

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 21474 of 2018

(Arising out of Order-in-Appeal No. 191-192/2018 dated 19.04.2018 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Schneider Electric India Pvt. Ltd.

#12A, Attibele Industrial Area,
Hosur Main Road, Neralur Post,
Bangalore – 562 107.

.....**Appellant(s)**

VERSUS

Commissioner of Customs,

Office of the Chief Commissioner of Customs,
C. R. Buildings, Queens Road,
Bangalore – 560 001.

.....**Respondent(s)**

WITH

(i) Customs Appeal No. 21492 of 2018 (M/s. Schenker India Pvt. Ltd. Vs. Commissioner of Customs)

(Arising out of Order-in-Appeal No. 191-192/2018 dated 19.04.2018 passed by the Commissioner of Customs (Appeals), Bangalore.)

(ii) Customs Appeal No. 20415 of 2019 (M/s. Schneider Electric India Pvt. Ltd. Vs. Commissioner of Customs)

(Arising out of Order-in-Appeal No. 07-08/2019 dated 23.01.2019 passed by the Commissioner of Customs (Appeals), Bangalore.)

(iii) Customs Appeal No. 20416 of 2019 (M/s. Schenker India Pvt. Ltd. Vs. Commissioner of Customs)

(Arising out of Order-in-Appeal No. 07-08/2019 dated 23.01.2019 passed by the Commissioner of Customs (Appeals), Bangalore.)

Appearance:

Mr. Rachit Jain, Advocate with Ms. Shradha Pandey, Ms. Purvi Asati, Advocates for the Appellant

Mr. M. Sreekanth, Asst. Commr. (AR) for the Respondent

Coram:

Hon'ble Mr. P.A. Augustian, Member (Judicial)

Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order Nos. 21015-21018 /2026

Date of Hearing: 04.12.2025

Date of Decision: 02.06.2026

Per : Pullela Nageswara Rao

The issues in the present appeals are:

- a. whether classification of indicator panel incorporating liquid crystal devices (LCD) is under Customs Tariff Heading (CTH) 85312000 as declared or under the alternative classification under Customs Tariff Heading (CTH) 90138010 as claimed by the appellant as opposed to the classification under Customs Tariff Heading (CTH) 90309010 confirmed by the Revenue; and
- b. whether demand of differential duty along with interest and also imposition of redemption fine and penalty under the provisions of Customs Act, 1962 are sustainable.

2. The brief facts are the appellant imported the impugned goods vide Bill of entries dated 24.09.2012 and 04.12.2012 and bonded the goods in a warehouse and they were ex-bonded and cleared for home consumption. Alleging wrong classification of the impugned goods imported by the appellant, proceedings were initiated and Show Cause Notice (SCN) dated 11.07.2013 was issued for reclassification of the goods under Customs Tariff Item (CTI) 90309010 as opposed to the declared classification under Customs Tariff Item (CTI) 85312000 and the demand of differential duty along with interest and proposal for imposition of penalty. Thereafter, adjudication authority as per the Order-in-Original dated 31.05.2014 confirmed the reclassification of goods under Customs Tariff Item (CTI) 90309010 and confirmed demand of differential duty along with interest and imposed redemption fine and penalties under various provisions of Customs Act, 1962. Further, penalty was also imposed on the appellant-M/s. Schenker India Pvt. Ltd., being the Customs Broker for the goods under section 112 of the Customs Act, 1962. Aggrieved by said order, appeals were filed

before the Commissioner (Appeals) who as per the impugned order dated 23.01.2019 upheld the order of the adjudication authority. Aggrieved by the said orders, present appeals are filed before the Tribunal. Appeal No. C/20415/2019 pertains to the period from June 2011 to August 2012 and Appeal No. C/21474/2018 pertains to the period from February 2012 to January 2013 filed by the importer M/s. Schneider Electric India Pvt., Ltd. Further, Appeal No. C/20416/2019 pertains to the period from June 2011 to August 2012 and Appeal No. C/21492/2018 pertains to the period from February 2012 to January 2013 filed by M/s. Schenker India Pvt. Ltd., who are the Freight Forwarders and acting as clearance agent for the goods on behalf of the importer.

