CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20599 of 2023

(Arising out of Order-in-Original No.90/2023-24 AP & ACC dated 09.06.2023 passed by the Commissioner of Customs, Bengaluru)

M/s. IBM India Pvt. Ltd.
No.12, Subramanya Arcade,
Bannergatta Road,
Bengaluru-560 029.
Appellant(s)

VERSUS

Commissioner of Customs,
C.R. Building, Queens Road,
P.B. No.5400,
Bengaluru-560 001.
Respondent(s)

APPEARANCE:

Mr. B.V. Kumar, Advocate for the Appellant.
Mr. M. Sreekanth, Asst. Commissioner (AR) for the Respondent.

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

FINAL ORDER NO. 20539 / 2026

DATE OF HEARING: 16.10.2025
DATE OF DECISION: 15.04.2026

PER: R. BHAGYA DEVI

This appeal is filed by the appellant M/s. IBM India Private Limited against Order-in-Original No. 90/2023-24 AP and ACC dated 09.06.2023 passed by the Principal Commissioner of Customs (Airport & Air Cargo Complex), Bengaluru.

2. Briefly the facts on record are that the appellant has been importing IP phones, networking equipment's, transceivers, network interface modules etc. classifying the same under CTH 8517 1890, however the same has been challenged by the revenue and the Commissioner in the impugned order has reclassified the products under CTH 8517 6290, accordingly the benefit of the Notification No.24/2005-Cus dated 01.03.2005 read with Not. No.57/2017-Cus. dated 30.06.2017 has also been denied. Aggrieved by this order the appellant is in appeal before us.

3. The Learned Counsel submits that the allegations against the appellant relates to the classification of the following products imported by them at different ports and eligibility of concessional rate of duty under Not. No. 24/2005-Cus 01.03.2005; Not. No. 57/2017-Cus. dated 30.06.2017 vide Sl. No. 20, as amended by Not. No. 75/2018-Cus. dated 30.06.2017 and 2/2019–Cus. dated 29.01.2019.

Sl. No	**Description of the Goods**	**CTH Classification claimed by IBM**	**CTH Classification Proposed by Revenue**
1.	VoIP Phones	8517 18 90	8517 62 90
2.	Network Interface Modules / Cards / WAN Interface Cards	8517 70 90 [Not. No. 57/2017-Cus dt. 30.6.2017 vide Sl. No. 5] duty `Nil'.	8517 62 90
3.	Telepresence Equipment / Machines.	8517 6270 [Not. No. 75/2018-Cus dt. 30.6.2017 vide Sl. No. 5]	8517 62 90

3.1. At the outset it is stated that the doctrine of estoppel is not applicable in taxation laws and further the burden of classification is on the revenue which has not been discharged. Referring to the product description of VoIP Phones it is stated that it is like any other push-button telephone, except for the fact that VoIP Phones require a number of protocols to facilitate the delivery of voice communications over the internet and H.323 the impugned product is the most commonly used VoIP Protocol that supports VoIP functions, including bandwidth management and call control. IBM imported during the impugned period 4 types of Cisco IP Phones viz., and all of them have the same features like any other push-button telephone, except for the fact that they deliver voice communications over the internet. The Appellant also referred to the report dated 24.10.2017 issued by TRAI on the Regulatory Frame work on Internet Telephony where it is said that the end purpose of the telephone network is to provide universal communication service. When voice is transmitted over public internet it is termed as Internet Telephony. Similarly, when voice is transmitted over managed IP Networks, it is termed as voice over IO. Relying on the decision of the Hon'ble Tribunal in the case Ingram Micro Indian Pvt. Ltd. vs. Dy. CC., New Delhi – 2023 (383) ELT 204 (Tri. – Del.), in which the Hon'ble Tribunal held that "Thus for all the reasons stated above the product under consideration which is an executive IP phone (Model No. FON-6701) is classifiable under CTH 8517 18 10 and not under 8517 69 90". It is therefore submitted that the classification of VoIP Phone and their eligibility to the exemption under the said Notification is no longer Res Integra.

3.2. With regard to Network Interface Modules / Cards / Wan Interface Cards, it is submitted that the notice dated 30.12.2020 mentioned that Network Interface Cards are used as parts of routers but classified them as 'Other Apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as LAN or WAN)' of heading 8517 as 'transmitting and receiving apparatus'. Therefore, the classification under 8517 62 90 is appropriate. The decision of the Hon'ble Tribunal in the case of Reliance Communications Ltd. vs. Commissioner of Customs (ACC) – 2012 (285) ELT 270 (Tri – Mum), has been totally mis-interpreted by the revenue sine the Hon'ble Tribunal therein had held that classification of parts of "Wireless Telephone System" are not classifiable under CTI 8517 12 10, which is applicable for "telephones for cellular networks or for other wireless networks push-button type," which is not relevant to the present of facts. In the instant case in terms of Not. No. 57/2017-Cus dated 30.6.2017 vide Sl. No. 5, CTH 8517 70 90 a) "All goods other than the parts of cellular mobile phones, b) Inputs or sub-parts for use in the manufactures of parts mentioned at (a) above" are liable for NIL rate of duty, hence no differential duty is required to be paid on the network interface cards.

3.3. Further relying on the decision of the Hon'ble Tribunal (Pr. Bench Delhi) in Customs Appeal No. 52287/2019 vide Final Order No. 50874/2022 dtd. 6.7.2022/20.9.2022 in the case of Vodafone Idea Ltd. vs. Pr. Commissioner of Customs (Import) ICD New Delhi, it is submitted that 'Router Line Card' imported by the Appellant would be classified under CTI 8517 70 90 and not CTI 8517 69 90 as it was mentioned 'Router Line Card' (Part of Router) (Non-WPC) (Cellular Telephony Network). In addition, the decision of the Hon'ble Tribunal (Reginal Bench Mumbai) in Customs Appeal No. 86186/2022 vide Final Order No. A/86763/2023 dated 6.6.2023/5.10.2023 Huawei Telecommunication (India) Co. Pvt. Ltd. vs. CC (Appeals) Mumbai – III, it was held that the imported goods 'Interface Cards' which has been upheld by the Hon'ble Supreme Court in Civil Appeal No. 000586-000598/2023.

3.4. Coming to Telepresence Machines / Video Conference Kits the learned Counsel in the light of the decision of the Hon'ble Tribunal in the case of Ingram Micro India Pvt. Ltd. vs. CC, ACC

Mumbai – 2019-TIOl-1166-CESTAT-Mum., dated 22.1.2019 which was confirmed by the Hon'ble Supreme Court, fairly accepts the classification of Telepresence equipment's but however, claims that in disputes relating to the determination of the classification and the eligibility of an exemption notification suppression of facts cannot be invoked as held by the Hon'ble Supreme Court in the case of **Continental foundation Jt. Venture vs. CCE, Chandigarh–I as reported in 2007 (216) ELT 177 (S.C.)** and in the case **Densons Pultretaknik vs. CCE – 2003 (155) ELT 211 (S.C.)**. Accordingly, though classification is accepted requests for setting aside the penalty.

4. The Authorised Representative (AR) for the Revenue submitted that the appellant has adopted different classifications from time to time at different ports of import for clearance of VoIP Phones. The impugned product VoIP stands for voice-over-internet-protocol, it is a technology that allows one to make phone calls over the internet, rather than through a traditional landline system. Referring to the WCO Explanatory Notes, submits that Part (A) covers line telephone sets which are traditional/PSTN phones and part (B) covers Telephones for cellular networks or for other wireless networks. It is submitted that telephones for other networks covered under part (B) are phones which emit/receive radio waves which are received and re-transmitted by base stations or satellites whereas in VoIP phones analog voice calls are converted into packets of data and these packets travel like any other type of data, such as e-mail, over the public internet and/or any private Internet Protocol (IP) network. Therefore, it cannot be classified under single dash of Heading 8517. It is further submitted that the VoIP Phones is more appropriately classifiable under the double-dash description of CTH 85176290 i.e., "*Machines for receptions, conversion and transmission or regeneration of voice, images or*

other data, including switching and routing apparatus". Therefore, the contention of the Appellant is erroneous and the impugned goods are rightly classifiable under CTH 85176290. It is also stated that the Department has filed an appeal before the Hon'ble Supreme Court with regard to classification, against the order in the case of M/s.Ingram Micro Indian Pvt Ltd Vs Dy. Commissioner of Cus, New Delhi (2023 (383) ELT 204 Tri. DEL-, and the same is admitted by the Hon'ble Supreme Court- (2025 27 Centax 429 (S.C).

4.1. With regard Network Interface Modules/ Cards/ WAN Interface Cards it is submitted that the Network Interface Cards/ Modules provide the interfaces between the routers and other equipment/ machine/ computers/ VoIP equipment etc., and increasing the number of these cards in a router increases the number of links for router and they are classifiable under CTH 85176290. As per the Explanatory Notes to Heading 8517, the heading covers all apparatus which enable connection to a wired or wireless communication network or facilitate transmission or reception of data within such a network which specifically include Network Interface Cards within the scope of "*other communication apparatus*," thereby recognizing them as independent equipment and not merely parts. These devices squarely fall within the ambit of sub-heading 851762 — "*Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus.*" It is also submitted that the Appellant during assessment of Bills of Entry at Air Cargo Complex, Bengaluru, the classification of these Network Interface Cards/Modules was changed to 85176290 and according the goods were cleared after re-assessment.

4.2. It is further state that the appellant has erred in placing reliance on Note 2(b) of Section XVI of the Customs Tariff Act,

1975. The term *"machine"* is provided under Note 5 to Section XVI of the said Act, which defines it as *"any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85,"* therefore, even an apparatus or equipment is regarded as a machine, and it is not a requirement that such apparatus must function independently in order to merit classification under CTI 8517 6290. Furthermore, even parts, if consistent with the description provided in the HSN Explanatory Notes, are eligible for classification under CTI 8517 6290.

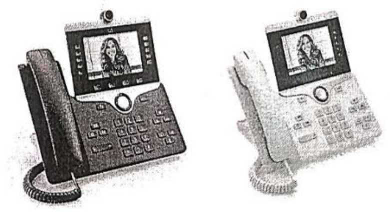
4.3. It is submitted that 'Telepresence Machines/Video Conference Kits' are essentially video-conferencing equipment used for audio-visual communication utilizing the standards and protocols of VoIP technology. They transmit and receive voice, video and other multimedia data packets over internet on real time basis. These Telepresence Machines/Video Conference Kits follow the standard protocols of IP, SIP, DHCP, RTP, SRTP, TIP, IPV4, IPV6 etc. and establish connection over LAN/Ethernet (RJ-45) as is an ethernet networking port used in transmission and reception of voice, image, video or other data in LAN/MAN/WAN. The Hon'ble CESTAT, Mumbai in Ingram Micro India Pvt. Ltd. v. Commissioner of Customs, ACC, Mumbai [Final Order No. A/166-CESTAT/MUM/2019 dated 14.03.2019], after detailed examination of the product's nature and technical functions, held that such equipment is classifiable under CTH 85176290 as apparatus for the transmission or reception of voice, images, or other data, and not as "other apparatus" under CTH 85176990 and further observed that the benefit of exemption Notification No. 24/2005-Cus. dated 01.03.2005 read with Notification No. 57/2017-Cus. dated 30.06.2017 would not be available. Accepting the ratio of the aforesaid judgment the appellant agreed to the said classification of Telepresence Equipment under CTH 85176290.

