CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH, COURT NO. I

CUSTOMS APPEAL NO. 50033 OF 2024

(Arising out of Order–in-Original No. 18/2023-24/SJ/PC dated 04.10.2023 passed by the Principal Commissioner (Customs), Commissioner of Customs, New Delhi)

M/s Bharti Airtel Limited **...Appellant**
234, Okhla Industrial Estate
Phase-III, New Delhi - 110020

versus

Principal Commissioner of Customs **...Respondent**
Air Cargo Complex (Import)
New Customs House, Near IGI Airport
New Delhi - 110037

APPEARANCE

Shri Shashi Mathew, Shri Abhishek, Ms Lopa Mudra and Ms. Yashika Soni, Advocates for the appellant

Shri Shiv Shankar, Authorised Representative for the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 31.07.2025
Date of Decision: 06.01.2026

FINAL ORDER NO. 50003/2026

JUSTICE DILIP GUPTA:

M/s. Bharti Airtel Limited[1] has sought the quashing of the order dated 04.10.2023 passed by the Principal Commissioner rejecting the classification claimed by the appellant under 20 Bills of Entry during the period from 07.04.2017 to 09.03.2018 and re-classifying them. The Principal Commissioner has accordingly confirmed the differential

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1. **the appellant**

customs duty under section 28(4) of the Customs Act, 1962[2] with interest and penalty. The Principal Commissioner has also imposed penalty upon the appellant under section 112(a) of the Customs Act.

2. The issue involved in the present appeal pertains to classification of:

a. Modular Port Concentrator[3] or Capacity Line Card
b. Modular Interface Cards[4] or Daughter Card
c. Fixed Configuration MPC
d. Switch Fabric or Switch Control Board

3. According to the appellant the aforesaid products are all parts of Juniper router and, therefore, were classified under Customs Tariff Item[5] 8517 70 90 as '**Other**' under the sub-heading pertaining to '**Parts**'.

4. The department claims that the said imported items merit classification under CTI 8517 62 90, as '**Other**', under the sub-heading pertaining to 'Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus'.

5. The impugned order holds that the imported items are classifiable as Network Interface Card[6], as they are a kind of a reception apparatus (i.e., an interface card) for communication network. It has been concluded that NICs are classifiable under CTI 8517 62 90 by referring to HSN Explanatory Notes.

6. The relevant tariff entries are reproduced below:

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2. the Customs Act
3. MPC
4. MIC
5. CTI
6. NIC

Tariff Item	Description of goods	Unit	Rate of Duty	
(1)	(2)	(3)	(4)	(5)
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**			
	- Telephone sets, including telephones for cellular networks or for other wireless networks:			
8517 11	-- Line telephone sets with cordless handsets:			
8517 11 10	--- Push button type	u	Free	-
8517 11 90	--- Other	u	Free	-
8517 12	-- Telephones for cellular networks or for other wireless networks:			
8517 12 10	--- Push button type	u	10%	-
8517 12 90	--- Other	u	10%	-
8517 18	-- Other:			
8517 18 10	--- Push button type	u	Free	-
8517 18 90	--- Other	u	Free	-
	- 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 00	-- Base stations	u	10%	-
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	u	Free	-
8517 62 20	--- Voice frequency telegraphy	u	Free	-
8517 62 30	--- Modems (modulators-demodulators)	u	Free	-
8517 62 40	--- High bit rate digital subscriber line system (HDSL)	u	Free	-
8517 62 50	--- Digital loop carrier system(DLC)	u	Free	-
8517 62 60	--- Synchronous digital hierarchy system(SDH)	u	Free	-
8517 62 70	--- Multiplexers, statistical multiplexers	u	Free	-
8517 62 90	**--- Other**	**u**	**10%**	**-**
8517 69	-- Other:			
8517 69 10	--- ISDN System	u	Free	-
8517 69 20	--- ISDN terminal adaptor	u	Free	-
8517 69 30	--- Routers	u	Free	-
8517 69 40	--- X 25 Pads	u	Free	-
8517 69 50	--- Subscriber end equipment	u	Free	-
8517 69 60	--- Set top boxes for gaining access to internet	u	Free	-
8517 69 70	--- Attachments for telephones	u	Free	-
8517 69 90	--- Other	u	10%	-
8517 70	- Parts:			
8517 70 10	-- Populated, loaded or stuffed printed circuit boards	u	Free	-
8517 70 90	**-- Other**	**kg**	**10%**	**-**

