

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad**

REGIONAL BENCH-COURT NO. 1

Customs Appeal No. 11604 of 2016- DB

(Arising out of OIA-KDL-CUSTM-000-APP-019-16-17 dated 11.05.2016 passed by the Commissioner of Customs (Appeals), Ahmedabad)

Commissioner of Customs-Kandla

Custom House,
Near Balaji Temple,
Kandla, Gujarat

.....Appellant

VERSUS

Om Siddh Vinayak Impex Pvt Ltd

Shed No.283/293, Sector-III,
Kandla Special Economic Zone,
Gandhidham, Kutch, Gujarat

.....Respondent

APPEARANCE:

Shri Girish Nair, Assistant Commissioner (AR) appeared for the Appellant
Shri Paresh M Dave, Advocate with Shri Sudhanshu Bissa, Advocate appeared for the Respondent

CORAM:

HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 10249/2026

DATE OF HEARING: 07.10.2025
DATE OF DECISION: 07.04.2026

SATENDRA VIKRAM SINGH

1. The respondent M/s. Om Siddh Vinayak Impex Pvt Ltd Gandhidham, Kutch had imported 25603.2 Kgs of Synthetic Fabric Lots vide Bill of Entry No.2376 dated 25.09.2003 by declaring the same as "100% polyester plain dyed fabrics" and classifying under CTH 54075290. They declared assessable value of the goods as Rs.8,45,572/- and claimed duty exemption under Notification No.137/2000-Cus. dated 19.10.2000. Two samples drawn by customs were sent to CRCL Kandla for testing on 13.10.2003 which reported the test results as under:-

| Sr. No. | GSM | Wt/Mtr | Texturized Yarn |
|---------|-------|----------|-----------------|
| 1. | 192.8 | 287.9 gm | 60.0% |
| 2. | 193.7 | 285.6 gm | 63.5% |

1.1 As per the sample test report(s), texturized yarn percentage was less than 85%, hence, classification declared by the importer was not found to be correct. The Bill of entry was provisionally assessed on 10.02.2004 and goods were allowed to be cleared. Later on, the goods were assessed finally by the assessing officer vide order dated 09.03.2007 wherein, he denied benefit of Notification No.137/2000-Cus dated 19.10.2000 and confirmed differential duty of Rs.71,57,744/-. The respondent approached the Commissioner (Appeals) who vide order dated 20.03.2008 set aside final assessment of goods by observing that copy of test report not supplied to party either before or after the adjudication and that, the order of finalisation does not spell out why benefit of Notification No.137/2000-Cus. dated 19.10.2000 has been denied to appellant. He therefore, remanded the case back for passing a speaking order after following the principles of natural Justice. Accordingly, Deputy Commissioner issued a notice dated 18.12.2008 mentioning the allegations against the respondent and supplied relied upon documents and test reports alongwith the notice.

1.2 In remand proceedings, the Deputy Commissioner, Customs, Kandla SEZ, passed Order-in-Original dated 12.11.2015 wherein, he rejected the declared value and held that the imported goods were to be classified under sub heading 54078290 instead of CTH 54075290 as claimed by the respondent. He finalised provisional assessment of goods imported vide above Bill of Entry by confirming classification under CTH 54078290, enhancing the assessable value of goods to Rs.20,66,877/- and confirmed the duty of Rs.71,57,744/- along with interest. Aggrieved with this order, the respondent filed appeal before the Commissioner (Appeals) who vide order dated 11.05.2016 set aside the order of the Deputy Commissioner and allowed appeal of the respondent. Revenue feeling aggrieved, has filed the present appeal before Tribunal.