4.4. With regard to limitation it is submitted that the appellant had wilfully, wrongly classified the impugned goods, inspite of having knowledge about the correct classification, as could be seen from the findings in the impugned order with an intention to avail the irregular benefit of exemption Notification No. 24/2005-Customs dated 01.03.2005 and Notification No. 57/2017-Cus dated 30.06.2017, therefore liable to payment of interest and penalty in accordance with the findings as per the Impugned Order.

5. Heard both sides. The issues involved in this Appeal are whether the goods viz., VOIP phones, Network Interface Modules and Telepresence equipment should be reclassified under CTH 8517 62 90 as claimed by the revenue. If so whether benefit of exemption under Not. 24/2005-Cus dated 1.3.2005. & 57/2017-Cus., dated 30.6.2017, as amended, should be denied?

5.1 The first product under dispute is VoIP Phone. The images and technical features are reproduced below:

Cisco IP Phone 8865



The business-class Cisco IP Phone 8865 combines high-fidelity voice and entry to HD video communications with Cisco Intelligent Proximity for telephony integration with your personal mobile devices. The IP Phone 8865 combines an attractive new ergonomic design with 720p HD video and wideband audio for crystal-clear voice communications, "always-on" reliability. Encrypted voice communications for enhanced security and access to a comprehensive suite of unified communications features. In addition, with Cisco Intelligent Proximity you can use your desk and mobile phones together when you are at your desk. During mobile calls you can move the audio path over to the 8865 for better acoustics. You then could share a conversation with a colleague who listens in, this capability gives you greater flexibility and a superior user experience

> when at your desk. The 8865 comes standard with two USB ports so you can charge your personal mobile devices when at your desk and stay connected when away from your desk.
>
> The IP Phone 8865 offers five programmable line keys. You can configure keys to support either multiple directory numbers or calling features such as speed dial. You can also boost productivity by handling multiple calls for each directory number using the multicall-per-line feature. Fixed-function keys give you one-touch access to applications, messaging, directory, as well as often-used calling features such as hold/resume, transfer, and conference. A five-way navigation cluster helps you transition through menus more easily. Backlit acoustic keys provide flexibility for audio path selection and switching. The phone offers a 5-in, high-resolution (800 x 480) widescreen VGA backlit colour display. Localized language support, including right-to-left on-screen text, meets the needs of global users. The phone offers a built-in Gigabit Ethernet switch for both network connection and your PC connection. The phone also supports campuses with 802.11a/b/g/n/ac wireless LAN (WLAN) enabled. An optional wall-mount kit is orderable as a spare part for customers who want this capability.

5.2 The show-cause notice also based on the technical description states that VoIP phones offer not only voice over internet protocol but allows voice, video and other multimedia applications to transmit and receive date on real-time over the internet. It also states that a VoIP phone connects to internet and features call transfer, multiparty calling and support for multiple VoIP accounts, transmitting and receiving image data during calls, sum of a additional capabilities such as video conferencing and instant messaging.

5.3 The above technical details clearly project that VoIP is internet based unlike the regular landlines which are analog. The name itself suggests voice over internet protocol i.e. communication and data exchange happens via. internet and to decide the classification of the same we need to examine the disputed classifications i.e. CTH 8517 1890 as claimed by the appellant or to be classified under CTH 8517 6290 as claimed by the revenue. The relevant tariff entries in the First Schedule to the Customs Tariff Act are extracted as below:

8517 Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525,8527 or 8528

8517 - Telephone sets, including telephones for cellular networks or for other wireless networks:

8517 11 -- Line telephone sets with cordless handsets:

8517 1110 --- Push button type

85171190--- Other

8517 12 -- Telephones for cellular networks or for other wireless networks:

8517 1210 --- Push button type

8517 1290 --- Other

8517 18 - Other:

8518 1810 --- Push button type

8518 1090 --- Other

Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wireless network (such as a local or wide area network):

8517 61 00 -- Base stations......

8517 62 --Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:

8517 62 10 --- PLCC equipment

8517 62 20 --- Voice frequency telegraphy

8517 62 30 --- Modems (modulators-demodulators)

8517 62 40 --- High bit rate digital subscriber line system (HDSL)

8517 62 50 --- Digital loop carrier system(DLC)

8517 62 60 --- Synchronous digital hierarchy system(SDH)

8517 62 70 --- Multiplexers, statistical multiplexers

8517 62 90 --- Other

8517 69 -- Other:

8517 69 10 --- ISDN System

8517 69 20 --- ISDN terminal adaptor

8517 69 40 --- X 25 Pads

8517 69 50 --- Subscriber end equipment

8517 69 60 --- Set top boxes for gaining access to internet

8517 69 70 --- Attachments for telephones

8517 69 90 --- Other

5.4 The Commissioner in the impugned order made the following observations:

"13.6.2 I find that in the past, telecommunication was all about landlines. Now, with the advent of voice-over-internet-protocol (VoIP), it has become possible for people to use the internet as their only means of communication. The use of landlines has declined rapidly in the past few years since the rise of VoIP. Landlines offer voice communications over dedicated circuits via analog signals sent over copper wires, whereas VoIP uses IP packets to send data across the internet. This development has given VoIP the edge as it possesses some clear advantages over landlines such as lower costs, increased flexibility, greater mobility and security. This type of phone service also can provide both traditional phone service as well as video calling. VoIP stands for voice-over-internet-protocol. It's a technology that allows one to make phone calls (and other voice-based services) over the internet, rather than through a traditional landline phone system. This type of communication has become much easier since its introduction because of advances in broadband internet access, high-speed data networking equipment and software development. Further, VoIP services are cheaper and reliance is on data transmission rather than voice calls being made directly between two parties on either end of a line (as with landlines). With VoIP, one has the option to use one's phone with calling features such as conference calls and video conferencing, or as a traditional landline. VoIP devices usually operate differently from traditional landline phones, including being able to send and receive faxes, text messages, instant messaging, web browsing and video streaming without having to dial out.

Thus, there are many differences between VoIP and landlines. First, VoIP is internet-based, while landlines are analog. This means that one can use more than single device to connect to a phone line (such as an iPhone or Android phone) instead of just one device as with a landline. Another difference is that voice calls made using VoIP are more secure than those made using a traditional home phone service because they're transmitted over the internet rather than being routed through the public switched telephone network (PSTN). This means less chance for eavesdropping or interception as well as lower latency times when making calls via Wi-Fi networks or mobile data plans. Thus, I find that VoIP is used by businesses that need to make long-distance calls. It's also a good option for organizations that prefer group and conference calls for better collaboration and communication. Landline is best suited for businesses located in places that have a bad or weak internet connection. It's also ą great backup for businesses using VoIP in times of emergencies (e.g., power outages caused by bad weather). Further, the traditional landline phone services cost more than VoIP due to the cost of infrastructure and maintenance."

5.5 The above technical aspects of the impugned products imported by the appellant is not in dispute. Based on the above the Commissioner further observed as follows:

"13.6.5 1 find that the importer had argued that from the definitions and information available on internet that VoIP Phones function like the Traditional analogue phones. Physically, a hardware-based VoIP phone resembles and functions like a traditional hard-wired or cordless telephone. These phones include physical features such as a speakerphone or microphone, a touchpad, and display hardware to show user input and caller ID. Just because VoIP phones function like the traditional analogue phones and resembles and functions like a traditional hard-wired or cordless telephone, can VoIP phones be treated as ordinary telephones? I find the answer in negative for the reasons already discussed in para supra.

> 13.6.6 As regards to their claim that the classification of IP Phones under U.S. Customs laws, can be used for classification of goods in India, at least up to the six-digit level i.e. under 8517 18.10, which contains a specific entry for "Videophones." and so adopting the US Classification, IP Phones in India can be classified under Indian HTS 851718. However, I find that "videophones" are not covered under Para I of HS Explanatory Notes-2017 of heading 85.17 i.e. "Telephone Sets, Including Telephones for Cellular Networks or for Other Wireless Networks". Rather, "Videophones" are explicitly covered under Para II i.e. "Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network)" of HS Explanatory Notes of heading 85.17 under Para II (C). Hence, I am not inclined to accept the contention of the importer."

5.6 Therefore, the question to be decided is whether the phones that work under Voice Over Internet Protocol (VoIP) are to be classified under CTH 85171810 as claimed by the appellant or under CTH 8517 6290 as claimed by the revenue. From the description of the impugned product series we find that they are not simplicitor VoIP phones but have multi features like video and data transmission and also they are being used for transmission of data and for conference meetings, hence the question of classifying them as simplicitor phones is ruled out. Moreover the CTH 85171810/85171890 are meant for simplicitor audio phones while under 8517 6200 is for '**Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus'** and since the impugned products are meant to receive and transmit data and images and having the facility of video is rightly classifiable under 85176200.

5.7 The appellant has relied on the decision of The Cestat, Principal Bench, New Delhi in the case of **Ingram Micro Indian Pvt. Ltd. *Versus* Deputy Commissioner of Customs, New**

Delhi (2022) 1 Centax 122 (Tri.-Del) / 2023 (383) E.L.T. 204 (Tri. - Del.) dated 17-12-2020 wherein it was observed as follows:

> **"13.** The product under consideration is an Executive Level IP Phone-FON-670i. The various brands of FortiFone IP Telephones, as mentioned in the literature contained in the appeal, are FON-175, 375, 475, 570, 670i/675i, C71, D71, H25, H35, and FortiFone soft client. The literature contained in the appeal memo relating to FON-670i/675i is as follows :
>
> **FON-670i/675i**
>
> Introducing the FON-670i/675i, a great combination of business-class features and vivid touchscreen. An executive phone with programmable appearance keys and the features you need at your fingertips. With an optional HD video camera and HDMI out port to compliment these features, this new FortiFone is a power house.
>
> **14.** The *Specifications* are also contained in the literature. These mention the telephone features of various brands. The relevant features relating to display and voice activity detection are reproduced below :
>
> **SPECIFICATIONS**

	FON-175	**FON-375**	**FON-570**	**FON-670i/ 675i**	**FON-C71**	**FON-D71**	**FON-H25**	**FON-H35**	**FortiFone Soft client**
Telephone Features									
Display	2.4" color display	2.8"+ 2.4 color display	7" color touch screen	7" color touch screen	3.1"248* 120 pixel graphic display	2.4"240* 320 pixel graphic display		3.5 color display	
	xxxxx			xxxxx	xxxxx	xxxxx		xxxxx	
	xxxxx			xxxxx	xxxxx	xxxxx		xxxxx	
	xxxxx			xxxxx	xxxxx	xxxxx		xxxxx	

Audio Features									
	xxxxx			xxxxx	xxxxx	xxxxx		xxxxx	
H.263, H.264 video codec support				**FON-675i only**					
Voice activity detection (VAD)	•	•	•	•	•	•	•	•	•
	xxxxx			xxxxx	xxxxx	xxxxx		xxxxx	
	xxxxx			xxxxx	xxxxx	xxxxx		xxxxx	

15. The *Order Information* is also contained in the literature. What is important to the notice is that there is no video facility provided in FON-670i, though video facility is provided in FON-750i. The relevant portion of the Order Information is reproduced below :

ORDER INFORMATION

PRODUCT	**SKU**	**DESCRIPTION**
Desktop phones		
FortiFone FON-670i	FON-670i	Executive IP phone with 7-inch color touchscreen, 100 programmable keys, PoE and 10/100/1000 LAN and PC connections
FortiFone FON-675i	FON-675i	Executive video IP phone with 7-inch color touchscreen, 100 programmable keys, PoE and 10/100/1000 LAN and PC connections

16. It would, therefore, be seen from the aforesaid that Model No. FON 670i imported by the appellant is an executive IP Phone with 7-inch color touchscreen. It works on Voice over Internet Protocol [VoIP]. It does not have a video camera facility as it only FON-675i Executive IP Phone that has this facility. It is these features of Model No. FON-670i that have to be kept in mind for classification of this Executive IP Phone.

