

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
WEST ZONAL BENCH AT AHMEDABAD**

REGIONAL BENCH – COURT NO. 03

**CUSTOM Appeal No. 11754 of 2015**

[Arising Out Of OIA-AHD-CUSTM-000-APP-097-15-16 Dated-11/08/2015 Passed By  
Commissioner of CUSTOMS-AHMEDABAD)

**C.C.-Ahmedabad**

Custom House,  
Near All India Radio Navrangpura,  
Ahmedabad, Gujarat

**.....Appellant**

*VERSUS*

**Sal Hospital & Medical Institute**

Opp. Doordarshan, Drive-In-Road,  
Ahmedabad, Gujarat

**.....Respondent**

**APPEARANCE:**

Shri. Himanshu P Shrimali, Superintendent (AR) for the Appellant  
Shri. Sudhanshu Bissa, Advocate for the Respondent

**CORAM: HON'BLE MEMBER (TECHNICAL), MR. RAJU  
HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA**

**FINAL ORDER NO.A / 11146 /2023**

DATE OF HEARING:02.05.2023

DATE OF DECISION:02.05.2023

**Raju**

This appeal has been filed by Sal Hospital & Medical Institute against change in classification of operation Theatre Light by them.

2. Learned Counsel for the appellant pointed out that they have imported operation Theatre Lights and revenue is seeking to classify the same under Chapter Heading 9405 whereas they are rightly classifiable under Chapter Heading 9018.00. He pointed out that the issue regarding the identical product has been decided by Tribunal in the case of COGNATE INDIA-2017 (345) E.L.T. 122 (Tri.-Del.)

3. Learned AR relies on the impugned order.

4. We have considered the rival submissions. We find that the operation Theatre Lights have been described in Order-In-Original in the following terms:-

"5. I have also gone through the literature and technical details of operation theatre ceiling lights imported by the appellant, which is submitted with the appeal and it was highlighted by the Ld. Advocate also during the hearing. I find the technical data sheet of Operating Light marked V16 LCD V10 LCD mentions that these lights are designed to improve operating comfort, allow non-sterile operating functions and ensure fast and secure disinfection. The several color type is used to illuminate operating field which creates both shadow free and deep cavity illumination. Computer calculated optical lens systems allow an even Illumination without any colour shadow for small or large surgical sites. All these features indicate that the lights are manufactured with the sole purpose to assist in surgical functions. The camera (additional equipment) is used for data transfer of video, audit and control signals. They are also used to transmit operation to TFT flat screen or projection screens 10 consult with colleagues and experts or give them advice. Apart from this, they also save the digital image of the date

I have also noticed that there are numerous instances of import of operation theatre light classified under HS Code 90189099, and such data is available from Zauba. Concessional rate of duty is also allowed for similar goods classified under CTH 90139099 as found from the data retrieved from Zauba. On comparison of description of the goods classified under HS Code 90189099 in such other cases and the goods imported in this case by the appellant SAL Hospital and Medical Institute, it is found that the goods are similar. I have also found that the Model number of the goods imported is co relatable to the description in proforma Invoices and other import documents".

5. In respect of the same product the Tribunal in the case of COGNATE INDIA (supra) has observed as follows:

"2. We have heard both the sides and perused the appeal records.

3. As noted above, the dispute is relating to classification of operation theatre lights. It is the contention of the Department that these lights cannot be considered as medical equipment or apparatus. They are basically lighting system with more features of spot lights. The exemption claimed by the respondent under "other medical equipments" is not tenable. It is the case of the Department that even if these lights are designed for use in operation theatre they do not become any type of medical equipment. They cannot be considered as electro medical apparatus.

4. The respondent on the other hand relied on the decision of the Tribunal, on similar set of facts, in M/s. West Fort Hi-Tech Hospital Ltd. v. CCE, Cochin reported in 2006 (77) R.L.T. 64 (CESTAT - Bangalore) = [2006 \(204\) E.L.T. 113](#) (Tribunal). The Tribunal held that the operation theatre lamps are specially designed for operation theatres and are to be classified under Heading 90.18. The Department's contention that the said order of the Tribunal has been appealed to Hon'ble Supreme Court is no ground for denying their claim. We note that the appeal filed by the Department has

been dismissed on monetary grounds by the Hon'ble Supreme Court keeping the question of law open [2015 \(325\) E.L.T. A154](#) (S.C.).

**5.** We have perused the impugned order and also the product literature. The observation in the impugned order on the product is as below :-

*"Light systems has been specifically designed for purpose of operation, purchased by doctors and hospitals, not used for general purpose and therefore should be considered as medical equipment. In the product literature, the item has been referred to as 'Operation Theatre Lights', the standard features are given as under :*

- \* Centre adjusting handle which is detachable and autoclavable*
- \* A Spring-loaded Counter Balance is provided for convenient adjustment of the light position.*
- \* Ceiling mounted with free movements at all positions.*
- \* Dome can be swept around the pole and also on its own axis.*
- \* Special bearings are used for smooth movements.*
- \* Unique spring loading system is used for perfect and steady positioning.*
- \* Beautifully finished by heat cure Resin paint, oven baked for long life. The salient features are mentioned as follows :*

- Halogen Lights for all Minor and Major Operations.*
- Cool lights that keep patients comfortable and Operating Staff free from fatigue.*
- Unique, high intensity, cool, colour-corrected, heatless and shadow-less light with easy, finger-touch maneuverability.*

*On a general nature, the features of Spotlight as alleged in the show cause notice are as follows :*

- Used for focusing on a personal or an object at a longer distance.*
- Can be sold to any body*
- Very uncomfortable to persons on whom it is focused.*

*From the product description, it is seen that the product O.T. Lights have a number of features to put them beyond the scope of 'spotlight', and to bring them within the scope of medical and surgical appliances and apparatus. Sub-heading No. 9405 covers 'Lamps and lighting fittings including searchlights and spotlights and parts thereof'. These are simply items sold to any common man at an average cost either as a part of a vehicle or furniture. The instruments - appliances and apparatus for medical and surgical use were to be classified under Heading No. 90.18 of the CET. The O.T. Lights are nothing but specialized surgical equipment".*

**6.** We note that these specialized lamps have shadowless operation, heat defusing capacity and also colour correction capabilities. We are in agreement with the lower authority that these lamps are specially designed and made to be used only in operation theatres. We find that the reliance placed by the Commissioner (Appeals) on the observation of Hon'ble Supreme Court in the case of *M/s. Metagraph (P) Ltd. v. CCE* reported in [1996 \(88\) E.L.T. 630](#) (S.C.) is appropriate.

**7.** *On careful consideration of the materials on record, we find no merit in the appeal filed by the Department. Accordingly, the same is rejected”.*

6. We find that the issue has been decided by the Coordinate bench. Respectively following the decision of coordinate bench, we dismissed the appeal filed by the revenue.

(Dictated and pronounced in the open Court)

**(RAJU)**  
**MEMBER (TECHNICAL)**

**(SOMESH ARORA)**  
**MEMBER (JUDICIAL)**

PRACHI