3. Learned Counsel for the Appellant during the hearing drew our attention to the allegations in the Show Cause Notice and the extract of the First Schedule to the Customs Tariff Act, 1975, pertaining to Customs Tariff Headings 8531 and 9030 which are as under:

Customs Tariff Heading (CTH) 8531:

Tariff Item	Description of goods	Unit	Rate of duty
8531	Electric sound or visual Signalling Apparatus (for example, bells, sirens, indicator panels, burglar or fire alarms), other than those of heading 8512 or 8530		
853110	-Burglar or fire alarms and similar apparatus:		
8531 10 10	---Burglar alarm	u	10%
8531 10 20	---Fire alarm	u	10%
8531 10 90	---Other	u	10%
8531 20 00	- Indicator panels incorporating liquid crystal devices (LCD) or light emitting diodes (LED)	u	Free

8531 80 00	- Other apparatus	u	10%
8531 90 00	- Parts	kg.	10%

Customs Tariff Heading (CTH) 9030:

Tariff Item	Description of goods	Unit	Rate of duty
9030	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking for electrical quantities, excluding meters of heading 9028; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionising radiations		
9030 10 00	-Instruments and apparatus for measuring or checking voltage, current, resistance or power:	u	7.5%
9030 90-	-Parts and accessories:		
9030 90 10	---Of meters and counters	kg.	7.5%
9030 90 90	---Other	kg.	7.5%

3.1 From a plain reading of entries under Chapter Sub-heading 8531, it is clear that the items from Customs Tariff sub headings 853110 to 853180 are Electric Sound or Visual Signalling Apparatus. Parts of such Apparatus are covered at Customs Tariff Item (CTI) 85319000. Thus, the items at Customs Tariff Item (CTI) 8531 2000 are apparatus by themselves which carry out sound or visual signalling and are electrically operated. The items imported by the importer are admittedly parts of other equipment and are not apparatus.

4. Learned Counsel also draws our attention to the finding of the first appellant authority, *inter alia*;

8. I find that the indicator panel, the impugned goods are used in metering products like PM 5350, PM5500, PM5500U, METSEPM5110, METSEPM5111, METSPM5310, METSEPM5311 etc. The appellant manufactured the electric meter which indicate voltage, current, power and Energy. These power meters are of different ranges and higher range meters are meant for export and medium range for domestic market. The appellant is manufacturing these meters since 2009 and prior to it, it was manufactured by M/s. Conserve Systems India Pvt Ltd.

10. I find that the issue is mixed question of fact and law. The investigation as detailed supra clearly establishes that impugned goods have no individual function of display and are too small in size that they are not suitable for visual signalling. Hence excluded from CTH 8531 as it deals with the instrument having principal function and could display signals and alarms. The impugned goods are in fact integral part of power meter and the same are called PMDB LCD which stood for "power meter display boards" and cannot use or perform independently or in other words they are simply LCD modules used for manufacture of power meters in which module displays the current of electrical quantities. The impugned goods are tailor made by manufacture as per specific drawing provided by the appellant with a specific mark /part number solely meant for meter PM5350. The investigation clearly establishes that identical impugned goods in past were imported under different classification and different description. In fact vide BOE 8532577 dated 20.11.2012, the same were imported as parts of meter which is in consonance with Department view point. The impugned goods are in fact parts of meter (like many other parts imported by Appellant I and as admitted in their statement are appropriately classifiable under

CTH 90 by virtue of Chapter note 2(b). The impugned goods were purportedly mis-classified w.r.t to its description where both Appellant I and II connived for their unjust gain and supplier was asked to change the description from tailor made LCD module to indicator panel with LCD signal which is nothing but fraud on exchequer. The appellant I also mis declared the end use of impugned goods in the BOE as indicator panel which was in fact part of meters. The Appellant II who is clearing goods of Appellant I since 2011 is privy to all such developments where facts were changed purportedly to avail nil rate of BCD. The manifestation of malafide intent by Appellant I and II for unjust gain is explicit which could surface only on Department intervention. The charges levelled against them hence are proved without any iota of doubt."

5. Learned Counsel also draws our attention to the General Rules of Interpretation (GRI) which governs the First Schedule to the Customs Tariff Act, 1975 and the explanatory notes to the Harmonized Commodity Description and Coding System (HSN) and submits that there is no dispute that the imported goods are electrical apparatus which are used as signalling apparatus.

5.1 Learned Counsel submits that there is no dispute that the goods transmit that signal using visual indication and that is operated automatically. As per Rule 1 of the GRI, the goods under consideration should be classified in accordance with the terms of the heading or the relevant Section or Chapter Notes. It further states that in the event the goods cannot be classified solely on the basis of said Rule 1, and if the headings and legal notes do not otherwise require, the remaining Rules 2 to 6 may then be applied in a sequential order.

5.2 Learned Counsel submits that as per the HSN Explanatory Notes for a product to be classified under Chapter Heading 85.31, the following conditions need to be satisfied, namely:

- (a) the product should be an electrical apparatus used for signalling purposes;
- (b) it should use either sound for the transmission of the signal or using visual indication; and
- (c) it should be operated either by hand or automatically.

5.3 The Learned Counsel submit that from the above it is clear that the LCD Indicator Panel imported by the Appellant satisfies all the conditions specified in the HSN Explanatory Notes for being classified under Chapter Heading 85.31.