17. It needs to be noted that the manufacturer has classified the goods in the invoice under H.S. Code 8517.18.

18. The relevant portion of Heading 8517 to the Explanatory Notes of Harmonized System of Nomenclature [HSN] is reproduced below :

8517	**-**	**Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 84.43, 85.25, 85.27 or 85.28(+).**
	-	Telephone sets, including telephones for cellular networks or for other wireless networks :
8517.11	--	Line telephone sets with cordless handsets
8517.12	--	Telephones for cellular networks or for other wireless networks
8517.18	--	Other
	-	Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network) :
8517.61	--	Base stations
8517.62	--	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus
8517.69	--	Other
8517.70	-	Parts

This heading covers apparatus for the transmission or reception of speech or other sounds, images or other data between two points by variation of an electric current or optical wave flowing in a wired network or by electro-magnetic waves in a wireless network. The signal may be analogue or digital. The networks, which may be interconnected, include telephony, telegraphy, radio-telephony, radio-telegraphy, local and wide area networks.

(1) Telephone Sets, Including Telephones for Cellular Networks or for other Wireless Networks

This group includes :

(A)Line telephone sets.
Line telephone sets are communication apparatus that convert voice into signals for transmission to another device. Upon receipt of a signal, a line telephone set will convert the signal back to voice. They consist of :
(1) The transmitter,
(2) The receiver,
(3) The anti-sidetone circuit,
(4) The ringer,
(5) The switching device or "switchhook",
(6) The dialing selector,

When separately presented, microphones and receivers (whether or not combined as hand-sets), and loudspeakers are classified in heading 85.18 while bells and buzzers are classified in heading 85.31.

Telephone sets may incorporate or have fitted : a memory for storing and recalling telephone numbers; a visual display for showing the number dialed, incoming caller's number, date and time, and duration of call; an extra loudspeaker and microphone to enable communication without using the handset; devices for automatically answering calls, transmitting a recorded message, recording incoming messages and playing back the recorded message on command; devices for holding a connection on line while communicating with a person on another telephone. Telephone sets incorporating these devices may also have keys or push-buttons which enable their operation, including a switching key which enables the telephone to be operated without removing the hand-set from the cradle. Many of these devices utilize a microprocessor or digital integrated circuits for operation.

(B)Telephones for cellular networks or for other wireless networks.

This group covers telephones for use on any wireless network. Such telephones receive and emit radio waves which are received and retransmitted, e.g., by base stations or satellites.
These include, *inter alia* :
(1) Cellular phones or mobile phones.
(2) Satellite phones.

19. Reverting back to the classification under the Customs Tariff, it is seen that perusal of Heading 8517 indicates that it contains three entries at single dash '-' level and they are :

(a) Telephone sets, including telephones for cellular networks or for other wireless networks;

(b) Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or a wireless network (such as a local or wide area network); and

(c) Parts.

20. The First single dash covers telephone sets, while the second single dash starts with the words "other apparatus". The third single dash relates to "Parts".

21. Only those goods which are not covered by the first single dash entry are covered under the second dash entry, as has been held by the Supreme Court in *Delton Cables*. It would, therefore, be necessary to first examine whether this particular IP Phone would be covered by the first single dash entry and only if it is found that it is not covered by this entry that it has to be examined whether it would be covered by the second single dash entry.

22. The description of goods under the first single dash of Tariff Item 8517 is telephone sets, including telephones for cellular networks or for other wireless networks. The description of goods under the sub-heading 8517 11 (first double dash) are line telephone sets with cordless sets, while under sub-heading 8517 12 (second double dash) are telephones for cellular networks or for other wireless networks.

23. The appellant imported, as noticed above, an Executive Level IP Phone of model FON 670i. It is, therefore, an IP Phone. The description of the goods under consideration will not fall in either of the two sub-headings 8517 11 or 8517 12. Being an IP telephone it would fall under sub-heading 8517 18 (third double dash) under which the description of the goods is 'others'. It is a push button type telephone and, therefore, would fall under Tariff Item No. 8517 18 10.

24. Rule 1 of the General Rules also provides that the titles of Section, Chapters and sub-chapters are provided for ease of reference. In *Commissioner of Central Excise, Nagpur* v. *Simplex Mills Co. Ltd.* [2005 (181) E.L.T. 345 (S.C.) = 2005 taxmann.com 777 (SC)], the Supreme Court held that Rule I gives primacy to the Section and Chapter Notes along with the terms of the Headings and so this rule should be applied first. It is only when a clear picture is not emerging that the subsequent rules have to be applied. The observations of the Supreme Court are as follows :

> 11. The rules for the interpretation of the Schedule to the Central Excise Tariff Act, 1985 have been framed pursuant to the powers under Section 2 of that Act. According to Rule 1 titles of Sections and Chapters in the Schedule are provided for ease of reference only. But for legal purposes, classification "shall be determined according to the terms of the heading and any relevant section or Chapter Notes". If neither the heading nor the notes suffice to clarify the scope of a heading, then it must be construed according to the other following provisions contained in

the Rules. *Rule-I gives primacy to the Section and Chapter Notes along with terms of the headings. They should be first applied. If no clear picture emerges then only can one resort to the subsequent rules.* The appellants have relied upon Rule 3. Rule 3 must be understood only in the context of sub-rule (b) of Rule 2 which says *inter alia* that the classification of goods consisting of more than one material or substance shall be according to the principles contained in Rule 3. Therefore when goods are *prima facie*, classifiable under two or more headings, classification shall be effected according to sub-rules (a), (b) and (c) of Rule 3 and in that order.

xx xx xx

12. Applying the Rules of Interpretation particularly Rule 1, we are of the opinion that the reasoning of the Tribunal in *Jyoti Overseas* is unexceptionable and in our opinion the decision in *Simplex-I* was correctly overruled."

(Emphasis supplied)

25. The second entry at single dash level starts with the words "other apparatus". This clearly indicates that only those goods which are not covered by the first single dash entry will be covered under the second single dash entry. Thus, as the product under consideration is covered by the first single dash entry, it is not necessary to examine the second single dash entry.

26. The Explanatory Notes to HSN describe what would be covered by the second single dash entry for 85.17 as follows :

(II) Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network)

(A)Base stations.

The most common types of base stations are those for cellular networks, which receive and transmit radio waves to and from cellular telephones or to other wired or wireless networks. Each base station covers a geographical area (a cell). If the user moves from one cell to another while telephoning, the call is automatically transferred from one cell to another without interruption.

(B)Entry-phone systems.

The systems usually consist of a telephone handset and keypad or a loudspeaker, a microphone and keys. These systems are usually mounted at the entrance of buildings housing a number of tenants. With these systems, visitors can call certain tenants, by pressing the appropriate keys and talk to them.

(C) Videophones.

Videophones for buildings, which are a combination consisting principally of a telephone set for line telephony, a television camera and a television receiver (transmission by line).

(D) Apparatus for telegraphic communication other than facsimile machines of heading 84.43.

These apparatus are essentially designed for converting characters, graphics, images or other data into appropriate electrical impulses, for transmitting those impulses, and at the receiving end, receiving these impulses and converting them either into conventional symbols or indications representing the characters, graphics, images or other data or into the characters, graphics, images or other data themselves.

(E) Telephonic or Telegraphic Switching Apparatus.

xx xx xx

(F) Transmitting and receiving apparatus for radio-telephony and radio-telegraphy.

xx xx xx

(G) Other communication apparatus.

This group includes apparatus which allows for the connection to a wired or wireless communication network or the transmission or reception of speech or other sounds, images or other data within such a network.

Communication networks include, *inter alia*, carrier-current line systems, digital-line systems and combinations thereof. They may be configured, for example, as public switched telephone networks, Local Area Networks (LAN), Metropolitan Area Networks (MAN) and Wide Area Networks (WAN), whether proprietary or open architecture.

This group includes :

(1) Network interface cards (e.g., Ethernet interface cards).
(2) Modems (combined modulators-demodulators).
(3) Routers, bridges, hubs, repeaters and channel to channel adaptors.
(4) Multiplexers and related line equipment (e.g., transmitters, receivers or electro-optical converters).
(5) Codecs (data compressors/decompressors) which have the capability of transmission and reception of digital information.
(6) Pulse to tone converters which convert pulse dialed signals to tone signals.

27. A perusal of the aforesaid portion of the HSN Explanatory Notes shows that base stations, entry-phone systems, video phones, apparatus for telegraphic communication other than facsimile machines of heading 84.43, telephonic or telegraphic switching apparatus, transmitting and receiving apparatus for radio-telephony and radio-telegraphy, other communication apparatus are contained. None of these would satisfy the description of the product under consideration.

28. Emphasis has been lead by the Learned Authorized Representative of the Department on II (G), which is "other communication apparatus". In this connection reliance has been placed on the decision of the Supreme Court in *O.K. Play.* The observation are as follows :

> "7. In the case of *A. Nagaraju Brothers* v. *State of Andhra Pradesh* reported in [1994 (72) E.L.T. 801], it has been held by this Court that no one single universal test can be applied for correct classification. There cannot be a static parameter for correct classification.
>
> 8. Further, the scheme of the Central Excise Tariff is based on Harmonized System of Nomenclature (for short "HSN") and the explanatory notes thereto. Therefore, HSN along with the explanatory notes provide a safe guide for interpretation of an Entry.
>
> 9. Further, equal importance is required to be given to the Rule of Interpretation of the Excise Tariff. Under Rule 3(a), it is provided that the heading which provides a specific description shall be preferred to a heading having a more general description. For example, in the case of "toys" referred to in the HSN Heading and the Tariff Heading, the description refers to reduced size model of an Article used by adults. This test helps us to understand the difference between "toys" and "furniture".
>
> 10. Lastly, it is important to bear in mind that functional utility, design, shape and predominant usage have also got to be taken into account while determining the classification of an item.
>
> 11. The aforestated aids and assistance are more important than the names used in the trade or common parlance in the matter of correct classification."