7. The appellant claims to have imported parts of Juniper Routers. It would, therefore, be appropriate to understand what a Router is.

8. A Router is defined in Webster's New World Telecom Dictionary as 'An intelligent switch capable of deciding where to forward packets based on a view of the network as a whole. A Router is a programmable

device that works with other Routers, via a routing protocol, to establish the best path on which to forward a packet with a given address.'

9. Routers have interfaces (e.g. optical interfaces) which are used to physically connect with the network (for instance, through optical fibre cables). A Router has the following components:

(i) **Routing processor**: The Routing Processor is where the CPU of the Routing function resides. The routing processor runs a software where functions such as IP Lookups are invoked. This leads to the creation of a routing table which is based on the routing-protocols implemented in the software. The routing processor is in the nature of a PCB. It is plugged into a slot in the router's chassis from where it sources power and intelligence;

(ii) **Line cards/ Input & Output ports**: These Line Cards are also in the nature of a PCB. It houses the socket or port into which the transceivers are plugged. It is itself plugged into a slot in the router's chassis from where it sources power and intelligence;

(iii) **Switch processor board**: The switch processor board is a fixed component of the complete router chassis. Its function is to interface multiple line cards including the routing processor within the router. It is plugged into a slot in the router's chassis from where it sources power and intelligence; and

(iv) Transceivers: A transceiver is an integral and critical part of a router, enabling it to interface with the optical fibre connectivity. Since the routing processor performs processing in the electrical domain (and not the optical domain), the router would not be able to function without a transceiver to connect to the optical fibre network.

10. There are four major components of a router: (1) Input Port (2) Switch Fabric (3) Routing Processor (4) Output Port. Each router necessarily requires the said components to completely function as a router and the said components are indispensable for a routing system. According to the appellant, the items are only one of the components of a router and perform the function of an 'input port' or an 'output port', in as much as it provides a physical connection to receiving and transmitting data packets to the network. The other functionalities with respect to a router are achieved through several other components. Thus, a functional router has multiple components, which together perform the function of a router. Any of the said components, on their own, do not perform the functionality of a router. In the absence of any of the components, the router shall not be functional.

11. The utility of the various components of the router have been summarily explained by the appellant in the following manner:

a. MPCs provide packet forwarding services.

b. MICs provide physical interfaces for the router. MICs install into MPCs which provide packet forwarding services.

c. Switch Control Board controls power to MPCs,

monitor and control system functions such as fan speed and the system front panel, and manage clocking, resets, and boots.

d. Routing Engines and Control Boards with Routing Engines provides the software processes that run Junos OS. The routing engine maintains the routing tables, manages the routing protocols used on the router, controls the router interfaces, controls some chassis components, and provides the interface for system management and user access to the router. Each CB-RE is a combined Routing Engine and Switch Control Board in one unit.

12. The appellant has also filed a Certificate issued by the manufacturer of the imported items. In the said certificate, it has been certified that the imported items are 'part' of a router and do not have any independent functionality. The said Certificate is reproduced below:

"JUNIPER
NETWORKS

27-Jun-22

TO WHOMSOEVER IT MAY CONCERN

We have been approached by M/s Bharti Airtel Limited ("End **Customer**") for certification regarding the functional utility of the items being deployed / to be deployed in their network which has been procured from us as OEM for the Products.

