

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

**PRINCIPAL BENCH – COURT NO. 3**

**Customs Appeal No. 51682 of 2021  
With  
Customs Stay Application No. 50549 of 2021**

(Arising out of Order-in-Appeal No. CC(A)/Cus/D-II/IMP/ICD/TKD/488-489/2021-22 dated 02.07.2021 passed by the Commissioner of Customs (Appeals), New Delhi)

**Principal Commissioner of Customs (Import)      Appellant  
Inland Container Depot  
Tughlakabad, New Delhi**

VERSUS

**M/s Bans International      Respondent**  
D-71, Sector A-2, Tronica City Industrial Area,  
Loni, Uttar Pradesh – 201102.

**With  
Customs Appeal No. 51685 of 2021  
With  
Customs Stay Application No. 50361 of 2022**

(Arising out of Order-in-Appeal No. CC(A)/Cus/D-II/IMP/ICD/TKD/484-485/2021-22 dated 29.06.2021 passed by the Commissioner of Customs (Appeals), New Delhi)

**Principal Commissioner of Customs (Import)      Appellant  
Inland Container Depot  
Tughlakabad, New Delhi**

VERSUS

**M/s Bans International      Respondent**  
D-71, Sector A-2, Tronica City Industrial Area,  
Loni, Uttar Pradesh – 201102.

**And  
Customs Appeal No. 51794 of 2022  
With  
Customs Stay Application No. 50475 of 2022**

(Arising out of Order-in-Appeal No. CC(A)/Cus/D-II/IMP/ICD/TKD/484-485/2021-22 dated 29.06.2021 passed by the Commissioner of Customs (Appeals), New Delhi)

**Principal Commissioner of Customs (Import)      Appellant  
Inland Container Depot  
Tughlakabad, New Delhi**

VERSUS

**M/s Bans International      Respondent**  
D-71, Sector A-2, Tronica City Industrial Area,  
Loni, Uttar Pradesh – 201102.

**Appearance**

Shri Rakesh Kumar & Shri Nagendra Yadav, Authorized Representative – for the Appellant.

Shri Piyush Kumar & Shri Rajat Mishra, Advocates – for the Respondent.

**CORAM : HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)  
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)**

**DATE OF HEARING: 09/02/2023  
DATE OF DECISION: 03/04/2023**

**Final Order Nos. 50420-50422/2023**

**P.V. Subba Rao**

These three appeals are filed by the Revenue assailing orders in appeal passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi whereby he allowed the importer's appeals and rejected the Revenue's appeals. The details are as follows:

<b>S. No.</b>	<b>Appeal No.</b>	<b>Impugned Order No.</b>	<b>Assessment Order No.</b>
1	C/51682/2021	CC(A)/Cus/D-II/IMP/ICD/TKD/488-489/2021-22 dated 02.07.2021	37/2020/Rigved Thakur/DC/ICD-Import/TKD dated 11.06.2020
2.	C/51685/2021	CC(A)/Cus/D-II/IMP/ICD/TKD/484-485/2021-22 dated 29.06.2021	76/2020/Rigved Thakur/DC/ICD-Import/TKD dated 04.09.2020
3.	C/51794/2022	CC(A)/Cus/D-II/IMP/ICD/TKD/484-485/2021-22 dated 29.06.2021	76/2020/Rigved Thakur/DC/ICD-Import/TKD dated 04.09.2020

2. At the outset, both sides submit that Appeal No. 51794 of 2022 has been filed by the Revenue assailing the same impugned order as in Customs Appeal No. 51685 of 2021 for the reason that the impugned order in appeal carried two numbers 484 and 485. However, a careful examination of the impugned order shows that the impugned order was against the same assessment order but was given two numbers because it disposed of cross appeals by the

Revenue and the importer and, therefore, Appeal No. 51794 of 2022 and the stay application in it are infructuous. On perusal of the records, we find it so and accordingly, dismiss Appeal No. 51794 of 2022 is as infructuous. The other two appeals are on the same issue and hence are being disposed of together. M/s Bans International<sup>1</sup> imported various consignments of goods described as:

- (i) Trigger Sprayer for plastic bottle used as sanitizer, disinfectant, industrial insecticides, pesticides, pharma etc.
- (ii) Lotion pump part for plastic bottle use as disinfectant, industrial insecticides, pesticides, cleaner pharma etc.
- (iii) Fine mist sprayer 28 mm part for plastic bottle use as industrial, insecticides, pesticides, car care glass, cleaner, pharma etc.