29. It is not possible to accept this contention for the simple reason that an executive IP Phone does not match the description of any of the apparatus mentioned in (G). Even otherwise, in view of the decision of the Supreme Court in *Mohinder Singh Gill* v. *Chief Election Commissioner* [AIR 1978 SC 851], this submission of the Learned Authorized Representative of the Department cannot be entertained as the impugned order is not based on this reason. The Supreme Court in *Mohinder Singh Gill* observed that when a statutory functionary makes an order based on certain grounds, the validity of that order has to be judged on the reasons stated in the order and the order cannot be supplemented by fresh reasons.

30. The Gujarat High Court in *F.S. Enterprise* v. *State of Gujarat* [2020 (32) G.S.T.L. 321 (Guj.) = (2019) 111 taxmann.com 179], followed the decision of the Supreme Court in *Mohinder Singh Gill* and observed that it is not permissible to supplement the original order by additional reasons.

31. The aforesaid decision of the Supreme Court in *O.K. Play* would not help the Department. The submissions made by the Learned Authorized Representative of the Department in regard to (G) of (II) of Entry 85.17 of the HSN cannot, therefore, be accepted.

32. What also supports the case of the appellant are the two orders dated February 27, 2020 and March 9, 2020 passed by the Commissioner of Customs (Appeals-II), Chennai, in matters relating to the present appellant, wherein in respect of similar goods, but of different models, the Commissioner (Appeals) classified the goods under CTH 8517 18 10.

33. According to Learned Counsel for the appellant, the orders were accepted by the Department as the goods were re-assessed and clearance was allowed pursuant to the two orders passed by the Commissioner (Appeals). Learned Counsel, however, very fairly pointed out an appeal has been filed by the Department only against the order dated March 9, 2020. Learned Authorized Representative has also stated that till date appeal has not been filed to assail the order dated February 27, 2020 passed by the Commissioner (Appeals) at Chennai.

34. In the order dated February 27, 2020, the Commissioner (Appeals) noticed that the product under consideration was IP Phone FON-175 and though the goods were classified by the importer under CTH 8517 18 10, but the Adjudicating Authority classified the goods under CTH 8517 69 90. The Commissioner (Appeals) held that the goods would be classified under CTH 8517 18 10 and for coming to this conclusion placed reliance upon the HSN Explanatory Notes. The relevant portion of the order is reproduced below :

> "6. I have carefully gone through the facts given in the appeal, the speaking order and both the submissions, written and oral, made by the Advocate of the appellant company, during the personal hearing. The issue to be decided is,
>
> i. whether the imported CISCO IP Phone Model 8841 and FON175 Entry Level Phone of FortiFone are to be classified under CTH 8517 69 90 or under CTH 8517 18 10?
>
> 7. It is seen from the catalogue that Fortinet Companies Forti IP Telephones has various models including FON 175. These IP Phones has dedicated keys for the most common features and it has a PBX also with call forwarding, voice mail notification, one touch transfers, conference calling, speed dial, POE (Power Over Ethernet) support and Auto discovery for easy setup.

8. The CISCO IP Phone 8841 has five programmable line keys, these keys can be configured to support either multiple directory numbers or call features such as speed dials. Fixed function keys gives one touch access to applications, messaging, directory, holding the call, transfer and conference. This phone supports the built-in Gigabyte and Ethernet Switch for PC connection also. From the catalogues, it is observed that these are push button type telephone sets and CTH 8517 covers telephone sets, including telephones for cellular networks or for other wireless networks. Since these phones can be used through internet, these cannot be classified under CTH 8517 11 10. *Therefore, the right classification appears to be CTH 8517 18 (Other) and sub-classification 8517 18 10 push button type. Going by the HSN explanatory notes for CTH 8517 telephone sets including telephone for cellular networks or other networks, these items are appropriately to be classified under CTH 8517 18 only as "others". The relevant portion of the HSN explanatory notes is reproduced;*

"Telephone sets, may incorporate or have fitted a memory for storing and recalling telephone numbers, a visual display for showing the number dialed, incoming callers number, date and time and duration of the call, an extra loudspeaker and microphone to enable communication without using the hand set; devices for automatically answering calls, transmitting a recorded message, recording incoming messages and playing back recorded message on command; devices for holding a connection on line while communicating with the person on another telephone. Telephone sets incorporating these devices may also have keys or push buttons which enable their operation, including a switching key which enables the telephone to be operated without removing the handset from the cradle. Many of these devices utilized a microprocessor or digital integrated circuits for their operation."

10. The AA has classified the goods as CTH 8517 69 90 as "others" as this can be made use of in the LAN and SIP (Session Initiation Protocol). *As these phones cannot be used for video call, they have to be essentially classified under CTH 8517 18 only. In the case of video screen phones, it can be classified under CTH 8517 69 90 as "others". As these phones are meant only for audio calls, the classification claimed by the appellant M/s. Ingram Micro India Pvt. Ltd., appears to be correct.* It is not understood why they have cleared the impugned goods earlier under CTH 8517 69 90. Therefore, in view of the above discussions, the AA's order classifying the impugned VoIP (Voice over Internet Protocol) Phone is set aside and he is directed to reassess the goods *vide* classification CTH 8517 18 10. It is further directed to verify their earlier clearances of such VoIP Phones under CTH 8517 69 90 and whether they availed wrongly any benefit of exemption notification."

(Emphasis supplied)

35. The second order dated March 9, 2020 of the Commissioner (Appeals) relies upon the aforesaid order dated February 27, 2020 passed by the Commissioner (Appeals). After noticing that the 6 models of CICO IP Phone are not capable of making video call and are meant only for audio call, the Commissioner (Appeals) observed that the goods would be classifiable under CTH 8517 18 10. The observation are as follows :

> **"10.** ***All the other 6 models of CISCO IP Phones are not capable of making video calls and as per the literature available those are meant only for audio calls.*** **CISCO IP 7800 Series has 4 line and programmable feature keys, high resolution graphical display, dedicated fixed keys, built-in speaker phones and handset, speaker/headset. It has PCE (Power over Ethernet) Class-1 feature also, Model 8841 and 8851 has wide band audio for crystal clear voice communications, it is also supported on 3rd party hosted call control services. In addition in the Model 8851, the mobile phone also can be attached (Audio path) and this IP Phone comes with USB Port for charging.**
>
> **11.** ***As per the literature, the CISCO IP Conference Phone 8831 & 8832 are basically voice telephones having push buttons. Going by the literatures all the 6 models are having push buttons and fixed keys and are to be classified under CTH 8517 18 10 as claimed by the appellant M/s. Ingram Micro India Pvt. Ltd."***
>
> (Emphasis supplied)

36. Learned Counsel for the appellant submitted that different Collectorates of Customs cannot adopt different standards on a particular issue and in this connection placed reliance upon the decision of the Calcutta High Court in *Opal Exports Pvt. Ltd.* v. *Collector of Customs* [1992 (60) E.L.T. 232 (Cal.)].

37. The Calcutta High Court held in *Opal Exports* that Customs Authorities cannot be permitted to practice discrimination and that the Collectorates of the Customs have to adopt a similar stand on a particular issue. The relevant portion of the judgment is reproduced below :

> "28. The respondent Customs authorities by treating similar imports as imports of spares while adopting a different view in the case of the petitioner (who is placed in similar circumstances as other importers of similar goods) have discriminated against the petitioner in violation of the guarantee of equal protection contained in Article 14 of the Constitution of India.
>
> 29. The discriminatory treatment meted out by the Customs Authorities to the petitioner is also *mala fide* as is evident from the fact that subsequently the respondents have allowed import of similar goods and such goods have been treated as spares and customs duty has been levied accordingly. However, the imports forming the subject matter of the writ petition have been illegally and arbitrarily subjected to discriminatory treatment.
>
> 30. It is not open to the Customs authorities to contend that the subject goods were complete measuring instrument in view of the

> decision of the Customs, Excise & Gold (Control) Appellate Tribunal, West Regional Bench at Bombay in the case of *M/s. Sushu Electronic* v. *Collector of Customs & Central Excise, Rajkot,* in which similar goods have been classified as spares and not as complete instruments. *It is a settled law that different Collectorates of Customs cannot adopt different stands on a particular issue.*"
>
> (Emphasis supplied)

38. Learned Counsel for the appellant also pointed out that another consignment of similar goods imported by the appellant at Air Cargo Complex, Chennai by Bill of Entry No. 8380173, dated August 5, 2020 was allowed to be cleared by the Department on September 8, 2020.

39. Thus, for the reasons stated above, the goods under consideration also require classification under CTH 8517 18 10.

40. Learned Counsel for the appellant, in the alternative, submitted that even if the product under consideration is *prima facie* classifiable under two or more Headings, the classification would be effected in the manner prescribed in (a) or (b) or (c) of Rule 3 of the General Rules and so the Heading which provides the most specific description shall be preferred to Headings providing a more general description. In such a situation also the product under consideration would fall under the Tariff Item Heading 8517.

41. This submission of Learned Counsel of the appellant deserves to be accepted. The product under consideration is an Executive IP Phone. It would satisfy the specific description of Tariff Item Heading 8517.

42. In *Moorco (India) Ltd.* v. *Collector of Customs, Madras* [1994 (74) E.L.T. 5 (S.C.) = 1994 taxmann.com 265 (SC)], the Supreme Court held that the First Schedule appended to the Customs Act lays down the General Principles for the Interpretation and classification of goods for import tariff and that the applicability of Rule 3 arises when the goods consisting of more than one material fall in two or more headings. The Supreme Court observed that each of the classes are mutually exclusive. What is covered in (a) cannot be classified in (b), and (c) operates when neither (a) or (b) applies. It is like a residuary clause. The observations are as follows :

> *"The primary question, therefore, is whether the goods manufactured by the appellant fall in clause (a) and if it can be classified with reference to (a) then clauses (b) and (c) would not apply. Clause (a) incorporates the common and general principle that the goods which can be classified specifically with reference to any heading should be placed in that category alone. The specific heading of classification has to be preferred over general heading. The clause contemplates goods which may be satisfying more than one description. Or it may be satisfying specific and general description. In either situation the classification which is the most specific has to be preferred over the one which is not specific or is general in nature. In other words, between the two competing entries the one most nearer to the description should*

> *be preferred. Where the class of goods manufactured by an assessee falls say in more than one heading one of which may be specific, other more specific, third most specific and fourth general. The rule requires the authorities to classify the goods in the heading which satisfies most specific description.* For instance, taking the case of the appellant the item manufactured by the appellant is described and used as flow meter. It is an instrument for measuring volume as well. Flow meter is specifically classified in Heading No. 90.24. Whereas the Heading 90.26 is general in nature. It applies to every production meter or calibrating meter for gas, liquid and electricity supply. Therefore, on the finding recorded by the Assistant Collector, the goods produced by the appellant specifically fall in Heading No. 90.24. They may also fall in Heading No. 90.26 but that being more general entry preference should have been given to the entry 90.24 as the goods satisfy most specific description of being flow meter. *The Tribunal or the appellate authority without adverting to it applied clause (c) and levied duty under 90.26 as it was a latter heading. But clause (c) would apply only if clauses (a) and (b) do not apply. Since the goods manufactured by the appellant satisfied the specific description of Tariff Heading 90.24 being a flow meter, the Tribunal committed an error of law in classifying it under Tariff Heading 90.26 as it was a latter item under the classification list."*
>
> (Emphasis supplied)

43. The Commissioner (Appeals) has relied upon Rule 3(c) to hold that since Tariff Item Number 8517 69 90 falls last in the numerical order among those which equally merit consideration, the product under consideration would be classifiable under CTH 8517 69 90 and not CTH 8517 18 10.