In this regard, the End Customer has inter-alia procured the following products ("Products") which has been provided by us through our authorised resellers:

a. Modular Port Concentrator (MPC) / 2-slot

Modular Line Card Bundle

b. Modular Interface Cards (MIC) / Multirate Port Interface Card
c. Fixed Configuration MPC
d. Switch Control Board
e. Switch Fabric Board

In respect of the above, and based on the information available to us through our authorised re-sellers about their deployment **we certify as below**:

a. The above Products are 'Parts' of routers, manufactured by us.
b. These parts do not have any independent functional utility, apart from setting up a routing system.
c. The said parts are not capable of being used in any system, other than a router.
d. Each of these parts, on their own, are not capable to perform the complete function of a router.
e. Apart from the parts mentioned in point (a) above, there are several other components, which are also necessary components to set-up a routing system.

This certification is made based on information available to us regarding the deployment of the Products with End Customer. The information contained herein should be treated as confidential information under various agreements between the parties involved and to be strictly used for the limited purpose of compliance with the directions of Government Authorities of India. This does not in any way alters our position, rights and liabilities as mentioned and agreed between Juniper Networks, Inc. and the reseller/End Customer."

(emphasis supplied)

13. The Certificate issued by Juniper Networks mentions that the products imported are parts of Routers which do not have any independent functional utility, apart from setting up a routing system.

The Certificate also mentions that the said parts are not capable of being used in any system, other than a router and that each of the parts, on their own, are not capable of performing complete function of a router.

14. The Principal Commissioner has, after examining the contesting Tariff Headings, the Explanatory Notes and Section Notes relating to classification of parts and the definition of 'network interface cards' held:

> "**5.6.4** The noticee has submitted that a routing system performs a primary function of forwarding and routing of data through the network and for efficient discharging of such functions, a router necessarily has at least two (2) network interfaces, one at the side of input port (connecting to the local area network), and other at the side of output port (connecting to the wide area network). I find that in their written reply, the noticee has admitted that Modular Interface Card (MIC) and Fixed Configuration Modular Port Concentrators (fixed configuration MPC) imported by them are Level 1 and Level 2 devices in the Router which provides for a physical interface to connect to the network. As discussed above, network interface card is a Layer 1 and Layer 2 device under the OSI Model. In the definition of Network Interface Card as above, it is mentioned that in the context of the OSI reference model, NICs is operated at Layer 1 (Physical Layer) and 2 (Data Link Layer). **Thus, it is evident that these imported goods are of the nature of 'Network Interface Card' falling under CTH 8517 62 90 of the Tariff. I see no reason to accept the classification resorted by the noticee as 'parts' of Router under CTH 8517 70 90 in the light of independent functionality of the said goods. These were admittedly apparatus in themselves going by their distinct functionality and primary usage. Similarly, the Switch Fabric or Switch Control Board is also an independent apparatus performing distinct function and thus merit**

classification under CTH 8517 62 90 of the Tariff.

5.6.5 The noticee has further stated that it is a settled position of law that for the purposes of classification, the functional utility and predominant usage of a commodity must be taken into account. Reliance was placed upon the judgment of the Hon'ble Supreme Court in the case of Commissioner of Central Excise v. Wockhardt Life Sciences Ltd., 2012 (277) ELT 299 (SC). **In this regard, I observe that the noticee has themselves submitted that the functional utility of MIC and MPC is to provide interface to connect to Network and thus going by the functional utility and predominant usage, the correct classification of impugned goods is CTH 8517 6290 of the Tariff.**