2. In appeal, revenue has taken the following grounds: -

- The respondent has violated Notification No.137/2000-Cus dated 19.10.2000 which "exempts all goods..." imported into India... for the purposes of manufacture of goods, services,.... by a unit within a Special Economic Zone. The unit was issued LOP dated 30.01.2002 by the Development Commissioner, Kandla, SEZ, for manufacturing/processing of old, used worn clothing/rags/ wipers for mutilation, for drawing yarn from old and used worn clothes etc. They were not allowed to carry out any manufacturing activity using new fabrics and no special permission was given by the specified officer to import the said goods.
- The unit did not have any manufacturing facility as they had only Rag Cutter machines and Bailing Press machines in their premises which has been duly accepted by the Directors of the respondent company during the course of investigation. The unit has not utilised the imported goods for intended purpose which disentitle them of the benefit of Notification No.137/2000-Cus.
- The imported goods have been diverted in domestic market by fraudulently mentioning CTH of the goods as 6309/ 631090 (as old and used worn cloths) without the knowledge of the department. The respondent unit was not allowed to remove imported goods in DTA even for job work, without the permission of the specified officer of KASEZ and no such permission was accorded to them.
- Learned Commissioner (Appeals) erred in holding that the issue of diversion of materials in DTA is not before the assessing officer. He has wrongly held in para 10 of his order that the unit is entitled to exemption from duty so long as goods are used for authorised operations under LOP which is manufacture of readymade garments duly stitched. The investigation has clearly brought out that the unit did not have any

manufacturing facilities and so, they did not use the imported goods for manufacture of readymade garments.

- Learned Commissioner (Appeals) has failed to appreciate that this is a case of unauthorised import of goods under CTH 54075290 to evade customs duty as the declared CTH covers goods "other woven fabrics containing 85% or more by weight of textured polyester filaments" attracting lower rate of duty whereas imported goods having less than 85% textured Polyester filaments are correctly covered under CTH 54078290. The imported goods were diverted in DTA by wrongly classifying them under CTH No.631090 without any processing. The issue therefore is of wrong classification and under valuation of goods imported by the respondent.
- The Commissioner (Appeals) has heavily relied on the wordings "Fants & Cloths" in the LOP issued to the Respondent to infer that the unit was allowed to import clothes fabrics of any kind, for manufacture of readymade garments as no specific classification or the tariff head is mentioned in the LOP. The word "Fants" means, *"the comfy pants or outfit we put on after a long day work which actually means pants"*. The same has correctly been mentioned as Pants in the renewed LOP issued in February, 2008 as per which they were allowed to make readymade garments duly stitched from pants and cloths i.e. from old and used worn cloths and were not permitted to make readymade garments from new fabrics/ cloths.
- The LOP dated 29.01.2002 has been issued on the basis of their application dated 13.11.2001. Para 3 of the project report attached with their application mentions, "the basic raw materials required for the products are worn/ used and old clothing and rags/ hosiery, synthetic as well as woollen etc which are easily available all over the world." The list of machinery available including proposed list of machinery, clearly shows that the unit did not propose or envisage any other activity except

reprocessing/ sorting of old and used/worn out clothes. The unit had no infrastructure to manufacture/stitch new clothes from fresh fabric and were only to recondition the old clothes.

- The Appellate Authority also erred in holding that by sending samples to the textile committee for re-testing, the assessing officer doubted the test report of CRCL Kandla. The samples were sent to CRCL Kandla to ascertain description, composition, texture, denier, weight per meter, whether knitted or woven, whether the fabric is made of yarn out of different colours, whether bleached or unbleached, printed or dyed, Denier width & whether made out from texturized or non-texturized so as to ascertain correct classification and valuation of the imported goods. The CRCL Kandla test reports covers all these aspects. DRI initiated investigation regarding diversion of imported goods as such, without subjecting them to any manufacturing activity. Therefore, it was imperative to wait for completion of investigation to clear air on duty exemption under Notification No. 137/2000-Cus dated 19/10/2000.
- The O-I-O dated 12.11.2015 clearly discusses in Para 16D that no retest request was ever sent to the Textile Committee and the department, as well as the respondent unit had accepted CRCL Kandla report which was conclusive, unambiguous and covered all the aspects. Learned Commissioner (Appeals) ignored the fact that respondent requested for retesting of samples without rejecting or even contesting the earlier test report of CRCL Kandla and such a request came when they fully knew that no samples were available for testing and the imported goods had been disposed of. The representative of the unit as well as the appraiser (who finalised provisional assessment and later joined the respondent unit as their employee) had searched/ inspected the files and they themselves got satisfied that no samples were sent to textile committee for testing, which facts have completely been ignored by the Commissioner (Appeals).

- The assessment has correctly been finalised by the department and the same is just, reasonable & legal. The goods imported on 22.09.2003 were not requested for appraisal till 10.02.2004. They got the goods provisionally assessed by a newly appointed appraiser who was not well versed with all the facts. Later, they sold almost entire quantity of imported goods in DTA within few days i.e. on 13.02.2004 & 16.02.2004, by mis-declaring classification under CTH 631090 as old and used/ worn out clothes without following LOP norms which shows that they had no intention to use imported goods for the intended purposes. Some quantity was found short by DRI during investigation which facts have been admitted by the Directors during extensive investigation. The revenue prayed for setting aside the impugned order by upholding the order of the Deputy Commissioner, Kandla, SEZ.