44. The Commissioner (Appeals) clearly committed an error in straight-away jumping to Rule 3(c) without first exhausting Rule 3(a) and Rule 3(b).

45. The Commissioner (Appeals) also committed an error in holding that the goods in question are for video calling. As noticed above, the facility of video codec support is available only in model 675i, whereas the imported goods model is 670i, which does not have any feature of video support. The *Order Information* contained in the product literature, also describes model 675i as an "Executive Video IP Phone", while model 670i is described as an "Executive IP Phone". This clearly shows that the facility of video calling is not available in the model imported by the appellant.

46. Learned Authorized Representative of the Department also submitted that the Commissioner (Appeals) committed no legality in placing reliance upon the Exemption Notification dated January 29, 2019, which notification suggests that VoIP phones are classifiable under CTH 8517 69 90 and are not eligible for exemption.

47. This contention of the Learned Authorized Representative of the Department cannot also be accepted. The classification of goods has to be done in accordance with the terms of Headings and any relative Section or Chapter Note. The classification is not required to be done in terms of any Exemption Notification. This is what was also observed by the Tribunal in *Ruchi Soya Industries Ltd.* v. *Commissioner of Customs (ACC & Imp.), Mumbai* [2019 (369) E.L.T. 1529 (Tri. - Mumbai)]. The relevant portion of the decision is reproduced below :

> "5.3 In the present case the benefit of Exemption Notification as claimed by the appellants under Notification No. 21/2002-Cus., dated 1-3-2002 has been allowed by the lower authorities. However, *the issue that appellants have raised is two folds –*
>
> (i) *The classification of the goods imported by them should have been done by following the classification as per the exemption notification and not by application of Chapter Note 3 to the Chapter 12.*
>
> (ii) Since no rate of duty has been mentioned under column 5 of the Notification No. 21/2002-Cus., assessment should have been made allowing them full exemption from Additional Duty.
>
> 5.4 We are not in position to agree with the said submissions –
>
> (i) As per Rule 1 of *"General Rules of Interpretation of Import Tariff"*
>
> "1. The Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions :"
>
> *Thus by application of the said rule classification of the goods is to be done in accordance with the terms of headings and any relative Section or Chapter Note. It is not the case of the appellant that by application of the above Rule 1, the classification as done by the Revenue is erroneous but appellants are contending that the classification should have followed the exemption notification. We are not in position to agree with the said contention.* The decision of *Indian Tobacco Association* referred by the appellants in their appeal do not advance the case of appellant as the said decision do not state so and is also not on the issue of classification. The said decision is authority for giving liberal interpretation to the exemption notification in accordance with the objective of the notifications. Hence the contentions of appellant in respect of classification cannot be agreed to."
>
> (Emphasis supplied)

> **48.** Thus, for all the reasons stated above, the product under consideration, which is an Executive IP Phone (Model No. FON-670i), is classifiable under CTH 8517 18 10 and not under CTH 8517 69 90.

5.8 From the above decision and from the description of the products, it is seen that the VOIP phones described therein at para 35 and 45 are merely audio phone and the impugned products description in the impugned order before us are entirely different. The impugned VoIP Phones have additional features of video and are capable of transmitting data/image and are being used for conference purposes. Similarly, the decision in the case of M/s Ingram Micro India Pvt. Ltd. Versus Commissioner of Customs (Import), ACC, Mumbai vide Final Order No. A/85085/2024 dated 16.02.2024 relied upon by the appellant the Tribunal was dealing with only Audio Phones as seen from the observations reproduced below:

> "26.2 On careful examination of the above system, we find that the Coordinate Bench had dealt with 'video conferencing systems'; whereas, in the case in hand, we are dealing with 'IP Phones' , whose features are entirely different than the products dealt with by the Co-ordinate Bench. Hence, the ratio of the judgement of Co-ordinate Bench does not apply to the facts of this case. Furthermore, from the product data sheet submitted by the appellants as 23 C/86276/2021 written submissions in respect of various models of 'CISCO IP Phones' covered in the appeals before us, it is shown that these phones capture voice/audio communications only, but do not have the capacity of making/receiving video calls. It has further been stated in the affidavit that in respect of fourth category (iv)IP Video Phones, which has the facility of both audio/voice and video capabilities, the appellants have been classifying such IP Phones under 8517 69 90 and they are not disputing such IP phones, which are not in dispute in this appeal. 27. We also find that the Co-ordinate Bench of this Tribunal, in the case of Ingram Micro Indian Pvt. Ltd. Vs. Deputy Commissioner of Customs, New Delhi vide Final Order No. 51640/2020 dated 17.12.2020 (in Customs Appeal No. C/50865/2020), has held that IP Phone (Model No. FON-670i), is classifiable under CTH 8517 18 10 and not under CTH 8517 69 90. 28. In

view of the foregoing discussions and analysis, we conclude that the products under consideration i.e., (i) 'IP Audio Phones' (ii) 'IP Audio Conference Phones' of various models of 'CISCO' brand would appropriately be classifiable under Customs Tariff Item (CTH) 8517 18 10 and not under CTH 8517 69 90, as claimed by Revenue. Further, we also conclude that the appropriate classification------"

4.9 It is also a fact that when the appellant has cleared video conferencing equipment, they have previously cleared them under 8517 6290 as noted by the Commissioner in the impugned order in the present case. Therefore, we are of the opinion that mere audio phones will be classified under 8517 1810/8517 1890 and all others with video features along with facility of data and image transmission facilities are rightly classifiable under 8517 6290. However, from the data annexed to the notice which is reproduced below we find some are audio phones based on VOIP technology which are rightly classifiable under 8517 1810/8517 1890 and all others are to be classified under 8517 6290.

Worksheet-I to the SCN issued vide F. No. DRI/HZU/26D/ENQ-44(INT-24)/2020 dt. 30.12.2020

VOIP PHONE-IP PHONE

Amount in Rs.

Sl. No.	PORT CODE	BE NO.	BEDATE	CTH	CORRECT CTH	ITEM A.V.	BCD	CESS @ 3% on (h) upto 01.02.2018	SWSC @ 10% on (h) w.e.f 02.02.2018	IGST @ 18% on (h) + (i) + (j)	TOTAL	ITEMDESCRIPTION
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)
1	INBLR4	4211619	30-11-2017	85171890	85176290	19,401	1,940	58		360	2,358	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
2	INBLR4	4376545	13-12-2017	85171890	85176290	2,68,145	26,815	804		4,971	32,590	CP-8865-W-K9 CISCO IP PHONE 8855 WHITE (VO IP PHONE)
3	INBLR4	4376546	13-12-2017	85171890	85176290	95,014	9,501	285		1,762	11,548	CP-8831-NR-K9 CISCO 8831 BASE/CONTROL PANEL WITH NO DECT RADIO (VO IP PHONE)
4	INBLR4	4393221	14-12-2017	85171890	85176290	20,48,480	2,04,848	6,145		37,979	2,48,972	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
5	INBLR4	4402103	14-12-2017	85171890	85176290	11,24,026	1,12,403	3,372		20,839	1,36,614	CP-8831-NR-K9= CISCO 88131 BASE CONTROL PANEL WITH NO DECT RADIO (VO IP PHONE)
6	INBLR4	4618000	30-12-2017	85171890	85176290	21,89,617	2,18,962	6,569		40,595	2,66,126	CP-8865-K9= CISCO IP PHONE (VO IP PHONE)
7	INBLR4	4618000	30-12-2017	85171890	85176290	18,24,681	1,82,468	5,474		33,830	2,21,772	CP-8865-K9= CISCO IP PHONE (VO IP PHONE)
8	INBLR4	4700002	06-01-2018	85171890	85176290	18,13,553	1,81,355	5,441		33,623	2,20,419	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
9	INBLR4	4738106	09-01-2018	85176930	85176290	30,263	3,026	91		561	3,678	FL-CME-SRST-25 SRST-25 SEAT LICENSE (CME USES CUCME PHONE LICENSE ONLY) (ROUTER)
10	INBLR4	5098706	06-02-2018	85171890	85176290	3,86,508	77,302		7,730	15,306	1,00,338	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
11	INBLR4	5098046	06-02-2018	85171890	85176290	18,786	3,757		376	744	4,877	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
12	INBLR4	5101592	07-02-2018	85171890	85176290	2,63,516	52,703		5,270	10,435	68,409	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
13	INBLR4	5101592	07-02-2018	85171890	85176290	1,88,226	37,645		3,765	7,454	48,864	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
14	INBLR4	5101592	07-02-2018	85171890	85176290	75,291	15,058		1,506	2,982	19,546	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
15	INBLR4	5117101	08-02-2018	85171890	85176290	3,90,762	78,152		7,815	15,474	1,01,442	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
16	INBLR4	5118761	08-02-2018	85171890	85176290	1,09,881	21,976		2,198	4,351	28,525	CP-3905= CISCO UNIFIED SIP PHONE 3905 CHARCOAL, STANDARDHANDSET (VO IP PHONE)
17	INBLR4	5117068	08-02-2018	85171890	85176290	75,650	15,130		1,513	2,996	19,639	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
18	INBLR4	5118761	08-02-2018	85171890	85176290	75,347	15,069		1,507	2,984	19,560	CP-3905= CISCO UNIFIED SIP PHONE 3905 CHARCOAL, STANDARDHANDSET (VO IP PHONE)
19	INBLR4	5118761	08-02-2018	85171890	85176290	47,092	9,418		942	1,865	12,225	CP-3905= CISCO UNIFIED SIP PHONE 3905 CHARCOAL, STANDARDHANDSET (VO IP PHONE)
20	INBLR4	5118761	08-02-2018	85171890	85176290	31,394	6,279		628	1,243	8,150	CP-3905= CISCO UNIFIED SIP PHONE 3905 CHARCOAL, STANDARDHANDSET (VO IP PHONE)
21	INBLR4	5117101	08-02-2018	85171890	85176290	18,538	3,708		371	734	4,813	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
22	INBLR4	5118761	08-02-2018	85171890	85176290	18,383	3,677		368	728	4,772	CP-8865-K9= CISCO IP PHONE (VO IP PHONE)
23	INBLR4	5117068	08-02-2018	85171890	85176290	15,986	3,197		320	633	4,150	CP-BEKEM= CISCO IP PHONE 8800 KEY EXPENSION MODULE(VO IP PHONE)

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VOIP PHONE-IP PHONE

Amount in Rs.

