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

REGIONAL BENCH – COURT NO. 01

CUSTOMS APPEAL NO. 10261 of 2021-DB

[Arising out of Order-in-Appeal No AHM-CUSTM-000-APP-771-20-21 dated 11.02.2021 passed by Commissioner of CUSTOMS-AHMEDABAD]

AZTEC FLUIDS AND MACHINERY PVT LTD **...Appellant**
1 JAI HIND SOCIETY RAMBAUGH MANINAGAR
AHMEDABAD-GUJARAT-380028

VERSUS

C.C.-AHMEDABAD **...Respondent**
CUSTOM HOUSE,
NEAR ALL INDIA RADIO NAVRANGPURA,
AHMEDABAD, GUJARAT

WITH

i. **Customs Appeal No. 10612 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
ii. **Customs Appeal No. 10613 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
iii. **Customs Appeal No. 10614 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
iv. **Customs Appeal No. 10615 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
v. **Customs Appeal No. 10616 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
vi. **Customs Appeal No. 10617 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
vii. **Customs Appeal No. 10618 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
viii. **Customs Appeal No. 10619 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
ix. **Customs Appeal No. 10620 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
x. **Customs Appeal No. 10621 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xi. **Customs Appeal No. 10622 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xii. **Customs Appeal No. 10623 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xiii. **Customs Appeal No. 10624 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xiv. **Customs Appeal No. 10625 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xv. **Customs Appeal No. 10626 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xvi. **Customs Appeal No. 10627 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xvii. **Customs Appeal No. 10628 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**

xviii. **Customs Appeal No. 10629 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xix. **Customs Appeal No. 10630 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xx. **Customs Appeal No. 10631 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**
xxi. **Customs Appeal No. 10632 of 2022 (Aztec Fluids And Machinery Pvt Ltd)**

[Arising out of Order-in-Appeal No OIA-MUN-CUSTM-463-470-22-23 dated 21.07.2022 passed by Commissioner of CUSTOMS-AHMEDABAD]
[Arising out of Order-in-Appeal No OIA-AHD-CUSTM-000-360-372-22-23 dated 22.07.2022 passed by Commissioner of CUSTOMS-AHMEDABAD]

APPEARANCE:
Shri Amal Dave & Shri Parth Rachchh, Advocates appeared for the Appellant
Shri Anand Kumar, Superintendent (Authorized Representative) for the Respondent

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

FINAL ORDER NO. A/ 12400-12421 /2023

DATE OF HEARING:07.08.2023
DATE OF DECISION: 02.11.2023

RAJU

These appeals have been filed by Aztec Fluids and Machinery Private Limited against change in classification of the printers imported by them.

2. Learned Counsel for the appellant pointed out that the appellant had vide the impugned 22 bills of entries imported printers classifiable under heading 84433250 as Ink Jet Printers. The revenue sought to change the classification of the said Ink Jet Printers from heading 84433250 to 84433910 as Ink Jet Printing Machinery. The Revenue has relied on Chartered Engineer Certificate dated 20.09.2019 and 25.09.2019. He pointed out that while the Chartered Engineer Certificate dated 20.09.2019 came to a conclusion that the Chartered Engineer did not have precise and clear cut guidelines about the definitions of printers and printing machines. He pointed that in the Chartered Engineer Report 25.09.2019. The Chartered Engineer after verifying the printers physically came to the conclusion with the device is fed with data from

the outside source. On that basis and on the basis of literature provided by the revenue, the Chartered Engineer came to the conclusion that the goods were Ink Jet Printing Machines.

3. Learned counsel pointed out that the Chartered Engineer opinion is contrary to the HSN Explanatory Notes. He argued that according to HSN Explanatory Notes, the only test which required for the purpose of classification under CTH 84433250 is that the printer should be capable of being connected to any automatic data processing machine. He pointed out that even the Chartered Engineer Certificate categorically accepts that the imported machines can receive date from outside source. He pointed out that as per product literature, it is clear that the imported printers have USB Port whereby they can receive the data from automatic data processing machines.