3. During arguments, learned AR emphasised that the respondent did not have any infrastructural facilities and as per the list available with them, they had machines pertaining to bailing operations and did not have any machinery for manufacturing clothes from fabric. They were granted LOP on 29/30.01.2002 for manufacture of "Woolen/ Synthetic/ Hosiery Mixed Clothing/ Used Worn Clothing/ Uncut for mutilation. Reconditioning of clothes selected from old, used worn clothing/rags, readymade garments duly stitched from Fants and clothes, raw wools/waste/yarns/tops for making carpet yarns.

3.1 The unit had imported 25603.2 Kgs of synthetic fabrics/stock lots from China in Sept. 2003 by classifying goods under CTH No. 54075290 which on testing by CRCL Kandla, turned out to be synthetic fabrics having less than 85% texturized polyester yarn. For classification under CTH 54075290, texturized yarn should not have been less than 85% which in this case was 60-63%. He pleads that as per above test report correct classification of imported goods should be under CTH 54078290. He justifies action of Revenue of rejecting the declared value as goods were actually found to be of different

composition. The value of comparable goods was adopted by the concerned officer who then, redetermined assessable value of imported goods as Rs.20,66,877/-. Based on proposed classification of imported goods which attracted higher specific rate of duty (Rs. 42 per Sq. M.), the Adjudicating Authority confirmed the differential duty of Rs.71,57,744/- on the respondent. Learned AR emphasised that no sample was ever sent to the Textile Committee for retest and that the test report from CRCL Kandla, was conclusive as it was never challenged/ rejected by the respondent. Dropping demand by the Appellate Authority on the ground that the department did not accept test report of CRCL Kandla is a fig of imagination as records do not show that the sample was sent to Textile committee for testing. The respondent also had no doubt that no such samples were sent to Textile committee. He emphasises that the unit did not have any manufacturing facility for using imported synthetic fabric and the same was diverted in DTA within 5-6 days of clearance, as admitted by the Directors during detailed investigation conducted by DRI. He therefore submits that the Appellate Commissioner has wrongly dropped the demand on the respondent by citing unsubstantiated facts and prays for allowing revenue's appeal.

4. Countering the arguments, Learned Advocate submits that the respondent was granted LOP initially in the name of M/s. Nidhee Exports for setting up of manufacturing unit in Kandla, SEZ. It was later on changed to M/s. Om Siddh Vinayak Impex Pvt. Ltd. His main emphasis is that the goods imported in Sept, 2003, were assessed provisionally in February, 2004 even though department was in possession of the test report from CRCL Kandla which shows that the department was doubting the said test report. He emphasises that the Assessing officer had sent samples to Textile committee, Mumbai because he was apprehensive about quality/ nature of the material. The provisional assessment of the goods was finalised in March, 2007 by amending classification from 54075290 of the goods to CTH 54078290 and

enhancing its value. On party's appeal, the Commissioner (Appeal) set aside the assessment order and remanded the matter to the Adjudicating Authority for deciding afresh after providing copy of the test report to the respondent and following the principles of Natural Justice. A notice for finalisation of assessment was issued on 18.12.2008. After a series of adjournments, the Deputy Commissioner decided the matter on 16.11.2015 thereby, confirming classification of imported goods under CTH 54078290, enhancing of assessable value of goods and confirming differential duty of Rs.71,57,744/- along with interest. Their appeal against the above said order was allowed by the Commissioner (Appeals).

4.1 Learned Advocate mentioned that LOP referred to by Revenue in grounds of appeal does not exist. As per actual LOP (copy of which is already submitted), they were allowed to make readymade garments duly stitched from Fants and clothes and therefore, revenue has wrongly taken a ground that LOP never allowed making of readymade garments from new fabrics/clothes. Regarding sending samples to the Textile committee for re-testing, he stated that this fact is also recorded by the assessing officer while provisionally assessing the Bill of Entry. Therefore, it is incorrect on part of revenue to raise ground that no samples were sent to Textile committee for retesting.