5.4 Learned Counsel submits that Section Note 1 (m) to Section XVI of the Customs Tariff Act, 1985 specifically excludes articles of Chapter 90 from Section XVI. Section XVI covers Chapter 84 and 85 of the Customs Tariff. The Appellants submits that even by application of Note 2(a) of Section XVI of Customs Tariff Act, 1975, the impugned goods would be classifiable under CTI 8531 20 00. Furthermore, Rule 3(a) of the GRI further provides that where the product is prima facie classifiable under two or more headings, the heading which provides the most specific description should be preferred to headings providing a more general description. The Appellant places reliance on the decision of the Tribunal in the case of **Diamond Electricals Ltd Vs. Commissioner of Customs, Chennai, 2012 (280) E.L.T. 137 (Tri-Chennai)** wherein the indicator panels incorporating LCD were classified under Chapter Heading 8531. In this regard Learned Counsel relied on various Cross rulings and BTI rulings which provide that the LCD panels are classifiable under Custom Tariff Heading (CTH) 8531.

6. Learned Counsel further submits that the issue regarding classification of goods was considered by the Tribunal in the matter of **Diamond Electricals Ltd. Vs. CC, Chennai 2012 (280) ELT 137 (Tri-Chennai)** where it is held;

"3. As far as the first three items are concerned, these have been classified by the authorities below as fire alarm under Heading 8531

10 20 applying Interpretative Rule 2 which permits incomplete instrument to be classified as the complete instrument provided it has the essential characteristics of the latter. However, it has been contended by the learned counsel for the appellants that these are appropriately classifiable under Heading 8531 20 00 which is a specific heading for "indicator panels incorporating liquid crystal devices (LCD) or light emitting diodes (LED)". He also contends that no recourse can be taken to Interpretative Rule 2 when there is a specific entry in the Tariff according to which any goods can be classified applying Interpretative Rule 1 itself. We find merit in the arguments advanced by the learned counsel on behalf of the appellants. In fact, Heading 8531 20 00 comes under the broad category of electric sound or visual signalling apparatus (for example, indicator panels) as specified against the main heading 8531 itself and therefore, we allow the appeal of the appellants in respect of the first three items holding these to be classifiable under Heading 8531 10 20."

7. Learned Counsel submits that it is a settled position of law that once the assessment is re-opened by the Department, the appellant is entitled to claim a classification that is different from the one claimed at the time of import. Learned Counsel relied on the decision of the Hon'ble Tribunal in the matter of **Lili Foam Industries (P) Ltd. Vs. Collector of Central Excise, 1990 (46) ELT 462 (Tribunal)**.

8. Learned Counsel further submits that the classification of goods is a question of law and the same can be raised at any stage. In this regard Learned Counsel relied on the following case laws;

a. Shri Rama Machinery Corporation (P) Ltd. Vs. Collector of Customs, 1992 (57) ELT 369 (SC)

b. Collector of Central Excise, Kanpur Vs. West Glass Works, Firozabad, 1984 (17) ELT 368 (Tribunal).

c. M/s Micromax Informatics Limited v. Commissioner of Customs, New Delhi, 2024 (10) TMI 989 - CESTAT NEW DELHI

9. Learned Counsel submits that the 'LCDs' imported by the Appellant are by description covered under the Customs Tariff Heading (CTH) 9013. Customs Tariff Item (CTI) 9013 10 specifically covers all 'LCDs' within its purview by description. Thus, by application of Rule 1 of the General Rules of Interpretation (GRI), the impugned goods are to be classifiable under CTI 9013 80 10. Further, Chapter Note 2(a) of the Chapter 90 of the First Schedule clearly provides that those parts and accessories which are goods falling in any particular heading of this Chapter, would fall in that particular heading only. It is not in dispute that the impugned goods in question are LCDs. As the description of CTI 9013 80 10 uses the word 'device', it becomes pertinent to rely on the dictionary meaning of device which states that any component which is designed for a specific purpose is a device. The HSN Explanatory Notes to CTH 9013 describe LCD as a screen in which the liquid crystal material is sandwiched between two sheets of glass that can exhibit the data when a voltage appears across leads that are connected to the characters forming segments etched into the inner layer of the glass surface which is satisfied in the instant case. Further, the Appellant submits that the issue regarding classification of LCDs under CTI 9013 80 10 has been settled by the Hon'ble Apex Court and has been followed by various judgments time and again.