4. He further argued that the Tribunal in the case of Monotech Systems Ltd. reported in 2020 (3) TMI 323 came to some conclusion that the only test required for the classification is that the printer should be capability of being connected to and receiving data from automatic data processing machine. He argued that in the present case the Chartered Engineer Certificate categorically observes that the printer receives data from the outside source and the product literature shows that it has an USB Port for connectivity. In view of the above, he argued that the correct classification of the product is CTH 84433250. Vide letter dated 08.08.2023, the appellant has further clarified that the printer cannot function as FAX etc.

5. Learned Authorized Representative relies on the impugned order.

6. We have considered rival submissions. We find that the custom chapter tariff heading 8443 reads as follows:

8443		**PRINTING MACHINERY USED FOR PRINTING BY MEANS OF PLATES, CYLINDERS AND OTHER PRINTING COMPONENTS OF HEADING 8442; OTHER PRINTERS, COPYING MACHINES AND FACSIMILE MACHINES, WHETHER OR NOT COMBINED; PARTS AND ACCESSORIES THEREOF**			
	-	*Printing machinery used for printing by means of plates,cylinders and other printing components of heading 8442 :*			
8443 11 00	--	Off set printing machinery, reel fed	u	7.5%	-
8443 12 00	--	Offset printing machinery, sheet- fed, office type (using sheets With one side not exceeding 22 cm and the other side not exceeding 36 cm in the unfolded state)	u	7.5%	-
8443 13 00	--	Other offset printing machinery	u	7.5%	-
8443 14 00	--	Letterpress printing machinery, reel fed, excluding flexography printing	u	7.5%	-
8443 15 00	--	Letterpress printing machinery, other than reel fed, excluding flexographic printing	u	7.5%	-
8443 16 00	--	Flexographic printing machinery	u	7.5%	-
8443 17 00	--	Gravure printing machinery	u	7.5%	-
8443 19	--	Other			
8443 19 10	---	Flat bed prianting presses	u	7.5%	-
8443 19 20	---	Platen printing presses	u	7.5%	-
8443 19 30	---	Proof presses	u	7.5%	-
	---	Machinery for printing repetitive word or design or colour:			
8443 19 41	----	On cotton textile	u	7.5%	-
8443 19 49	----	Other	u	7.5%	-
8443 19 90	---	Other	u	7.5%	-
	--	*Other printers, copying machines and facsimile machines, whether or not combined :*			
8443 31 00	--	Machines which perform two or more of the functions of printing, copying or facsimile transmission, capable of connecting to an automatic data processing machine or to a network	u	7.5%	-
8443 32	--	Other, capable of connecting to an automatic data processing machine or to a network			
8443 32 10	---	Line printer	u	Free	-
8443 32 20	---	Dot matrix printer	u	Free	-
8443 32 30	---	Letter quality daisy wheel printer	u	Free	-
8443 32 40	---	Laser jet printer	u	Free	-
8443 32 50	---	Ink jet printer	u	Free	
8443 32 60	---	Facsimile machine	u	Free	-
8443 32 90	---	Other	u	10%	-
8443 39 10	---	Ink-jet printing machine	u	7.5%	-
8443 39 20	---	Electrostatic photocopying apparatus operated by reproducing the original image directly onto the copy (direct process)	u	7.5%	-
8443 39 30	---	Electrostatic photocopying apparatus operated by reproducing the original image via and intermediate onto the copy (indirect process)	u	7.5%	-
8443 39 40	---	Other photocopying apparatus incorporating an optical system	u	7.5%	-
8443 39 50	---	Other photocopying apparatus of contact type			
8443 39 60	---	Thermo-copying apparatus	u	7.5%	-
8443 39 70	---	Facsimile machine not capable of getting connected to automatic data processing machine	u	7.5%	-
8443 39 90	---	Other	u	7.5%	-
	--	*Parts and accessories :*			
8443 91 00	--	Parts and accessories of printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442	kg.	7.5%	-
8443 99	--	Other	u	Free	-
8443 99 10	---	Automatic documents feeders of copying machines	u	Free	-
8443 99 20	---	Paper feeders of copying machines	u	Free	-
8443 99 30	---	Sorters of copying machines	u	Free	-
8443 99 40	---	Other parts of copying machines	u	Free	-
	---	Parts and accessories of goods of sub-heading 8443 31, 8443 32	u	Free	-
8443 99 51	---	Ink cartridges, with print head assembly	u	10%	-
8443 99 52	----	Ink cartridges, without print head assembly	u	10%	-
8443 99 53	---	Ink spray nozzle	u	10%	-
8443 99 59	----	Other	u	Free	-
8443 99 60	---	Parts and accessories of goods of sub-heading 8443 39	u	7.5%	-
8443 99 90	---	Other	u	7.5%	-