4.2 Learned Advocate also submits that a new case cannot be made out by Revenue in their appeal before the Tribunal. The Bill of Entry was finalised on 09.03.2007 and the said order was set aside by the Commissioner (Appeals). Thereafter, a show cause notice was issued for redetermining classification and value of the imported goods on the basis of invoices of comparative goods raised by overseas suppliers on other units such as M/s. Cosmos Trading Company, M/s. Kalinga Trading Company and M/s. Warren Trading Pvt. Ltd. operating in Kandla SEZ. Revenue's appeal relies on investigation carried out by DRI which includes acceptance by the Directors of the unit about non

availability of facility for manufacturing of readymade garments from clothes/fabrics and diversion of imported goods as such, without processing but no such evidence has been referred to in the show cause notice dated 18.12.2008 issued for finalisation of provisional assessment.

4.3 Learned Advocate pleads that the grounds taken by Revenue are beyond the scope of show cause notice. He relies on the decision of Hon'ble Supreme Court in the case of Commissioner of Customs, Mumbai Vs. Toyo Engineering India Ltd. reported at 2006 (201) ELT 513 (SC) wherein, it is held that submissions which revenue neither raised before the Adjudicating Authority nor before the first Appellate Authority, cannot be allowed to be raised for the first time in second appeal before Tribunal. He also relies on decision of Hon'ble Apex Court in Precision Rubber Industries (P) Ltd. reported at 2016 (334) ELT 577(SC) which held that making a new case after rejecting two sub headings proposed in the show cause notice, is not allowed. To buttress his arguments, he refers to the decision of CESTAT Delhi, in the case of Rajasthan Fasteners Pvt. Ltd. reported at 2013 (292) ELT 466 and decision of Hon'ble Telangana High Court in the case of Conneqt Business Solution Ltd reported at 2025 (392) ELT 334 (Telangana) wherein it is held that revenue could not be permitted to make out a new case on facts before CESTAT in absence of specific allegation in the show cause notice. The decision of Hon'ble Telangana High Court in Conneqt Business Solution Ltd case has also been upheld by Hon'ble Supreme Court as reported at 2025 (392) ELT 315(SC). In view of above, learned Advocate prayed to set aside the Revenue's appeal and uphold the order of the Commissioner (Appeals).

5. We have heard the rival submissions. Following issues need decision in this case:-

(a) Whether sample test reports received from CRCL Kandla is adequate to decide classification of goods imported by the respondent?

(b) Whether enhancement of assessable value in this case is justified?

(c) Whether Assessment Finalisation order dated 12.11.2015 issued by the Deputy Commissioner is beyond the scope of show cause notice?

(d) Whether benefit of Notification No.137/2000-Cus is available to respondent?

5.1 Revenue has challenged impugned order of Commissioner (Appeals) on the grounds that he has set aside Provisional Assessment Finalisation order dated 12.11.2015 on wrong facts and therefore, the said order is required to be set aside and the order of the Deputy Commissioner to be upheld. We find that learned Commissioner (Appeals) in para 7.6 to 7.9 has observed that the test reports from CRCL Kandla are inadequate to decide classification of imported goods and that, both the assessing officer as well as importer had doubted these reports. He also discusses re-test request made by the importer on 03.02.2014 and holds that detailed composition of goods is required for determination of classification. Learned Advocate in his arguments has also emphasised disagreement of the importer and inadequacy of the test report of CRCL Kandla for deciding the classification of goods.

5.2 Before proceeding further, test report of CRCL Kandla is reproduced under:-

क्र. सी. शु. नं. 137/2000-145003
 D.P. No. 2375/25-9-03

Report: The sample packet contains two samples. Each of the two samples is in the form of two pieces of woven fabric made out of different colour yarns. Warp side in each case is made of texurised Polyester filament yarns and weft side in each case is made of non-texurised Polyester filament yarns.

| | GSM | wt/mtr. | Texurised yarn |
|-----|-------|----------|----------------|
| (1) | 192.8 | 287.9 gm | 60.0% |
| (2) | 193.7 | 285.6 gm | 63.5% |

Sealed remnant returned.