10. As regards classification, Learned Counsel submits that the issue regarding classification of such goods was considered by the Hon'ble Supreme Court in the matter of **Secure Meters Ltd. Vs. CC, New Delhi reported in 2015 (319) ELT 565 (SC)** wherein it is considered the issue in detail and held that;

"4. Since the appellant claims that the LCDs fall under Chapter Heading 9013.80 and the argument of the Revenue is that these are rightly classified under Heading 9028.90, we may first take note of these Chapter Headings :

Tariff Item	Description of Goods
(1)	(2)
9013	<i>Liquid Crystal Devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter</i>
9013.80	<i>Other devices, appliances and instruments;</i>
901380.10	<i>Liquid Crystal Devices (LCD)</i>
9028	<i>Gas, Liquid or electricity supply or production meters, including calibrating meters therefor</i>
9028.90	<i>Parts and accessories</i>
9028.90.10	<i>For electricity meters</i>

10. Ms. Kiran Suri, learned Senior Counsel appearing for the respondent /department, argued, per contra, that in the present case goods were specifically meant for use as parts in electric meters, which is even accepted by the appellant. Therefore, Note 2 would not apply in this case. She submitted that under these circumstances it is the General Rule of Interpretation that would apply and referred to Rule 3 of the said Rules and contended that if the goods are classifiable under two or more headings, on the application of Rule 2(b) of the General Rules of Interpretation, then the classification has to be in the manner stipulated in Rule 3 of the General Rules. Rules 2 and 3 are as under :

"2.(a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete

or finished (or falling to be classified as complete or finished by virtue of this rule) presented unassembled or dis-assembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. When by application of Rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows :

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration."

11. She argued that as per Rule 3(a) of the Rules, it was incumbent to classify the goods in that heading which provides 'the most specific description' in contrast with the heading providing for a more general

description. She also referred to the following portion of the assessment order made by the Commissioner of Customs to buttress her aforesaid submission :

"Even if we ignore the above definition of device and consider the imported parts, i.e., Liquid Crystal Displays to be "devices", only those liquid crystal devices/ displays which do not constitute article provided for more specifically in other headings will be covered in CTH 90.13. In other words, liquid crystal devices/ displays which do not specifically form part of a specific type of equipment will be classified here. General purpose LCD, for example the one displaying only 0-9 numbers, which can be attached to several devices/ equipments and cannot be specifically covered in any one heading as parts are to be classified here if they are considered as devices. Had the intention been to cover all Liquid Crystal Devices/ displays in CTH 90.13 there was no need for the description -

"Liquid Crystal Devices not constituting articles provided for more specifically in other headings."

And "Liquid Crystal Device" would have been sufficient instead. The only way to make Liquid Crystal Device/ display more specifically covered in other heading is to make it a part of a specific articles as in present case.

There can be an argument whether being part of a specific goods can make LCD more specifically covered in that heading as part of the specified equipment as compared to CTH 90.13, but there can be no doubt that such situation certainly makes it classifiable in other heading (e.g. CTH 9029.90 in present case). And when any good is classifiable in two or more headings, then as per Rule 3(c) of General Rules for Interpretation, the heading which occurs last in numeric order is to be preferred."

13. We may point out at the outset that Rule 3 of the General Rules, which is sought to be invoked by the Department, would be seen and examined if the classification cannot be determined according to the

terms of the headings and relevant Section and Chapter Notes thereof. It is clearly provided in Rule 1 of the General Rules itself, which reads as under :

"Classification of goods in this Schedule shall be governed by the following principles :

1. The titles of 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 :

xx xx xx"

It is manifest from the reading of this Rule that we will have to first undertake the exercise of finding out as to whether the goods in question can be classified, taking aid of the Chapter Notes on which reliance is placed. This position is made amplified in Commissioner of Central Excise, Nagpur v. Simplex Mills Co. Ltd. - (2005) 3 SCC 51 = 2005 (181) E.L.T. 345 (S.C.), this Court held that 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. The relevant para is reproduced below :

"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 headings 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 1 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. The sub-rules are quoted :

"3.(a) The heading which provides the most specific description shall be preferred to heading providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in the numerical order among those which equally merit consideration."

15. 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.

16. 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.

17. In Collector of Central Excise v. Delton Cables Ltd. & Anr. - (2005) 12 SCC 284 = 2005 (181) E.L.T. 373 (S.C.) this Court has held, while interpreting Notes 2(a) and 2(b) of Chapter Heading 85, which is virtually to the same effect, that Note 2(b) would apply only if the items in question were not specifically classifiable under their respective headings. Para 4 of the said judgment, to this effect, reads as under :

"4. It is clear from a reading of the two clauses to the section note that clause (b) would only apply once it was found that the items in question were not specifically classifiable under their respective headings. As has been clearly said by the Collector (Appeals)

"from the sequence of the paragraphs given under Section Note 2 it is clear that the question of switching over to Section Note 2(b) can arise only after ensuring that the parts are not covered by Section Note 2(b) [sic Section 3 Note 2(a)] which begins with the expression "other parts" meaning thereby that the parts which are not covered by Section Note 2(a) would be considered for coverage by Section Note 2(b). One cannot therefore, directly jump over to Section Note 2(b) without exhausting the possibility of Section Note 2(a)."