A perusal of the said heading clearly indicates that machines capable of being connected to automatic data processing machines or to a network would be classifiable under CTH 84433210 to 84433290 giving under the double dash entry. The machine not capable of being connected to automatic data processing machines or to network would fall under double dash entry 844339. In the instant case, the appellant have confirmed that the machines are capable of receiving data through USB Port. In these circumstances, they qualify to fall under the double dash entry 844332 and therefore, the classification under double dash entry 844339 has to be ruled out.

6. In similar circumstances, in the case of Monotech Systems Limited (supra) the co-ordinate Bench has observed as follows:

> **"6.** The main contention of the department that the goods cannot be described as Inkjet printer and cannot be classified under 8443 32 50 is that it cannot be connected to an automatic data processing machine or net work. The catalogue of the goods furnished by the appellant along with the appeal in page 34 states that the item can be connected to net work by LAN TCP/ IP Cat. 5E and that cable is to be supplied by the customer. The term "connectable to an ADP Machine or to a net work" for the purpose of sub-headings 8443.31 and 8443.32 has been explained in the Explanatory notes which is as under :
>
> > "The criterion "capable of connecting to an automatic data processing machine or to a network" denotes that the apparatus comprises all the components necessary for its connection to a network or an automatic data processing machine to be effected simply by attaching a cable The capability to accept the addition of a component (e.g., a "card") that would then allow the connection of a cable is not sufficient to meet the terms of these sub-headings. Conversely, that the component to which a cable would be connected is present but inaccessible or otherwise unable to effect a connection (e.g., switches must first be set) is not sufficient to exclude goods from these sub-headings."
>
> **7.** The Board's Circular No. 11/2008-Cus., dated 1-7-2008 has also clarified the same. It is stated in the circular that large format printers which satisfy the conditions of connectability as given in HSN Explanatory Notes (as above) are to be classified under Tariff Heading 8443 32 50 as "Inkjet Printers". So the conclusion arrived by the authorities below that the goods are not Digital Inkjet Printers or that the goods are not capable of being connected to ADP or net work and therefore is not classifiable under 8443 32 50 is against the clarification given by the Board.
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> **8.** The Ld. Counsel has also produced the copy of Order-in-Appeal No. 180/2017, dated 14-3-2017 passed by the Commissioner of Customs (Appeals-II), Chennai in the case of P.M. Digital Products, Chennai the goods imported therein were also Digital Inkjet Printers Scodix 1200 vide Bill of

Entry dated 7-6-2012. The appellant therein had classified the goods under 8443 32 90. The Department issued show cause notice for reclassification under 8443 32 90. On appeal, the Commissioner (Appeals) after considering the revised HSN Notes of 2012, wherein the criterion for capable of being connected to an automatic ADP machine or to a net work, has held that the goods are correctly classifiable under CTH 8443 32 90.

9. From the discussions made above, after examining the HSN Explanatory Notes and the Board's circular, we hold that goods are correctly classifiable under CTH 8443 32 50. The order passed reclassifying 8443 39 10 is erroneous and requires to be set aside which we hereby do. The impugned order is set aside. Appeal is allowed with consequential relief, if any, as per law."

7. In the above background, we find that the impugned order cannot be sustained. The same is set aside and the appeals are allowed.

(Pronounced in the open Court on 02.11.2023)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

NEHA