दिनांक: 16/10/03
 (जागरूकता 2003)
 म. 002

Xerox Copy Attached
 12-06-03
 सहायक रसायन परीक्षक
 सीमा शुल्क, कांडला

Ch. Verma
 16-10-03
 C.B.
 Chemical Examiner
 Cus & Cea. Ex. Lab.
 Western House, Kandla

5.3 We find that the importer had classified their goods under CTH 54075290 which covers *"other woven fabrics containing 85% or more by weight of textured polyester filaments"*. As per CRCL Kandla test reports, imported goods had 60-63.5% texturization which clearly means that tariff entry declared by the respondent for classification of goods in above Bill of Entry is not correct. On the other hand, tariff entry 54078290 confirmed by Revenue covers *"other woven fabrics, containing less than 85% by weight of synthetic filaments mixed mainly or solely with cotton"*. It is therefore clear that classification of goods sought for by the respondent in the Bill of Entry was not correct. The Learned Commissioner (Appeals) has not elaborated why the test report is inadequate. On facts, we are in agreement with the finding of the Deputy Commissioner that goods having texturised yarn in the range of 60-63.5% are correctly classifiable under CTH 54078290. On the basis of a remark on the B/E by the assessing officer while ordering for provisional assessment of goods, Learned Commissioner (Appeals) has held that the test reports have been doubted by the assessing officer as well respondent. Learned Advocate also makes the above remark of the assessing officer his basis for assertion that the department also doubted the CRCL Kandla test report. We find that the records nowhere, show that the test report was discarded by the assessing officer. There is also no correspondence from the respondent raising doubts about the said test reports till February 2014 when they, for the first time, requested for retesting of sample knowing well that remnant samples were not available. The request for retesting of samples received after a gap of 11 years from the date of import, was not acceded to by the department due to non-availability of samples and also, as the matter was under de-novo adjudication. It is also confirmed by the respondent after verifying office records that no sample was ever sent to Textile Committee, Mumbai for giving opinion on the composition of the goods. It therefore remains a mystery why the assessing officer made remark on the Bill of entry without actually sending samples to the Textile Committee for report. We are

of the view that there was no dispute in the test reports of CRCL Kandla either from the department side or by the respondent till Feb 2014 (when the respondent raised the issue of retest after finding that remnant samples are not available). We also find that the test reports given by CRCL Kandla gives composition of goods and thus, it is adequate to determine classification of imported goods. We agree with classification confirmed by the Deputy Commissioner in his order dated 12.11.2025.

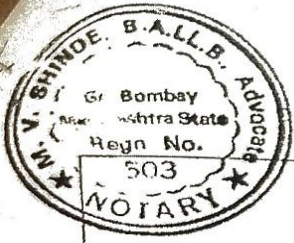
5.4 We find that the show cause notice dated 18.12.2008 issued for finalisation of provisional assessment proposes determination of duty by denying benefit of Notification No.137/2000-Cus dated 19.10.2000. It also challenges the value of imported goods as declared by the respondent in the Bill of Entry. We find that the respondent had declared assessable value of the goods as Rs.8,45,572/- on the basis of declared composition which on testing, was not found to be correct by the department and therefore, value of goods has been redetermined by the Deputy Commissioner as Rs.20,66,877/- on the basis of similar goods imported by other units in Kandla, SEZ. The respondent has challenged above method of valuation. It is a settled legal principle that the department has to first reject the transaction value and then proceed to determine value by following customs Valuation Rules by providing relied upon data/contemporary import data of goods of similar quality and characteristics. For this purpose, we remand the matter to the Adjudicating Authority who shall provide copy of the documents/invoices/data which he wants to rely for re-determination of value and afford full opportunity to the respondent before taking decision.


5.5 Regarding differential duty, respondent was operating under SEZ under Letter of Permission issued by the Joint Development Commissioner, Kandla SEZ, which permitted procurement of certain raw materials and manufacture and export of finished goods. There is a dispute in LOP issued to the respondent as to which of the raw materials were permitted to be procured by

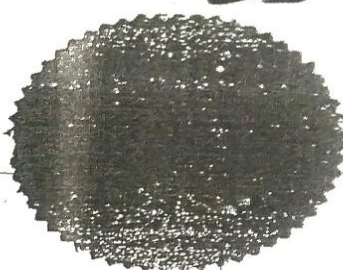
them. It is the claim of the department that under LOP, respondent was permitted to reprocess old and used clothes including pants etc. and they did not have any machinery and other infrastructure for manufacture of readymade garments from fabrics. The respondent on the other hand claims that the department is not correctly interpreting LOP which permitted them to manufacture readymade garments for which they had imported fabrics. The LOP dated 29.01.2002 issued to the respondent is reproduced below:

29

CERTIFIED TRUE COPY







OFFICE OF THE DEVELOPMENT COMMISSIONER
KANDLA SPECIAL ECONOMIC ZONE
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
GANDHIDHAM-KUTCH
PIN: 370 230

No.KASEZ/IA/1860/2001/ 10043 Dated : 29th January 2002.