18. The aforesaid view of ours gets strengthened from Part-III of Chapter Notes to Chapter 90. We may mention here that after studying the Chapter Notes, Note 2 whereof is reproduced above, there are certain guidelines provided under the caption 'General'. Part-I thereof deals with General Content and Arrangement of the Chapter; Part-II deals with Incomplete or Unfinished Machines, Apparatus, etc.; and Part-III deals with Parts and Accessories. We are reproducing here this portion in order to show how it supports the view which we have proposed to take as indicated above :

"(III) Parts and Accessories

Subject to Chapter Note 1, parts or accessories identifiable as suitable for use solely or principally with the machines, appliances, instruments or apparatus of this Chapter are classified with those machines, appliances, etc.

This general rule does not, however, apply to :

(1) Parts or accessories which in themselves constitute articles falling in any particular heading of this Chapter or of Chapters 84, 85 or 91 (other than the residual Headings 84, 85, 85.48 heading 84.14; transformers, electro-magnets, capacitors, resistors, relays, lamps or valves, etc., remain classified in Chapter 85; the optical elements of Heading 90.01 or 90.02 remain in the headings cited regardless of the instruments or apparatus to which they are to be fitted; a clock or watch movement is always classified in Chapter 91; a photographic

camera falls in Heading 90.06 even if it is of a kind designed for use with another instrument (microscope, stroboscope, etc.)

(2) Parts or accessories suitable for use with several categories of machines, appliances, instruments or apparatus falling in different headings of this Chapter are classified in Heading 90.33, unless they are in themselves complete instruments, etc., specified in another heading (see paragraph (1) above)."

19. This contains a general explanation to Chapter Note 2 and mentions that where parts or accessories identifiable as suitable for use solely or principally with the machines, appliances, etc., they are to be classified with those machines/appliances. However, what is important is that immediately thereafter it is clarified that this general rule would not apply in certain circumstances. Sub-para of the above takes things beyond the pale of any doubt by making it crystal clear that those parts and accessories which in themselves constitute 'article' falling in any particular heading of this Chapter, the general rule will not apply and said article would fall in that particular heading. To demonstrate this, examples which are given, eminently fit into the case at hand.

20. The aforesaid view of ours gets further cemented on going through Explanatory Notes issued by the World Customs Organization. Volume 4 of the Second Edition (1996), which covers Chapters 85-97, contains explanatory note in respect of item mentioned at 90.13, with which we are directly concerned herein. Relevant portion thereof reads as under :

"90.13 - Liquid crystal devices not constituting articles provided for more specifically in other headings : lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this chapter.

9013.10 - Telescopic sights for fitting to arms; periscopes; telescopes designed to form parts of machines, appliances, instruments or apparatus of this Chapter or Section XVI

9013.20 - Lasers, other than laser diodes

9013.80 - Other devices, appliances and instruments

9013.90 - Parts and accessories

In accordance with Chapter Note 5, measuring or checking optical appliances, instruments and machines are excluded from this heading and fall in Heading 90.31. Chapter Note 4, however, classifies certain refracting telescopes in this heading and not in Heading 90.05. It should, moreover, be noted that optical instruments and appliances can fall not only in Headings 90.01 to 90.12 but also in other headings of this Chapter (in particular, Headings 90.15, 90.18 or 90.27). This heading includes :

(1) Liquid crystal devices consisting of a liquid crystal layer sandwiched between two sheets or plates of glass or plastics, whether or not fitted with electrical connections, presented in the piece or cut to special shapes and not constituting articles described more specifically in other headings of the Nomenclature.

xx xx xx xx"

As per this, LCD would be covered by 'other devices' mentioned in 9013.80. That is precisely the case of the appellant.

21. The upshot of the aforesaid discussion leads to the conclusion that the view taken by the Tribunal in the impugned judgment is unsustainable in law. We, thus, allow the appeal, set aside the orders of the authorities below and hold that LCDs imported by the appellant were classifiable under Chapter Heading 9013.80."

11. Learned Counsel submits that following the ratio of the above judgment, it is settled that specific description in tariff headings should take precedence and that Note 2(a) of Chapter 90 was applicable, leading to the classification of LCDs under CTSH 901380.

12. Learned Counsel relied on the decision of Hon'ble Supreme Court in the matter of **Commissioner of Central Excise, Aurangabad Vs. Videocon Industries Ltd, 2023 (384) ELT 628 (SC)** wherein it is held that imported LCD panels/ display boards are classifiable under Chapter sub-heading 9013 80 of Customs Tariff Act, 1975. It was held that merely because they were used as parts of television sets or audio

sets, they could not be classified under Heading 85.29/ 85.19 or 85.55 especially when Note 1(m) in Chapter Heading 85 clearly excludes articles falling in Chapter 90, *ibid*.