3. Learned counsel for the respondent produced before us samples of the goods which were imported. He explains that these were plastic parts which can be fitted on bottles for spraying or dispensing gels. He states there was a very high demand for these during the Covid period because of the need for hand sanitation. He further clarifies that they are importing only the heads and not the bottles and heads can be fitted on any bottles of the appropriate size to dispense the contents. The respondent classified these goods under Customs Tariff Heading<sup>2</sup> 84242000 (trigger spray for plastic bottles), 84139190 (lotion pump for plastic

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1        respondent  
2        CTH

bottle) and 84249000 (fine mist sprayer for plastic bottle). The original authority classified the trigger spray under 39269099 and the other two items under CTH 96161000. Both the respondent and Revenue appealed against the assessment order and by the impugned orders, the Commissioner (Appeals) allowed the respondent's appeals and rejected the Revenue's appeal.

4. According to the Revenue the imported goods should fall under 9616 while according to the respondent they should fall under CTH 8424. The classification under CTH 3926 by the original authority is not correct according to both the Revenue and the respondent.

5. Thus, the short question to be decided is whether plastic trigger sprayer for plastic bottles lotion pump for plastic bottle and fine mist sprayer for plastic bottles are classifiable under 84242000 as held by the Commissioner (Appeals) in the impugned order or under CTH 96161000 as claimed by the Revenue.

6. We have heard learned authorised representative for the Revenue and learned counsel for the respondent and perused the records.

7. The grounds of the appeal of the Revenue are as follows:

- (i) CTH 84248413 is meant for large pumps and small sprayers/gel disinfectant for bottles used for cosmetic operations are out of its purview. The imported goods were small mechanisms which dispense small quantity of liquid or gel at a time. These are primarily meant for pharmaceutical preparations or cosmetics and such goods are covered under CTH 9616;

- (ii) The adjudicating authority, having seen the samples of the imported goods, recorded that the goods were meant for use as heads of spraying water, scent etc. used for various purposes like pharma, toilet cleaners, etc. The Commissioner (Appeals) has ignored this submission and passed the order purely accepting the submissions of the importer.
- (iii) The respondent has wrongly classified the products under CTH 84249000.
- (iv) The Commissioner (Appeals) has erred in his findings that the order of the Tribunal in **Commissioner of Customs Mumbai Vs. Reckit & Colman of India Ltd.**<sup>3</sup> relied upon by the Department is not applicable in this case. The facts are identical.
- (v) The importer himself has classified pump core 20 mm and 24 mm mist sprayers, lotion pump etc. under 9616010 till July 2017 which is a very specific heading under 9610 for the goods of the kind imported by the appellant in this case.
- (vi) The impugned order may, therefore be set aside and the trigger spray, lotion pump and mist sprayers may be held to be classifiable under 9616.

8. Learned counsel for the respondent supports the impugned orders and submits that the classification is correct and calls for no interference.

9. We have considered the submissions.

10. The Customs Tariff is based on the Harmonised System of Nomenclature<sup>4</sup> which classifies goods under various Sections and Chapters within each section. The general scheme of this tariff is that it starts from simple goods starting with live animals and animal products and moves to higher and more complex goods. Under each section there are chapters. The chapter title is of two digits under which there are various customs tariff headings of 4, 6 or 8 digits each are listed. The General Rules of Interpretation are provided in the tariff which indicate how goods should be classified. If these rules are applied, any goods can be classified under one heading or the other. The general rules of interpretation are briefly, as follows:

- (i) Title of sections and chapters are provided for ease of reference. Classification shall be determined according to the Customs Tariff Headings read with relevant section notes and chapter notes, if any.

2(a) Any reference to heading to an article shall include incomplete and unfinished article and disassembled or assembled articles, if they have the essential characteristics of the finished article.

2(b) Any reference to a heading of a material or substance shall include reference to the mixture or combination of that material with other materials.