M/s. Nidhee Exports,
Gokul Dham, 3rd Floor,
Flat No.04, Near Kora Kendra,
S.V.Road,Borivli(W),
Mumbai- 400 092.

Sub: *Grant of permission for setting up a manufacturing unit at
Kandla Special Economic Zone.*

Dear Sirs,

Please refer to your application dated 13-11-2001 on the above subject. This is to convey the approval in terms of the provisions contained in Export and Import Policy and Handbook of Procedures, Vol-I (1997-2002) for setting up a unit at Kandla Special Economic Zone for carrying out the under mentioned activities:

| Activity/Item of manufacture | Annual Capacity (in MTS) | Annual Turnover (In lacs) |
|--|--------------------------|------------------------------|
| Woolen/synthetic/hosiery | 3600 | 1 ST YEAR 901.51 |
| Mixed clothing/used worn Clothing un cut for mutilation. | 4200 | 2 ND YEAR 1051.76 |
| Synthetic fibre waste/yarns/tows/thread waste/soft waste/dyed waste and waste from job-stock lot from virgin material. | 4800 | 3 RD YEAR 1202.02 |
| Recondition of clothes selected from the Old,used worn clothings/rags (worn clothing/wipers. | 5400 | 4 TH YEAR 1352.27 |
| Readymade garments duly stitched (from Pants and clothes) | 5400 | 5 TH YEAR 1352.27 |
| Raw wools/waste/yarns/tops for making carpet yarns. | | |

Dept

Key

5.6 From LOP, we observe that both raw materials and the finished goods have been mentioned in the same column. Therefore, office of the Development Commissioner can only clearly intimate as to which of the raw

materials were permitted to be procured against this LOP. We therefore, remit the matter to the Deputy Commissioner, Kandla SEZ to seek opinion from the office of the Development Commissioner and if, it comes out that the respondent were permitted to import fresh fabrics for manufacture of readymade garments, duty determination shall be done in accordance with the relevant Notifications applicable to a unit operating in SEZ. Learned Advocate has also contended that the Adjudicating Authority cannot travel beyond the show cause notice which has not invoked various facets of investigation conducted by DRI including the statements of the Director, diversion of goods in DTA etc. Agreeing with this contention, we direct the Deputy Commissioner not to be affected by these aspects while finalising Provisional Assessment of the goods in this case. If in the opinion of the Development Commissioner, respondent was permitted to import fresh fabrics, for manufacture of readymade garments, then the respondent is at liberty to produce by way of documentary evidence that they had necessary machines and other infrastructure with them for processing fabrics for permitted use. With these directions, we remand the matter to the Deputy Commissioner to take decision in the matter within a period of six months from the date of receipt of order after seeking opinion from the office of the Development Commission on the LOP. Also, the respondent shall be given opportunity to make oral as well as written submissions.

6. The appeal is allowed by way of remand as above.

Assent as per Somesh Arora, Member (Judicial):

While agreeing with the above order of my learned brother, I am constrained to make an observation that the permission, which is in the nature of LOP and is a kind of licence for import of duty-free goods, has been casually made by the issuing authority of Kandla SEZ. Under the heading "Activity/Item of Manufacture," raw materials like raw wool/waste/yarns/tops for making carpet yarns have been mentioned. The way the permission has been granted, it

cannot be made out whether the so-called LOP is allowing raw wool to be manufactured or it is permitting raw wool to be procured for manufacture of any item. In such serious kinds of permissions, such casual attitude cannot be appreciated. It is time that the office of the Development Commissioner takes permissions, which have a lot of implications on imports, seriously and ensures careful drafting of such permissions/letters. I agree that the matter deserves to be remanded for necessary clarification and then adjudication, as has been indicated by my learned brother. The appeal is allowed by way of remand as above.

Ordered as above. Matter remanded.

(Pronounced in the open court on 07.04.2026)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Bharvi