13. Learned Counsel also submits that the decision in **Videocon (supra)** was followed by the Hon'ble Apex Court in the case of **C.C.E. Vs. Samsung India Electronics Pvt. Ltd., 2023 (386) E.L.T. 641 (S.C.)** and **M/s. Xiaomi Technology India Limited Vs. Commissioner of Customs, Bangalore, 2023 (10) TMI 684 & 2023 (7) TMI 325-CESTAT Bangalore**, to hold that that LCD Panels are rightly classifiable under Customs Tariff Item (CTI) 9013 80 10.

14. Learned Counsel further relied on the decision of this Tribunal in the case of **CC, Cochin Vs. Amity Technopolis, 2024 (390) E.L.T. 339 (Tri. Bang.)**, wherein it was held that LCD Panels used for outdoor display of advertisements are rightly classifiable under Customs Tariff Item (CTI) 9013 8010. It is pertinent to mention that the issue pertaining to classification of similar LCDs has been decided by the decision of this Hon'ble Tribunal in **Continental Automotive Components (I) Pvt. Ltd Vs. Pr. Comm. of Customs, Bangalore, 2021 (378) E.I.T. 215 (Tri. Bang.)**, wherein the LCD modules in instrument clusters imported by it has been held to be rightly classifiable under CTI 9013 80 10. The impugned goods are panels of the various models of power meters and the same would be classifiable under CTI 9013 80 10 at 'nil' rate of duty.

15. Learned Counsel submits that the imported indicator panel with LCD display are not classifiable under Customs Tariff heading 9030 90 10 as claimed by the department. The appellate authority has classified the impugned goods under CTI 9030 90 10 of the Customs Tariff Act, 1975 by treating the imported goods as parts of Power Meter by relying on the HSN Explanatory Note to Chapter 90. The Appellant emphasises on the HSN Explanatory Note in terms of which parts and accessories which in themselves constitute articles falling in any particular heading of this Chapter or of Chapter 84, 85 or 91 shall be classified under the respective headings, which is the case herein. Thus, Indicator Panel

with LCD display is classified appropriately under Customs Tariff Item 8531 20 00 to the Customs Tariff. The learned counsel further submits that the Appellate Authority has also failed to notice that Chapter Note 2(a) of Chapter 90 of the Customs Tariff Act, 1975 which states that the parts and accessories which are goods included in any of the headings of Chapter 90 or of Chapter 84, 85 or 91 (other than heading 8487, 8548 or 9033) are in all cases to be classified in their respective headings. The Appellants place reliance on the following decisions wherein it has been held that an 'article' which is more specifically provided in other headings shall be preferred over other heading relating to parts and accessories.

- i. Commissioner of Central Excise, Bhubaneswar - I Vs. Champdany Industries Limited, 2009 (241) E.L.T. 481 (S.C.)**
- ii. Pioneer Industries Vs. CCE & S.T, Bhavnagar, 2017 (6) G.S.T.L. 491 (Tri. - Ahmd.)** affirmed by the Apex Court in **CCE & S.T, Bhavnagar Vs. Pioneer Industries, 2018 (10) G.S.T.L. J207 (S.C.)**.
- iii. Moser Baer India Ltd. Vs. Commissioner of Customs & Central Excise, Noida, 2018 (361) E.L.T. 908 (Tri. - All.)**

16. Learned Counsel further submits that the demand confirmed by invoking the extended period of limitation is also unsustainable. The present proceedings were initiated by issuance of Show Cause Notice dated 11.07.2013 which raised duty demand in respect of impugned Bills of Entries filed beyond the normal period of 6 (six) months prescribed under Section 28 of the Customs Act, 1962. It is submitted that the entire demand is barred by limitation as extended period of limitation is not invocable in the present case. The Appellant submits that it is well-settled law that mere claim of a particular classification in the Bill of Entry or an exemption under any customs notification cannot be a cause for alleging wilful mis-statement or suppression of facts. It is submitted that the claim to classification whether admissible or not is a

matter of belief of assessee and does not amount to mis-declaration as held in the following cases:

- i. **Northern Plastics Ltd. Vs. Commissioner of Customs & Central Excise, 1998 (101) ELT 549 (SC);**
- ii. **Lewek Altair Shipping Pvt. Ltd. Vs. CC 2019 (366) E.L.T. 318 (Tri.-Hyd.) affirmed by Supreme Court in 2019 (367) ELT A328.**
- iii. **Midas Fertchem Impex Vs. Principal Commr of Cus, 2023 (384) E.L.T. 397 (Tri. - Del.)**
- iv. **Sirthai Superware India Ltd. Vs. Commissioner of Customs, 2020 (371) E.L.T. 324 (Tri.-Mumbai)**
- v. **M/s. Shashi Industries Vs. The Commissioner of Customs, Bangalore, 2024 (12) TMI 169 - CESTAT BANGALORE**
- vi. **M/s. Suntec Agri Equipment (India) Pvt. Ltd. Vs. The Commissioner of Customs, Bangalore, 2025 (2) TMI 752 - CESTAT BANGALORE.**