Sl. No.	PORT CODE	BE NO.	BEDATE	CTH	CORRECT CTH	ITEM A.V.	BCD	CESS @ 3% on (h) upto 01.02.2018	SWSC @ 10% on (h) w.e.f 02.02.2018	IGST @ 18% on (h) + (i) + (j)	TOTAL	ITEMDESCRIPTION
24	INBLR4	5217642	15-02-2018	85171890	85176290	15,736	3,147		315	623	4,085	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
25	INBLR4	5217642	15-02-2018	85177010	85176290	14,809	2,962		296	586	3,844	CP-3905-PWR-IN= POWER ADAPTER FOR CISCO UNIFIED SIP PHONE3905,INDIA (LAN ADAPTER CARD)
26	INBLR4	5217642	15-02-2018	85171890	85176290	7,508	1,502		150	297	1,949	CP-7841-K9= CISCO UC PHONE 7841 (VO IP PHONE)
27	INBLR4	5334636	23-02-2018	85171890	85176290	3,64,505	72,901		7,290	14,434	94,626	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
28	INBLR4	5334636	23-02-2018	85171890	85176290	2,55,154	51,031		5,103	10,104	66,238	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
29	INBLR4	5334636	23-02-2018	85171890	85176290	1,45,802	29,160		2,916	5,774	37,850	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
30	INBLR4	5334636	23-02-2018	85171890	85176290	91,126	18,225		1,823	3,609	23,656	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
31	INBLR4	5334636	23-02-2018	85171890	85176290	18,225	3,645		365	722	4,731	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
32	INBLR4	5361356	26-02-2018	85171890	85176290	21,657	4,331		433	858	5,622	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
33	INBLR4	5361357	26-02-2018	85171890	85176290	21,657	4,331		433	858	5,622	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
34	INBLR4	5409886	01-03-2018	85171890	85176290	50,486	10,097		1,010	1,999	13,106	CP-3905= CISCO UNIFIED SIP PHONE 3905,CHARCOAL,STANDARDHANDSET (VO IP PHONE)
35	INBLR4	5409889	01-03-2018	85171890	85176290	18,726	3,745		375	742	4,861	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
36	INBLR4	5545010	12-03-2018	85171890	85176290	78,685	15,737		1,574	3,116	20,426	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
37	INBLR4	5881980	06-04-2018	85171890	85176290	22,008	4,402		440	872	5,713	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
38	INBLR4	5997904	16-04-2018	85171890	85176290	38,427	7,685		769	1,522	9,976	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
39	INBLR4	5997904	16-04-2018	85171890	85176290	24,869	4,974		497	985	6,456	CP-BEKEM= CISCO IP PHONE 8800 KEY EXPANSION MODULE(VO IP PHONE)
40	INBLR4	5997904	16-04-2018	85171890	85176290	19,214	3,843		384	761	4,988	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
41	INBLR4	6058242	20-04-2018	85171890	85176290	14,15,162	2,83,032		28,303	56,040	3,67,376	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
42	INBLR4	6058242	20-04-2018	85171890	85176290	11,32,129	2,26,426		22,643	44,832	2,93,901	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
43	INBLR4	6054895	20-04-2018	85171890	85176290	93,994	18,799		1,880	3,722	24,401	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
44	INBLR4	6054895	20-04-2018	85171890	85176290	56,397	11,279		1,128	2,233	14,641	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
45	INBLR4	6054895	20-04-2018	85171890	85176290	37,597	7,519		752	1,489	9,760	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
46	INBLR4	6054895	20-04-2018	85171890	85176290	18,799	3,760		376	744	4,880	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
47	INBLR4	6054792	20-04-2018	85171890	85176290	18,707	3,741		374	741	4,856	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
48	INBLR4	6068802	21-04-2018	85171890	85176290	79,016	15,803		1,580	3,129	20,513	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
49	INBLR4	6068802	21-04-2018	85171890	85176290	13,824	2,765		276	547	3,589	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
50	INBLR4	6203348	01-05-2018	85171890	85176290	70,356	14,071		1,407	2,786	18,264	CP-8831-NR-K9= CISCO 8831 BASE/CONTROL PANEL WITH NO DECTRADIO (VO IP PHONE)
51	INBLR4	6246974	04-05-2018	85171890	85176290	25,143	5,029		503	996	6,527	CP-8861-K9= CISCO IP PHONE 8861 (VO IP PHONE)

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VOIP PHONE-IP PHONE

Amount in Rs.

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52	INBLR4	6246974	04-05-2018	85171890	85176290	8,969	1,794		179	355	2,328	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
53	INBLR4	6255498	05-05-2018	85171890	85176290	7,09,314	1,41,863		14,186	28,089	1,84,138	CP-8845-K9= CISCO IP PHONE 8845 (VO IP PHONE)
54	INBLR4	6255498	05-05-2018	85171890	85176290	38,457	7,691		769	1,523	9,983	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
55	INBLR4	6255498	05-05-2018	85171890	85176290	19,228	3,846		385	761	4,992	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
56	INBLR4	6277971	07-05-2018	85171890	85176290	57,691	11,538		1,154	2,285	14,977	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
57	INBLR4	6277971	07-05-2018	85171890	85176290	19,230	3,846		385	761	4,992	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
58	INBLR4	6331880	11-05-2018	85171890	85176290	1,56,009	31,202		3,120	6,178	40,500	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
59	INBLR4	6331899	11-05-2018	85171890	85176290	39,731	7,946		795	1,573	10,314	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
60	INBLR4	6331899	11-05-2018	85171890	85176290	19,865	3,973		397	787	5,157	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
61	INBLR4	6434969	18-05-2018	85171890	85176290	97,588	19,518		1,952	3,864	25,334	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
62	INBLR4	6434014	18-05-2018	85171890	85176290	19,702	3,940		394	780	5,115	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
63	INBLR4	6521094	25-05-2018	85171890	85176290	1,75,295	35,059		3,506	6,942	45,507	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
64	INBLR4	6521094	25-05-2018	85171890	85176290	1,55,818	31,164		3,116	6,170	40,450	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
65	INBLR4	6521094	25-05-2018	85171890	85176290	1,16,864	23,373		2,337	4,628	30,338	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
66	INBLR4	6521094	25-05-2018	85171890	85176290	38,954	7,791		779	1,543	10,112	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
67	INBLR4	6521094	25-05-2018	85171890	85176290	19,477	3,895		390	771	5,056	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
68	INBLR4	6574004	29-05-2018	85171890	85176290	7,77,133	1,55,427		15,543	30,774	2,01,744	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
69	INBLR4	6573991	29-05-2018	85171890	85176290	20,190	4,038		404	800	5,241	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
70	INBLR4	6590697	30-05-2018	85171890	85176290	5,05,817	1,01,163		10,116	20,030	1,31,310	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
71	INBLR4	6590971	30-05-2018	85171890	85176290	2,16,173	43,235		4,323	8,560	56,118	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
72	INBLR4	6590697	30-05-2018	85171890	85176290	1,94,545	38,909		3,891	7,704	50,504	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
73	INBLR4	6620189	01-06-2018	85171890	85176290	2,92,548	58,510		5,851	11,585	75,946	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
74	INBLR4	6620189	01-06-2018	85171890	85176290	97,516	19,503		1,950	3,862	25,315	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
75	INBLR4	6620018	01-06-2018	85171890	85176290	80,390	16,078		1,608	3,183	20,869	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
76	INBLR4	6620004	01-06-2018	85171890	85176290	63,066	12,613		1,261	2,497	16,372	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
77	INBLR4	6620018	01-06-2018	85171890	85176290	20,097	4,019		402	796	5,217	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
78	INBLR4	6667306	05-06-2018	85171890	85176290	4,85,803	97,161		9,716	19,238	1,26,115	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
79	INBLR4	6667306	05-06-2018	85171890	85176290	2,91,482	58,296		5,830	11,543	75,669	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
80	INBLR4	6667306	05-06-2018	85171890	85176290	38,864	7,773		777	1,539	10,089	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
81	INBLR4	6667081	05-06-2018	85171890	85176290	19,776	3,955		396	783	5,134	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
82	INBLR4	6667306	05-06-2018	85171890	85176290	19,432	3,886		389	770	5,045	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
83	INBLR4	6737959	11-06-2018	85171890	85176290	22,659	4,532		453	897	5,882	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)

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84	INBLR4	6761020	12-06-2018	85171890	85176290	9,07,383	1,81,477		18,148	35,932	2,35,557	CP-3905= CISCO UNIFIED SIP PHONE 3906, CHARCOAL, STANDARD HANDSET (VO IP PHONE)
85	INBLR4	6857569	19-06-2018	85171890	85176290	4,80,839	96,168		9,617	19,041	1,24,826	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
86	INBLR4	6857569	19-06-2018	85171890	85176290	2,30,803	46,161		4,616	9,140	59,916	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
87	INBLR4	6857569	19-06-2018	85171890	85176290	1,34,635	26,927		2,693	5,332	34,951	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
88	INBLR4	6857569	19-06-2018	85171890	85176290	19,234	3,847		385	762	4,993	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
89	INBLR4	6924976	23-06-2018	85171890	85176290	4,89,445	97,889		9,789	19,382	1,27,060	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
90	INBLR4	6924013	23-06-2018	85171890	85176290	1,99,102	39,820		3,982	7,884	51,687	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
91	INBLR4	6924976	23-06-2018	85171890	85176290	1,76,200	35,240		3,524	6,978	45,742	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
92	INBLR4	6924976	23-06-2018	85171890	85176290	1,17,467	23,493		2,349	4,652	30,494	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
93	INBLR4	6924976	23-06-2018	85171890	85176290	58,733	11,747		1,175	2,326	15,247	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
94	INBLR4	6924976	23-06-2018	85171890	85176290	19,578	3,916		392	775	5,082	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
95	INBLR4	7305582	21-07-2018	85171890	85176290	1,89,364	37,873		3,787	7,499	49,159	CP-7841-K9= CISCO UC PHONE 7841 (CP-7800) (VO IP PHONE)
96	INBLR4	7607083	13-08-2018	85171890	85176290	48,631	9,726		973	1,926	12,625	:CP-8831-NR-K9= CISCO 8831 BASES/CONTROL PANEL WITH NO DECTRADIO (CISCO TELEPRESENCE MACHINE(IP PHONE))
97	INBLR4	7608058	13-08-2018	85171890	85176290	18,940	3,788		379	750	4,917	CP-8861-K9= CISCO IP PHONE 8861-(VO IP PHONE)
98	INBLR4	7636179	14-08-2018	85171890	85176290	95,310	19,062		1,906	3,774	24,743	CP-7821-K9= CISCO UC PHONE 7821(VO IP PHONE)
99	INBLR4	7636179	14-08-2018	85171890	85176290	8,176	1,635		164	324	2,123	CP-BEKEM-W= CISCO IP PHONE 8800 KEY EXPANSION MODULE WHITE(VO IP PHONE)
100	INBLR4	7685206	18-08-2018	85171890	85176290	1,71,540	34,308		3,431	6,793	44,532	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
101	INBLR4	7685206	18-08-2018	85171890	85176290	19,793	3,959		396	784	5,138	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
102	INBLR4	7748729	23-08-2018	85171890	85176290	77,260	15,452		1,545	3,059	20,057	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
103	INBLR4	7741015	23-08-2018	85171890	85176290	11,021	2,204		220	436	2,861	CP-8851-K9=CISCO IP PHONE 8851 (VO IP PHONE)
104	INBLR4	7816442	28-08-2018	85171890	85176290	34,930	6,986		699	1,383	9,068	CP-6901-C-K9= CISCO UC PHONE 6901, CHARCOAL, STNADARD HANDSET-CP-6901 (VO IP PHONE)
105	INBLR4	7837873	30-08-2018	85171890	85176290	1,63,689	32,738		3,274	6,482	42,494	CP-3905= CISCO UNIFIED SIP PHONE 3906, CHARCOAL,STANDARD HANDSET (VO IP PHONE)
106	INBLR4	7924418	05-09-2018	85171890	85176290	4,06,716	81,343		8,134	16,106	1,05,584	CP-3905= CISCO UNIFIED SIP PHONE 3905, CHARCOAL STANDARD HANDSET (VO IP PHONE)
107	INBLR4	8000134	11-09-2018	85171890	85176290	20,187	4,037		404	799	5,241	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
108	INBLR4	8530359	20-10-2018	85171890	85176290	30,219	6,044		604	1,197	7,845	40T3904 TELEPHONE APPARATUS AND INSTRUMENTS (TELEPHONE APPARAT (TELEPHONE APPARAT)