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5.6.7 The noticee has relied upon the judgment of Hon'ble CESTAT passed in the case of M/s Vodafone Idea Ltd. v. Principal Commissioner of Customs (Import) in Customs Appeal No. 52287 of 2019 wherein classification of 'router line cards' was held under CTH 8517 70 90 of the Tariff. I have examined the said judgment and observe that Hon'ble CESTAT has dismissed the plea of the department holding that the said cards are not network interface cards. While holding so, Hon'ble CESTAT has discussed the definition of Network Interface Card as given in Newton's Telecom Dictionary. **I have also discussed the same and found that the noticee has admitted that MIC and MAC imported by them are Level 1 and Level 2 cards in the OSI reference. This was not the issue discussed in respect of the cards imported by Vodafone in the said case and thus the said judgment cannot be relied upon to decide the matter.**

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5.6.10 I thus conclude that the impugned cards imported by the noticee were appropriately classifiable under CTH 8517 6290 of the Tariff being apparatus, performing distinct function,

also referred to by the noticee themselves as Level 1 and Level 2 devices in OSI which falls within the definition of 'Network Interface card' and even if these are parts of router, going by the Note 2(a) of Section XVI of the Tariff Act, they are rightly classifiable in their respective heading viz 8517 6290 of the Tariff."

(emphasis supplied)

15. Regarding the invocation of the extended period of limitation, the Principal Commissioner observed:

"**5.7.3. In this regard, as has already been discussed and found above that the noticee was aware of the correct classification as having known the true nature of the goods. However, the noticee intentionally classified under CTH 85177090 in order to claim NIL rate of duty. Hence, this act clearly points towards the malafide intention on the part of the noticee which amounts to willful mis-statement under section 28(4) of the Customs Act, 1962. Had the Department not found out about such non-payment of Customs duty as a result of mis-classification, this issue would not have come to light resulting in permanent dent to the exchequer.**

5.7.4. I note that the provisions of Section 17(1) of the Customs Act, 1962 provides that an importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

From the above-stated statutory provisions, I find that every importer is statutorily required to self-assess the duty leviable on the imported goods. In the present case, I note that the noticee did not self-assess their duty liability correctly by adopting different classification for the impugned goods. I note that the noticee is a regular importer of similar parts, and was having complete knowledge

about the technical details, functioning and engineering involved in such parts. **Further, it is noticed that they are well conversant with the principles governing classification of such parts under the Customs tariff including provisions of Section Note 2 to Section XVII. However, they did not follow the provisions governing classification of such parts and willfully mis-classified the impugned goods and willfully cleared the same at NIL BCD. Having failed to do so, I find that the noticee failed to comply with the provisions of Section 17(1) of the Act, in as much as, they deliberately and intentionally failed to assess their Customs Duty liability correctly.**

5.7.5. I find that consequent upon introduction of self-assessment scheme under tax matters, various judicial authorities have upheld demand of tax for the extended period where the self-assessment was contrary to the provisions of statute."

(emphasis supplied)

16. Shri Shashi Mathew, learned counsel for the appellant assisted by Shri Abhishek, Ms. Lopa Mudra and Ms. Yashika Soni, made the following submissions:

(i) The classification of the parts Juniper Routers imported by the appellant under CTI 8517 70 90 is covered by the decision of the Tribunal in **M/s. Vodafone Idea Limited** vs. **Principal Commissioner of Customs (Import)**[7]. The appellant has provided a Chart to demonstrate that the modular components of Juniper routers imported by the appellant are functionally and structurally identical to the CISCO components examined by the

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7. **Customs Appeal No. 52287 of 2019 decided on 20.09.2022**

Tribunal in **Vodafone**;

(ii) The only difference being that in the case of the appellant the Juniper Routers have been imported while in the aforesaid decided decision of the Tribunal in **Vodafone** CISCO ASR Routers were imported;

(iii) The Principal Commissioner failed to appreciate the parity between the two and distinguished the decision of the Tribunal in **Vodafone** for the reason that the Tribunal did not consider the applicability of layer 1 and layer 2 networking. The Routers of CISCO and Juniper are competing products with identical utility in routing architecture;

(iv) The items imported by the appellant are neither a 'machine' nor an 'apparatus';

(v) The imported items have no independent functional utility;

(vi) The item imported by the appellant is not a Network Interface Card;

(vii) The extended period of limitation under section 28(4) of the Customs Act could not have been invoked in the facts and circumstances of the case; and

(viii) The imported items are not liable for confiscation.