17. Learned Authorised Representative for the Revenue reiterated the finding in the impugned order and also drew our attention to the letter 11.01.2013 where it is specifically admitted that device procured by the appellant is an indicator panel with LCD signal consists of LCD in the front (seen as a glass) which is housed in a panel (seen as a white colour around the LCD at the sides and also at the rear side). This part has to be assembled along with other accessories like a power source card to function. It can't function independently.

18. Learned Authorized Representative (AR) for the Revenue further submits that it is also seen that the description of the impugned goods have been changed to exactly suit the description in the relevant Tariff heading i.e., 85312000. However, the goods imported earlier were under different description (LCD Module, Club Scout Display) and the heading which the department is presently proposing to classify. This

fact is also not disputed by the appellants. The Authorised Signatory in his statement has agreed that they instructed the supplier that the goods to be mentioned as "Indicator Panel with LCD Display". This was obviously done to suit the description in the tariff and to claim the ineligible benefit. The authorized signatories in their statements given before the Superintendent of Customs have claimed that the impugned goods are parts of energy meters and never claimed the imported goods as apparatus. It was stated that the goods can only be used as parts of energy meters and cannot be used in any other equipment and hence this rules out the impugned goods being an "apparatus". Apparatus is normally an independent device with a specific function and can never be a part. If the claim of the Appellants initially was a part then their claim now, it being an apparatus cannot be accepted.

19. Learned Authorized Representative (AR) further submits that The Three-Member Bench of the Tribunal, in the matter of **International Auto Suppliers Vs. Collector of Customs, Bombay, 1994 (70) E.L.T. 645 (Tri.)**, has held that the Interpretative Rules need not be invoked when an appropriate and specific Tariff Heading is available in the Tariff itself. In the present case, the importer has admitted that the goods in question are parts of energy meters. Accordingly, the appropriate classification available in the Customs Tariff is CTI 9030 9010, and therefore, recourse to the Interpretative Rules is unwarranted. Further Learned AR also relied in the matter of **Electrosteel Castings Limited Vs. Collector of Central Excise [1989 (43) ELT 305 (Tribunal)]**, the Hon'ble Tribunal has held that "*A component, whose absence will disable a machine or appliance, must be regarded as part of that machine.*" In the instant case the impugned goods must be regarded as part of Energy Meters.

20. The Learned AR further submits that without prejudice to the above, even assuming that the impugned goods are capable of being classified under two Chapter Headings, then, in terms of Rule 3(c) of the General Rules for the Interpretation of the Tariff, the classification must be under the heading which occurs last in numerical order. In the

present case, the heading that appears last is CTI 9030 9010. This principle has been affirmed by the Hon'ble Supreme Court in Commissioner of **Central Excise, Noida Vs. Kitply Industries Ltd., 2011 (272) E.L.T. 3 (S.C.)**. He relied on the judgement in the case of **Shri Ritesh Kumar Soni Versus State of U.P. and Another- (2024 (12) TMI 891-ALLAHABAD HIGH COURT)**. The extract of the relevant part of hereunder:

"10. The legal and evidentiary value of Section 108 of the Customs Act has been recognized in a catena of decisions viz. Union of India Vs. Padam Narain Aggarwal, AIR 2009 SC 254, K.I. Pavunny Vs. Assistant Collector (H.Q) Central Excise Collectorate, (1997) 3 SCC 721 and Naresh J. Sukhawani Vs. Union of India AIR 1996 SC 522.

11. A cumulative reading of the aforesaid decisions reveals that the statements recorded under Section 108 Customs Act are the statements of a distinguish class and there stand on a different footing in companion of the applicants recorded under section 161 of CrPC and moreover, such statements are always admissible in evidence. It is also settled that a statement recorded under Section 108 of The Customs Act is a material piece of evidence collected by custom officers under The Customs Act."

21. Learned AR submits that the appellants have wilfully mis-declared the impugned goods with the intent to avail an ineligible exemption under Notification No.24/2005-Cus dated 01.03.2005, and are therefore liable for penalty under Section 112, 114 AA of the Customs Act, 1962. The changing of Tariff heading and description (Club Scout Display, LCD Module, Indicator Panel with LCD) for the same goods, to claim benefits available to those headings, can be seen from the findings. The goods are also liable for confiscation for the reasons mentioned in the Order-in Original / Order-in Appeal.