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VOIP PHONE-IP PHONE

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109	INBLR4	8588108	24-10-2018	85171890	85176290	17,246	3,449		345	683	4,477	40T3904 TELEPHONE APPARATUS AND INSTRUMENTS AND PARTS TELEPHONE APPARAT (VOIP PHONE)
110	INBLR4	8889050	17-11-2018	85171890	85176290	22,803	4,561		456	903	5,920	DP920-TELEPHONE SET MULTI-LINE-PHONE (VO IP PHONE 85176290 ED 10%)
111	INBLR4	8970407	23-11-2018	85171890	85176290	6,69,990	1,33,998		13,400	26,532	1,73,929	CP-8845-K9= CISCO IP PHONE 8845 (VO IP PHONE)
112	INBLR4	9690178	18-01-2019	85171890	85176290	23,678	4,736		474	938	6,147	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
113	INBLR4	2052049	14-02-2019	85171890	85176290	27,697	5,539		554	1,097	7,190	CP-3905= CISCO UNIFIED SIP PHONE 3905, CHARCOAL, STANDARD HANDSET (VO IP PHONE)
114	INBLR4	2111778	19-02-2019	85171890	85176290	67,778	13,556		1,356	2,684	17,595	CP-7821-K9 CISCO UC PHONE 7821 (VO IP PHONE)
115	INBLR4	2284546	05-03-2019	85171890	85176290	6,79,194	1,35,839		13,584	26,896	1,76,319	CP-8831-NR-K9= CISCO 8831 BASE/CONTROL PANEL WITH NO DECT RADIO (IP PHONE)
116	INBLR4	2284545	05-03-2019	85171890	85176290	5,35,894	1,07,179		10,718	21,221	1,39,118	CP-7841-K9= CISCO UC PHONE 7841 (VO IP PHONE)
117	INBLR4	2403140	13-03-2019	85171890	85176290	2,28,735	45,747		4,575	9,058	59,379	CP-8845-K9= CISCO IP PHONE 8845 (VO IP PHONE)
118	INBLR4	3091361	03-05-2019	85171890	85176290	18,40,871	3,68,174		36,817	72,898	4,77,890	CP-7841-K9= CISCO UC PHONE 7841 (VO IP PHONE)
119	INBLR4	3129301	07-05-2019	85171890	85176290	80,728	8,073		807	1,598	10,479	CP-7841-K9= CISCO UC PHONE 7841 (CP-7800) (VO IP PHONE)
120	INBLR4	3180458	10-05-2019	85171890	85176290	1,42,043	28,409		2,841	5,625	36,874	CP-7821-K9= CISCO UC PHONE 7821 (MODEL CP-7821) (VO IP PHONE)
121	INBLR4	3637349	13-06-2019	85171890	85176290	35,566	7,113		711	1,408	9,233	40V6076 MULTI-LINE TELEPHONE SETS WITH LIMITED ENCRYPTION DES PAR (TELEPHONE SET)
122	INBLR4	3660999	15-06-2019	85171890	85176290	2,16,481	43,296		4,330	8,573	56,199	CP-7841-NC-K9= CISCO UC PHONE 7841 (VO IP PHONE)
123	INBLR4	3719614	19-06-2019	85171890	85176290	4,333	867		87	172	1,125	CP-7861-K9= CISCO UC PHONE 7861 (VO IP PHONE)
124	INBLR4	3752521	21-06-2019	85171810	85176290	99,472	19,894		1,989	3,939	25,823	CP-7811-K9= CISCO UC PHONE 7811 (VO IP PHONE(PUSH BUTTON TYPE)
125	INBLR4	3752538	21-06-2019	85171810	85176290	85,454	17,091		1,709	3,384	22,184	CP-7811-KP= CISCO UC PHONE 7811 (VO IP PHONE(PUSH BUTTON TYPE)
126	INBLR4	3762414	22-06-2019	85171810	85176290	31,044	6,209		621	1,229	8,059	CP-8861-NC-K9 CISCO UC PHONE 8861 (PUSH BUTTON TYPE)
127	INBLR4	3843073	28-06-2019	85171810	85176290	27,022	5,404		540	1,070	7,015	CP-8851-K9= CISCO IP PHONE 8851 (VO IP PHONE (PUSH BUTTON TYPE))
128	INBLR4	3893943	02-07-2019	85171890	85176290	1,32,902	26,580		2,658	5,263	34,501	CP-3905= CISCO UNIFIED SIP PHONE 3905, CHARCOAL, STANDARD HANDSET (VO IP PHONE)
129	INBLR4	3952972	06-07-2019	85171890	85176290	1,31,873	26,375		2,637	5,222	34,234	CP-3905= CISCO UNIFIED SIP PHONE 3905 CHARCOAL STANDARD HANDSET (VO IP PHONE)

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Worksheet-I to the SCN issued vide F. No. DRI/HZU/26D/ENQ-44(INT-24)/2020 dt. 30.12.2020

VOIP PHONE-IP PHONE

Amount in Rs.

Sl. No.	PORT CODE	BE NO.	BEDATE	CTH	CORRECT CTH	ITEM A.V.	BCD	CESS @ 3% on (h) upto 01.02.2018	SWSC @ 10% on (h) w.e.f 02.02.2018	IGST @ 18% on (h) + (i) + (j)	TOTAL	ITEMDESCRIPTION
130	INBLR4	4444339	10-08-2019	85171890	85176290	2,96,850	59,370		5,937	11,755	77,062	CP-8841-K9= CISCO IP PHONE 8841 VO IP PHONE
131	INBLR4	4444339	10-08-2019	85171890	85176290	40,760	8,152		815	1,614	10,581	CP-3905= CISCO UNIFIED SIP PHONE 3905 CHARCOAL STANDARD HANDSET VO IP PHONE
132	INBLR4	4502543	16-08-2019	85171890	85176290	1,43,193	28,639		2,864	5,670	37,173	CP-8845-K9= CISCO IP PHONE 8845 (VO IP PHONE)
133	INBLR4	4502838	16-08-2019	85171890	85176290	27,540	5,508		551	1,091	7,150	CP-3905= CISCO UNIFIED SIP PHONE 3905, CHARCOAL, STANDARD HANDSET (VO IP PHONE)
134	INBLR4	4502838	16-08-2019	85171890	85176290	22,950	4,590		459	909	5,958	CP-3905= CISCO UNIFIED SIP PHONE 3905, CHARCOAL, STANDARD HANDSET (VO IP PHONE)
135	INBLR4	4502669	16-08-2019	85171890	85176290	22,875	4,575		458	906	5,938	CP-3905= CISCO UNIFIED SIP PHONE 3905, CHARCOAL, STANDARD HANDSET (VO IP PHONE)
136	INBLR4	5449377	26-10-2019	85171890	85176290	2,43,657	48,731		4,873	9,649	63,253	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
137	INBLR4	5449377	26-10-2019	85171890	85176290	54,783	10,957		1,096	2,169	14,222	CP-8832-NR-K9 CISCO IP CONFERENCE PHONE 8832 NO RADIO VERSION
138	INBLR4	6015579	10-12-2019	85171890	85176290	2,36,768	47,354		4,735	9,376	61,465	CP-8811-K9= CISCO IP PHONE 8811 SERIES(VO IP PHONE)
139	INBLR4	6015579	10-12-2019	85171890	85176290	1,91,974	38,395		3,839	7,602	49,837	CP-8811-K9= CISCO IP PHONE 8811 SERIES(VO IP PHONE)
140	INBLR4	6745881	04-02-2020	85171810	85176290	73,177	14,635		1,464	2,898	18,997	CP-8832-NR-K9 CISCO IP CONFERENCE PHONE 8832 NO RADIO VERSION (VO IP PHONE PUSH BOTTON TYPE)
141	INBLR4	7546491	29-04-2020	85171890	85176290	7,16,371	1,43,274		14,327	28,368	1,85,970	CP-8811-K9= CISCO IP PHONE 8811 SERIES(VO IP PHONE)
				TOTAL		3,14,36,841	53,37,977	28,240	4,39,666	10,45,059	68,50,942	

1	INBOM4	4262595	04-12-2017	85171890	85176290	18,420	1,842	55		342	2,239	CP-8885-K9 CISCO IP PHONE 8865 (VO IP PHONE)
2	INBOM4	4274374	05-12-2017	85171890	85176290	22,31,141	2,23,114	6,693		41,365	2,71,173	CP-8865-K9 CISCO IP PHONE 8865 (VO IP PHONE)
3	INBOM4	4274374	05-12-2017	85171890	85176290	18,85,775	1,88,578	5,657		34,962	2,29,197	CP-8865-K9 CISCO IP PHONE 8865 (VO IP PHONE)
4	INBOM4	4384374	13-12-2017	85171890	85176290	19,322	1,932	58		358	2,348	CP-8865-K9 CISCO IP PHONE 8865 (VO IP PHONE)
5	INBOM4	4500154	21-12-2017	85171890	85176290	2,76,372	27,637	829		5,124	33,590	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
6	INBOM4	4654264	02-01-2018	85171890	85176290	18,27,445	1,82,744	5,482		33,881	2,22,108	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
7	INBOM4	4654264	02-01-2018	85171890	85176290	3,10,666	31,067	932		5,760	37,758	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
8	INBOM4	4670162	04-01-2018	85171890	85176290	2,74,518	27,452	824		5,090	33,365	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
9	INBOM4	4670162	04-01-2018	85171890	85176290	1,83,012	18,301	549		3,393	22,243	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
10	INBOM4	4670115	04-01-2018	85171890	85176290	92,053	9,205	276		1,707	11,188	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
11	INBOM4	4723182	08-01-2018	85171890	85176290	7,26,483	72,648	2,179		13,469	88,297	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
12	INBOM4	4723182	08-01-2018	85171890	85176290	2,72,431	27,243	817		5,051	33,111	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)

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VOIP PHONE-IP PHONE

Amount in Rs.

