NEUTRAL CITATION
2026:GUJHC:44998-DB

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 17635 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI Sd/-

==

Approved for Reporting	Yes	No
	✔	

==

MESSERS SHANKAR PACKAGINGS LTD. & ANR.
Versus
UNION OF INDIA & ORS.

==

Appearance:
MR AMAL PARESH DAVE(8961) for the Petitioner(s) No. 1,2
MR PARESH M DAVE(260) for the Petitioner(s) No. 1,2
DS AFF.NOT FILED (N) for the Respondent(s) No. 1
MR CB GUPTA(1685) for the Respondent(s) No. 2,3

==

CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 16/07/2026

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. The present writ petition is filed seeking the following prayer : -

> *"15. (A) That Your Lordships may be pleased to issue a writ of Certiorari or any other appropriate writ, direction or order quashing and setting aside final order No.A/11488/2023 dated 12.07.2023(Annexure-"H") with a direction to CESTAT, Ahmedabad to decide Appeal No.C/10977/2013 on merits."*

2. Thus, the petitioner seeks a direction to the Central Excise and Service Tax Appellate Tribunal, Ahmedabad (CESTAT), to decide its appeal on merits.

3. At the outset, learned advocate Mr.Dave, appearing for the petitioners, has submitted that the Tribunal had no

justification for remanding the case for *de novo* adjudication in view of the judgment of this Court in the case of Messrs CTM Technical Textiles Limited Vs. Union of India, [2020 (12) TMI 1100]. He has further submitted that the directions issued by the Tribunal are also vague in nature, as the Tribunal has neither considered the ratio laid down in the said judgment nor has examined the nature of the goods exported.

4. Learned advocate Mr.Dave has further submitted that the Commissioner of Customs (Appeals), Jamnagar, after considering the judgments of this Court as well as the judgment of the Supreme Court and the judgment of the Bombay High Court, concluded that the classification of the Flexible Intermediate Bulk Containers (FIBCs) would fall under Chapter Heading 63053200, which is in favour of the petitioner-Company.

5. It is submitted that all the relevant facts, documentary evidence, and the case law relied upon by the rival parties were available before the Tribunal. However, the Tribunal simply remanded the matter to the adjudicating authority without properly appreciating the findings recorded by the Commissioner of Customs (Appeals) or the nature of the goods exported by the petitioners. Thus, it is urged that the impugned order passed by the Tribunal may be quashed and set aside and that the Tribunal may be directed to decide the appeal of the petitioners afresh on merits.

6. Per contra, learned Senior Standing Counsel Mr.C.B. Gupta has urged that the impugned order passed by the Tribunal may not be interfered with, as the same has been

passed after duly examining the goods exported by the petitioners and classifying them under the relevant Chapter Heading. He has further submitted that the Adjudicating Authority had initially classified the exported goods, declared in the shipping bills as “Flexible Intermediate Bulk Containers”, under Chapter Heading 39232990. Subsequently, in appeal, the Commissioner of Customs (Appeals) modified the said classification. Thus, it is submitted that, under the provisions of Section 129B of the Customs Act, 1962 (for short, “the Act), the Tribunal is empowered to remand the matter to the Adjudicating Authority. It is urged that the present petition may not be entertained.

7. We have heard the learned advocates appearing for the respective parties at length and have considered the submissions advanced on their behalf.

8. The petitioner-Company is engaged in the business of manufacturing “Flexible Intermediate Bulk Containers”, which are packaging products commonly known as "Jumbo Bags". The petitioner-Company also manufactures other products such as High-Density Polythene (HDPE) and Polypropylene (PP) tapes, fabrics, sacks, etc. The petitioner-Company exports the said goods through Pipavav Port.

9. The petitioner exported "Jumbo Bags" under six shipping bills filed under Section 50 of the Act, classifying the goods under Customs Tariff Heading 63053200. Thereafter, samples of the exported goods were drawn by the Customs authorities and sent to the Chemical Examiner, who reported that the goods were in the form of white woven plastic articles

comprising strip yarn of pigmented polypropylene. Based on the said report, the Customs authorities finalized the classification of the exported goods under Chapter Heading 39232990 by an order dated 02.02.2012.