(3) When by application of Rule 2(b) or for any other reason goods are prima facie classifiable

under two or more headings they shall be classified as follows:

- (a) Heading which provides more specific description should be preferred to the one which provides more general descriptions;
- (b) Mixtures, composite goods consisting of a different materials or made of different components or goods put up in sales and retail sale which cannot be classified with reference to (a) shall be classified as per the material or components which gives them essential character;
- (c) The goods cannot be classified as per (a) or (b) they should be classified under the heading which occurs last in numerical order of the numbers they shall equally merit consideration and
- (d) Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate of the goods to which they are most akin.

11. Chapter 39 deals with plastic and articles thereof while Chapter 84 deals with nuclear reactors, boilers, machinery and mechanical appliances; parts thereof. Chapter 96 deals with miscellaneous manufactured articles. The classification by the original authority under Chapter 39 is irrelevant because it was not agreed to by either side and this has already been set aside by the impugned order. The two chapters under dispute are Chapter 84 "machinery and mechanical appliances" or Chapter 96 "miscellaneous manufactured articles". We now proceed to

examine specific headings under which the Revenue and the respondent claimed the classification. According to the respondent, the goods are classifiable under 84242000 as spray guns and similar appliances. We find that this heading is a subset of the four digit heading mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders, fire extinguishers whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines.

12. It appears from the above that as suggested by the title of the Chapter itself the goods covered under 84.24 are machines or apparatus used in any field of industry. The competing entries are 84242000, 84939190 and 84249000 (claimed by the importer) and 96161010 (according to the Revenue). These are reproduced below.

#### **CHAPTER-84**

##### **SECTION XVI MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES**

##### **8413 Pumps for liquids, whether or not fitted with a measuring device:**

###### **Liquid Elevators**

- **Pumps fitted or designed to be fitted with a  
measuring device:**

##### **84138190 - Other**

##### **8424 Mechanical Appliances (Whether or Not Hand Operated) For Projecting, Dispersing or Spraying Liquids or Powders; Fire Extinguishers, Whether or not Charged; Spray Guns And Similar Appliances; Steam or Sand Blasting Machines And Similar Jet Projecting Machines**

8424 10 00 - Fire extinguishers, whether or not charged



**8424 20 00 - Spray guns and similar appliances**

8424 30 00 - Steam or sand blasting machines and similar jet - projecting machines

- Agricultural or horticultural sprayers:

8424 41 00 -- Portable sprayers

8424 49 00 -- Other

- Other appliances :

8424 82 00 -- Agricultural or horticultural

8424 89 -- Other :

8424 89 10 --- Painting equipment, including electrostatic phosphating and powder coating equipment

8424 89 20 --- Industrial bellows

8424 89 90 --- Other

**8424 90 00 - Parts****CHAPTER 96 - Miscellaneous manufactured articles**

9616 SCENT SPRAYS AND SIMILAR TOILET SPRAYS, AND MOUNTS AND HEADS THEREFOR; POWDER-PUFFS AND PADS FOR THE APPLICATION OF COSMETICS OR TOILET PREPARATIONS

9616 10 - Scent sprays and similar toilet sprays, and mounts and heads therefor:

**9616 10 10 --- Scent sprays and similar toilet sprays**

9616 10 20 --- Mounts and heads

9616 20 00 - Powder-puffs and pads for the application of cosmetics or toilet preparations

13. According to the Revenue, the goods in question cannot be called spray guns or similar appliances under Chapter 84. Spray guns are machinery which are used to spray paint, cement, etc. Similar machinery and equipment such as agricultural sprayers are also covered under **CTH 8424**. Such equipment can sometimes be hand operated such as the knapsack sprayers used to spray pesticides on the farms. The imported goods are merely mounts to be attached to bottles to either spray or dispense gels hand sanitizers, etc. These cannot be called equipment for spraying. They are miscellaneous articles classifiable under **CTH 9616**.

14. According to the respondent, the goods fall under **CTH 8424** for the reason that they are essentially sprayers and they do not fall under **CTH 9616** for the reason that they can be mounted on any bottle and are not only for scents or toilet sprays.

