (for example, poly (vinyl alcohol) prepared by the hydrolysis of poly (vinyl acetate)); or

(b) By dissolution or chemical treatment of natural organic polymers (for example, cellulose) to produce polymers such as cuprammonium rayon (cupro) or viscose rayon, or by Chemical modification of natural organic polymers (for example, cellulose, casein and other proteins, or alginic acid) to produce polymers such as cellulose acetate or alginates.

The terms "synthetic" and ;artificial; used in relation to fibres, means: synthetic: fibres as defined at (a); artificial: fibres as defined at (b).

6. We further find that Chapter 6102 covers the impugned goods.

We find that the said heading is as follows:

"6102 Women's or Girls overcoats, Car-coats, capes, cloaks, Anoraks (Including skijackets), Wind-cheaters, Windjackets and similar articles, knitted or crocheted, other than those of heading 6104."

7. In view of the above, we find that learned Commissioner has correctly arrived at the classification of the impugned goods. We find that there is no reason whatsoever, so as to interfere in the classification decided by the Commissioner. We further find that the arguments of the appellant that similar goods are being cleared as declared by them in other customs stations is not substantiated. In the instant case, the impugned goods have been examined by the experts and reported. It is not the case of the appellants that similar goods have been cleared under CTH 61171040n even if there was report by the Textile Committee contrary to the declaration. The appellants have not submitted any copies of the bills of entry and the reports if any. Under the circumstances, it is to be held that the claim of the appellants is bereft of merit. We also find that the submissions on re-determination of the value of the goods is of no much help as the impugned goods are leviable to the duty on per piece/ per square mtr. basis and as such the value has no bearing on the duty. We find that learned Commissioner has imposed redemption fine of Rs. 2 lakhs which is minimal keeping in mind the value of the goods. However, looking into the delay and hardship

already faced by the appellants, we find that the interest of justice will be served if the same is reduced to Rs. 20,000 (twenty thousand only) and penalty to Rs. 5000 (Rupees five thousand only).

8. In view of the above, the appeal is partly allowed by upholding the classification as arrived by the impugned order and reducing the redemption fine to Rs. 20,000 (Rupees twenty thousand only) and penalty to Rs. 5000 (Rupees five thousand only).

(Order pronounced in the open court on 19/12/2025)

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

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