10. Aggrieved thereby, the petitioner preferred a statutory appeal before the Commissioner of Customs (Appeals), Jamnagar. Upon considering the nature of the exported goods, as well as the judgments of the Supreme Court and the Bombay High Court, the Commissioner of Customs (Appeals) held that the Flexible Intermediate Bulk Containers were classifiable under Chapter Heading 63053200.

11. Being aggrieved by the said order, the Department preferred an appeal before the Tribunal challenging the same. During the course of the proceedings, the petitioners relied upon the decision of this Court in the case of ***Messrs CTM Technical Textiles Limited (supra)***.

12. We have noticed that the Tribunal has recorded the rival submissions advanced by the respective parties and also took note of the judgment of this Court in the case of ***Messrs CTM Technical Textiles Limited (supra)***, as relied upon by the learned advocate appearing on behalf of the petitioners.

13. After recording the submissions advanced by the learned advocates appearing for the respective parties at length, the Tribunal ultimately confined its findings to paragraph No.10 of the impugned order.

14. Upon a perusal of the findings recorded by the Tribunal in paragraph No.10, we are unable to decipher the basis of its

conclusions. After referring to the judgment of this Court in the case of ***Messrs CTM Technical Textiles Limited (supra)*** as well as the decision of the Madhya Pradesh High Court in the case of Raj Pack Well Limited vs. Union of India, [1990 (50) E.L.T. 201 (M.P.)], the Tribunal merely recorded that, "*in the present matter, it is factum of same being woven with, inter alia, qualifies to make it textile.*" Interestingly, the Tribunal adopted the observations made by this Court in the case of ***Messrs CTM Technical Textiles Limited (supra)*** and observed as under:

> "*10.....xxxx*
>
> *We, therefore, like in the matter of Messrs CTM Technical Textiles Limited Vs. Union of India, are inclined to remit the matter back to have a relook into the CBEC Circular No. 8/92 dated 24.09.1992 and CBEC Trade Notice No. 78/94 dated 09.05.1994.*"

15. The Tribunal issued the aforesaid direction without examining the true purport of the directions issued by this Court in the case of ***Messrs CTM Technical Textiles Limited*** **(supra)**. The Coordinate Bench of this Court, in the said judgment in paragraph No. 64, had directed the Union of India to re-examine the aforesaid Circulars and to take an appropriate decision in light of the observations made therein.

16. We fail to understand how the Tribunal, in the facts of the present case, adopted the very same directions and remanded the matter to the Adjudicating Authority to re-look into the said Circulars, despite the fact that this Court had directed the Union of India itself to undertake such an exercise. After recording the aforesaid observations, the Tribunal merely reproduced the relevant Section and Chapter Notes of the Customs Tariff Act, 1975 and proceeded to issue incongruous directions in paragraph No.10.

17. Thus, as the final directions issued by the Tribunal are difficult to decipher, the impugned judgment and order become unsustainable. All the relevant facts, documentary evidence, and the judgments governing the issue were available before the Tribunal. In view of the availability of the relevant case law and documentary evidence, the Tribunal ought to have examined the rival contentions on merits and rendered a reasoned decision instead of remanding the matter. The Tribunal was expected to apply the ratio of the judgments cited by the respective parties, examine the documentary evidence placed before it and decide the issue in light of the statutory provisions governing the relevant Chapter Heading applicable to the goods in question.

18. Accordingly, the writ petition ***succeeds***. The impugned judgment and order passed by the Tribunal is quashed and set aside. The matter is remanded to the Tribunal for fresh adjudication of Customs Appeal No.C/10977/2013, after affording an opportunity of hearing to the respective parties. It is clarified that we have not examined the merits of the case, and all rival contentions are kept open. The Tribunal shall pass an appropriate order within a period of four months from the date of receipt of this order.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VAIBHAVI D. NANAVATI,J)

MAHESH/47-[III matter]