22. Learned AR submits that as per the statements recorded by the Officers during the course of Investigation, it is very evident that the Customs Broker was fully aware of the mis-classification of the impugned goods and had even assisted the importer in effecting such

mis-classification. The same Customs Broker had, on behalf of the imported, filed Bills of Entry by classifying the goods under different descriptions and different tariff headings, including the CTH 90309010. The description of the impugned goods was deliberately changed to suit the exact description in the tariff heading, and this was done with the knowledge of the Customs Broker (CB). The Customs Broker was obligated under the CBLR Regulations, to properly guide the importer. However in the impugned case, it is seen that the CB has assisted the importers in the mis-declaration of the goods, with an intention to avail ineligible exemption and hence, they are liable for Penalty as imposed.

23. Heard both sides and perused the records.

24. We find that in this case the appellant declared the goods under Custom Tariff Heading (CTH) 85312000 and the department reclassified the goods under Custom Tariff Heading (CTH) 90309010 as parts of electricity meter, since the appellant is in the manufacture of the electric meters which indicate voltage, current, power and Energy, and confirmed the differential duty along with the interest and imposed redemption fine and penalties. Further penalties were imposed on M/s. Schenker India Pvt. Ltd., the Customs Broker for the impugned goods under section 112 of the Customs Act, 1962. The appellant has contended that the goods are classifiable under Custom Tariff Heading (CTH) 85312000 as declared by them and that the classification adopted by the Revenue is not tenable. However during the hearing before the Tribunal they have given an alternative classification for the goods under Custom Tariff Heading (CTH) 9013 as an 'LCD device' since the impugned goods are 'LCD devices' used in the manufacture of measuring equipment/ meters for the measurement of different electrical quantities. In this regard they have relied on the decision of the Hon'ble Supreme Court in **Secure Meters Ltd. Vs. CC, New Delhi reported in 2015 (319) ELT 565 (SC)** wherein the Hon'ble Apex Court held that good imported in that case namely LCDs for the electrical meters are classifiable under Chapter Heading 9013 in view of the specific entry for such goods in Chapter Heading 9013. In this

regard the learned counsel has also relied on the following case laws wherein alternative classification has been permitted;

- a. Shri Rama Machinery Corporation (P) Ltd. Vs. Collector of Customs, 1992 (57) ELT 369 (SC)**
- b. Collector of Central Excise, Kanpur Vs. West Glass Works, Firozabad, 1984 (17) ELT 368 (Tribunal).**
- c. M/s Micromax Informatics Limited v. Commissioner of Customs, New Delhi, 2024 (10) TMI 989 - CESTAT NEW DELHI**

25. In view of the above decisions they have contended that the change in classification being a question of law can be raised at any point during the adjudication process. We find that the goods imported are 'LCD devices' to be used in manufacture of different meters by the appellate and since LCD devices are specifically mentioned in Customs Tariff Item (CTI) 9013 8010, the impugned goods are rightly classifiable under Customs Tariff Item (CTI) 9013 8010. Further we find that the classification initially claimed by the appellant under Custom Tariff Heading (CTH) 85312000 for the impugned goods as "Indicator panels incorporating liquid crystal devices (LCD) or light emitting diodes (LED)" which as per the explanatory (HSN) notes does not cover the impugned goods. Further the classification adopted by the department under Custom Tariff Heading (CTH) 90309010 as parts of the meter is also not sustainable in view of the decision of the Hon'ble Supreme Court in **Secure Meters Ltd.,** supra. In the result the impugned goods imported by the appellant are rightly classifiable under Customs Tariff Item (CTI) 9013 8010 following the judgment of the Hon'ble Supreme Court in **Secure Meters Ltd.,** supra.

26. As regarding Penalty, Section 112 of the Customs provides for imposition of penalty on any person who, in relation to any goods, does or omit to do an act which act or omission which would render such goods liable to be confiscation under Section 111, or abets the doing or omission of such an act or who acquire possession or in any way

concerned in carrying, removing, depositing which he knows or reason to believe that goods are liable for confiscation. In the impugned orders the goods were confiscated and redemption fines and penalties were imposed on the appellant. We find that classification of such LCD devices is a disputed issue over a period of time and which has attained finality by the judgment of the Hon'ble Supreme Court in **Secure Meters Ltd.**, supra. Considering the same, invoking the extended period of limitation, imposition of redemption fines and penalties on appellant are unsustainable. Further the penalties imposed on M/s. Schenker India Pvt. Ltd., Customs Broker are also unsustainable.

27. In view of the above discussion, the impugned orders are unsustainable and are liable to be set aside. Accordingly, the impugned orders are set aside, and the appeals are allowed with consequential relief, if any, as per law.

(Order pronounced in Open Court on 02.06.2026)

(P. A. Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

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