Sl. No.	PORT CODE	BE NO.	BEDATE	CTH	CORRECT CTH	ITEM A.V.	BCD	CESS @ 3% on (h) upto 01.02.2018	SWSC @ 10% on (h) w.e.f 02.02.2018	IGST @ 18% on (h) + (i) + (j)	TOTAL	ITEMDESCRIPTION
13	INBOM4	4723036	08-01-2018	85171890	85176290	1,81,716	18,172	545		3,369	22,086	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
14	INBOM4	4782547	12-01-2018	85171890	85176290	4,55,575	45,557	1,367		8,446	55,371	CP-8865-K9=CISCO IP PHONE 8865 (VO IP PHONE)
15	INBOM4	5098055	06-02-2018	85171890	85176290	1,98,919	39,784		3,978	7,877	51,639	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
16	INBOM4	5098055	06-02-2018	85171890	85176290	1,80,835	36,167		3,617	7,161	46,945	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
17	INBOM4	5098055	06-02-2018	85171890	85176290	54,251	10,850		1,085	2,148	14,084	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
18	INBOM4	5097568	06-02-2018	85171890	85176290	18,120	3,624		362	718	4,704	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
19	INBOM4	5098055	06-02-2018	85171890	85176290	18,083	3,617		362	716	4,694	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
20	INBOM4	5108354	07-02-2018	85171890	85176290	2,72,143	54,429		5,443	10,777	70,648	CP-8865-K9= CISCO IP PHONE 8865 (VO IP PHONE)
21	INBOM4	5957047	12-04-2018	85171890	85176290	35,521	7,104		710	1,407	9,221	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
22	INBOM4	8580103	24-10-2018	85171890	85176290	8,76,982	1,75,396		17,540	34,728	2,27,665	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
23	INBOM4	8978419	24-11-2018	85171890	85176290	83,626	16,725		1,673	3,312	21,709	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
24	INBOM4	2308495	06-03-2019	85171890	85176290	3,94,258	78,852		7,885	15,613	1,02,349	CP-7821-K9=CISCO UC PHONE 7821 (VO IP PHONE)
25	INBOM4	2562793	25-03-2019	85171890	85176290	5,18,510	1,03,702		10,370	20,533	1,34,605	CP-7821-K9= CISCO UC PHONE 7821 (VO IP PHONE)
				TOTAL		1,14,06,178	14,05,743	26,265	53,025	2,67,306	17,52,338	
		GRAND TOTAL				4,28,43,019	67,43,720	54,504	4,92,691	13,12,365	86,03,280	

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30/12/2020
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DIRECTORATE OF REVENUE INTELLIGENCE
HYDERABAD

4.10 It may be pertinent to also note the fact that the earlier orders in the case of **Cisco Commerce (I) Pvt. Ltd. Vs. Commissioner: 2024 (21) CENTAX 297 (Tri.-Mumbai)** relied upon by the appellant is now pending before the Hon'ble Supreme Court in the case of **Commissioner of Customs (Imports) vs. Ingram Micro India Pvt. Ltd. Civil Appeal**

Diary No. 42743 of 2024, decided on 25-10-2024 2025) 27 Centax 429 (S.C.) which is reproduced below:

> "The Supreme Court Bench on 25-10-2024 after condoning the delay **admitted** in Civil Appeal Diary No. 42743 of 2024 filed by Commissioner of Customs (Imports) against the CESTAT Final Order No. A/85085/2024-WZB, dated 16-2-2024 as reported in **(2025) 27 Centax 428 (Tri. - Bom.)** (*Ingram Micro India Pvt. Ltd.* v. *Commissioner*). While admitting the appeal, the Supreme Court passed the following order:
>
> > "Delay condoned.
> > Appeal is admitted.
> >
> > To be heard along with Civil Appeal No. 7417-7756/2024."
>
> The Appellate Tribunal in its impugned order had held that IP audio phones and IP audio conference phones of CISCO brand were appropriately classifiable under Tariff Item 8517 18 10 as 'telephone sets of push button type' instead of Tariff Items 8517 62 90 and 8517 69 90 of Customs Tariff Act, 1975.
>
> The Tribunal had also held that wireless IP phones of CISCO brand were classifiable under Tariff Item 8517 12 90 as 'other types of telephones for wireless networks' instead of Tariff Item 8517 62 90 and 8517 69 90 of Customs Tariff Act, 1975."

4.11 Thus taking into consideration all the above facts and the features of the impugned products we find that the products in the above case and the products imported by the appellant in the instant case both are manufactured by Cisco Systems and imported by Ingram Micro India Pvt. Ltd. and IBM in the present case. Therefore, only those products which are audio phones based on VOIP technology alone are to be classified under CTH 8517 1810/8517 1890 and all others as discussed above will be classified under 8517 6290 since the fact that some of the VoIP phones come with the camera and they are used for transmission of data and images is not being disputed.

Therefore, we are inclined to remand the matter to the original authority to decide accordingly.

5. Network Interface Cards

5.1 The appellant has classified the same under 8517 7090 while the revenue has classified the same under 8517 6290. The claim of the appellant is that it is used as a part of router. The Network Interface Card imported by the appellant provides interface between router and other network equipment's and with increase of number of these network cards increases the links for router. Network Interface/ Cards as described by the manufacturer are modules which accelerate applications such as ethernet WAN access, inter VLAN routing, and high-speed connectivity to LAN switches and servers. The HSN categorically includes Network Interface Cards and other communication apparatus. The appellant has been importing Network Interface Cards either along with router or independently. In the case of Juniper Network Solutions India Pvt. Ltd. this Tribunal vide Final Order No. 21353-21528/2024 dated 20.12.2024 has considered similar Modular Interface Cards which are used in the routers and classified the same under 8517 6290. Accordingly, since the subject goods are similar to networking cards used with the routers to enhance the connectivity the same cannot be considered as a router but a Network Interface Card which is specifically mentioned and other apparatus in the HSN explanatory notes, the same are rightly classifiable under 8517 6290. The Supreme Court in the case of **Commissioner of Central Excise, Aurangabad vs. Videocon Industries Ltd. 2023 (384) E.L.T. 628 (S.C.) dated 29-3-2023** with regard to classification of LCDs observed as follows:

> "This Court held, pertinently, as follows :
>
> "17. Keeping in mind the aforesaid nature of product in question, we revert to the tariff entries. It cannot be disputed that LCDs are specifically

> provided in Tariff Item 9013. The only condition is that such LCDs should not constitute "articles" provided more specifically in other headings. In the present case, it is also not in dispute that LCDs imported by the appellant did not constitute any such "article" which is more specifically provided in other headings. On the contrary, the Revenue wants to include in the same chapter *i.e.* Chapter 90, though under Entry 9028.90.10 as "parts and accessories". The only reason for including the goods under Chapter Heading 9028 is that the LCDs were to be used in the electricity supply meters. However, Entry 9028 does not pertain to LCDs but gas, liquid, etc. and includes electricity supply meters as well. Merely because these LCDs are to be used as parts in the said electricity supply meters, can it be said that they are to be included in Entry 9028? Here, Note 2 of this Chapter Notes becomes important since LCDs are used in the electricity supply meters only as parts thereof. Note 2(a) stipulates that parts and accessories which are goods included in the heading of the said chapter *i.e.* Chapter 90, are to be classified in their respective headings. Going by the plain reading of Note 2(a) it is clear that LCDs, which are goods and are used as parts in the final product mentioned in Chapter 90, namely, electricity supply meters, are to be classified in its respective heading. Respective heading, which is specifically provided is 9013.
>
> 18. It was sought to be argued by Ms. Kiran Suri that as per Note 2(b), when these LCDs are used solely for particular instrument, namely, electricity supply meter, it has to be classified with the said meter and, therefore, Chapter Entry 9028 would get attracted. However, this argument loses sight of the fact that Note 2(b) relates to "other parts and accessories", namely, it would apply to those parts and accessories for which Note 2(a) is inapplicable. Once we find that in the present case Note 2(a) squarely applies, the irresistible conclusion is that the goods will be classified in Tariff Item 9013, which is the specific heading for these goods."

5.2 Therefore, in the instant case there is no dispute that network interface cards are specifically covered under CTH 8517 6290 and hence the classification is upheld.

6. With regard to Telepresence equipment/Video conference kits, the issue is no longer res integra as the same is settled in the case of **Ingram Micro India Pvt. Ltd. Vs. Commissioner of Customs ACC, Mumbai: 2019 TIOL-1166-CESTAT (Mum.)** dated 22.01.2019 which is upheld by the Hon'ble Supreme Court. Therefore, the classification stands settled under CTH 8517 6290, which is fairly admitted by the Learned Counsel

in his submissions hence the classification by the Revenue under 8517 6290 is upheld.

6.1 The period of dispute is from 02.01.2016 to 01.07.2020 and the relevant Notifications during the disputed period is as follows:

[Notification No. 24/2005-Cus., dated 1-3-2005]

Exemption to specified goods from whole of customs duty leviable under First Schedule

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the following goods, falling under the heading, sub-heading or tariff-item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and specified in column (2) of the Table below, when imported into India, from the whole of the duty of customs leviable thereon under the said First Schedule, namely :-

Table

S.No.	Goods falling under Heading, Sub-heading or Tariff item
(1)	(2)
1.	3818 00
2.	8456 91 00, 8469 11 00, 8470, 8471, 8473 21 00, 8473 29 00, 8473 30, 8473 50 00
3.	8517, 8520 20 00, 8523 (other than those falling under tariff item 8523 30 00), 8524 31, 8524 40, 8524 91, 8525 20, 8531 20 00, 8532, 8533, 8534 00 00, 8541, 8542, 8543 11 00, 8543 81 00, 8544 70

Notification No. 57/2017-Cus., dated 30-6-2017

iii) Ink cartridges, without print head assembly (8443 99 52)

(iv) Ink spray nozzle (8443 99 53)

(v) Base stations (8517 61 00)

(vi) All goods falling under tariff item 8517 62 90

(vii) All goods falling under tariff item 8517 69 90

Notification No. 22/2018 dated 02.02.2018

8517 62 90	All goods other than wrist wearable devices (commonly known as smart watches)

Notification No. 75/2018-Cus. dated 11.10.2018

21. 8517 69 90 All goods other than following goods, namely :-
(a).... Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers
(iv).. For serial number 29 and the entries relating thereto, the following serial number and entries shall be substituted, namely :-

6.2 As seen from the above notifications all goods falling under CTH 8517 other than 8517 6290 and some of the products falling under 8517 6290 are denied the exemption. Therefore, since the classification is now decided for network interface cards and Telepresence equipment as under CTH 8517 6290 the denial benefit of the notification during the relevant period is upheld. With regard to the classification of VoIP phones the same stands remanded for deciding the classification based on our observations discussed above and to decide the benefit of exemption notification accordingly. Needless to say, the appellant will be given an opportunity of hearing before the completion of the remand proceedings.

Appeal disposed of in above terms.

(Order pronounced in Open Court on 15.04.2026.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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