15. We have seen the imported goods samples of which were produced by the learned counsel for the respondent. These are mounts which can be screwed on top of any bottle and can be used to dispense the contents of the bottle either in the form of a spray or as a gel. These were used, according to the learned counsel, on a large scale during COVID pandemic to sanitize hands using a gel or spray sanitizers. In our considered view, these are not mechanical appliances for spraying covered under Chapter 8424. These can be mounted on the bottles and used to dispense sanitisers and other liquids or gels. In our considered view, they can only be called "*Scent sprays and similar toilet sprays, and mounts and heads therefor*". This heading covers not only the sprays but also the mounts and heads for the sprays. What were imported were mounts which could be fixed on any bottle. There is a very specific heading for such goods '**9616 10 10 --- Scent sprays and similar toilet sprays**'. Learned counsel for the respondent argued that the mounts are not for scents or toilet sprays but for sanitisers this heading should not apply. This submission cannot be accepted. Simply because the mounts and heads were used mainly for sanitisers makes no difference to the classification when the goods are clearly covered by the heading.

16. We find that the issue of classification of mounts and heads used to spray/ dispense liquid soap was decided by this Tribunal in

## **Commissioner Vs. Reckitt & Coleman of India Ltd.<sup>5</sup> the**

relevant paragraphs are as follows:

**"2.1** Matter was heard. Respondent-importers were not in attendance. Sample produced was inspected. It is found that the nature of article as it appears from the inspection, has been brought out by the CC (A) in his order, as extracted hereinabove. The use is for spray/dispersal of Toilet requires (e.g. liquid soap) i.e. consumer goods and cannot be for industrial purposes. The use for Toiletries and Soap liquids is uncontested.

**2.2** The term 'Spray Guns and Similar Appliance' under Heading 84.24 of HSN reads as -

"Spray guns and similar hand controlled appliances are usually designed for attaching to compressed Air or steam Lines and are also connected, either directly or through a conduct, with a reservoir of the material to be projected. They are fitted with Triggers or other valves for controlling the flow through the nozzle, which is usually adjustable to give a jet or more or less divergent spray. They are used for spraying paint or distemper varnishes, oils, plastic, cement metallic powders textile dust etc. They may be used for projecting a powerful jet of compressed air or steam for cleaning stone work in building statuary etc."

While notes under Heading 9616 of HSN specifically provide -

"The heading covers :

Scent, brillantine and similar toilet (1) sprays, whether of the table or pocket type, whether for personal or professional use. They consist of a reservoir, generally in the form of a bottle (of glass, plastic metal or other material), to which is fixed the mount, this mount incorporates the head (with its spray forming mechanism) and a premature pressure bulbs (sometimes enclosed in a textile net) or a piston drive.

Mounts for toilet (2) sprays

Head pieces for toilet (3) sprays."

From a reading of these two notes it is apparent that what are envisaged under 84.24 are entities working on high pressure air/steam sources while the motivating force under 96.16 has to come from bulb pressure or piston action, the former being required for industrial use while the later are for consumer purposes. Moreover the import herein are only of the "Mount and Head" and not the reservoir/bulb etc., 'Mounts for toilet spray' and Head pieces for toilet sprays are more specifically covered under 9616 at Sr. No. 2 and 3 of the notes. The use of the mounts to dispense and thus spray liquid Soap is not in doubt. We therefore cannot share the classification of 'Mounts and Heads' for toilet sprays/dispensers to be under 84.24 the view of CC (A). We would uphold the lower authorities classification under 9616 with the consequence as arrived.

**3.1** In view of the findings, the appeal of Revenue is allowed by setting aside the order of CC(A) and restoring and confirming the order of the original authority.

**3.2** Appeal to be disposed accordingly.

17. In our considered view, the ratio of this judgment squarely applies to this case and it is consistent with our findings in these appeals. The fact that the mounts were used on bottles of toilet sprays in **Reckitt and Coleman** and in this case they are used for sanitizers makes no difference.

18. In view of the above:

a) Revenue's appeal No. **C/51794/2022** is dismissed as infructuous along with stay application No. 50475 of 2022

b) The imported goods are classifiable under **CTH 9616 10 10** and are chargeable to appropriate rates of duty read with any exemption notifications.

c) Revenue's appeals No. **C/51682/2021** and **C/51685/2021** are allowed and the impugned orders are set aside and the matters are remanded to the original authority for the limited purpose of determining the duty classifying the goods as per (b) above. The stay application in these two appeals are also disposed of.

(Order Pronounced on 03.04.2023)

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

**(BINU TAMTA)**  
**MEMBER (JUDICIAL)**

RM