17. Shri Shiv Shankar, learned authorised representative appearing for the department, however, supported the impugned order and made the following submissions:

(i) The Explanatory Notes to HSN Heading 85.17 explicitly include 'network interface cards' and,

therefore, the goods are covered under CTI 8517 62 90 and not under the 'parts' heading;

(ii) MPC is not just a passive element incorporated into a larger machine. It is an active programmable apparatus to independently manage network traffic making it classifiable under CTI 8517 62 90 as 'other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network';

(iii) The items imported cannot, therefore, be considered as 'parts' for the purpose of classification under CTI 8517 70 90;

(iv) The extended period of limitation was correctly invoked in the facts and circumstances of the case; and

(v) The goods are liable to confiscation.

18. The submissions advanced by the learned counsel for the appellant and the learned authorised representative appearing for the department have been considered.

19. The issue that arises for consideration is whether the Principal Commissioner was justified in classifying the imported items as 'network interface cards' or 'other communication apparatus' so as to be classified under CTI 8517 62 90.

20. What has to be determined in this appeal is as to whether the items imported by the appellant are parts/components of a Router or apparatus of Heading 85.17. According to the appellant the items are parts/components of a Router and are not apparatus of Heading 85.17.

21. It would also be useful to refer to Note 2 of Section XVI of the Tariff Act which provides for rules to be followed while classifying 'parts of machines' falling under Chapters 84 and 85. It provides that parts which are goods included in any of the Heading of Chapters 84 or 85, other than certain specified Chapter Heading, are in all cases to be classified in their respective headings. Section Note 2 (b) is to be applied only in cases where such parts cannot be classified as per Section Note 2 (a). Rule 2 is reproduced below:

> "2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:
>
> (a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;
>
> (b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;
>
> (c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548."

22. The HSN Explanatory Notes to Note 2 of Section XVI are reproduced below:

> "(II) **PARTS** (Section Note 2)
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> In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the exclusions mentioned in Part (I) above.
>
> *****
>
> The above rules do **not** apply to parts which in themselves constitute an article covered by a heading of this Section (**other than** headings 84.87 and 85.48); these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine."
>
> **(emphasis supplied)**

23. A perusal of the aforesaid would indicate that an item will not be considered as a 'part' if, on a standalone basis, it can be considered as an article classifiable under its own appropriate heading. It would, therefore, have to be seen whether the items imported can be considered to constitute articles covered by Heading 85.17. To appreciate this, reference can be made to HSN Explanatory Notes to Heading 84.79 which deals with machines having individual functions. The inference that can be drawn from the above is that HSN itself considers an article which has an individual function as an 'independent machine' and not as a 'part'. This is clear from the examples provided therein. In the case of a carburetor for an internal combustion engine, it is explained that the function performed by carburetor is distinct from that of the engine. However, the said function is not an individual

function as the operation of the carburetor is inseparable from that of the engine. Hence, the carburetor is considered as a part of the engine as opposed to an independent machine.

24. It, therefore, transpires that the true test for determining whether an item is classifiable as parts/components is:

> **(i)** Whether the item has a separate identifiable/individual function of its own, when compared to the main machine; and
>
> **(ii)** Whether the item is capable of operating independently of the main-machine on its own.

25. If the answer to both the aforesaid questions is in the negative, the item would be classifiable as parts and in that case the item will not be classifiable as an apparatus falling under its own appropriate heading.

26. The appellant has provided a utility of the various components of the Router that have been imported by the appellant. The Certificate provided by the manufacturer, namely, Juniper Networks regarding Modular Port Concentrator (MPC) / 2-slot Modular Line Card Bundle, Modular Interface Cards (MIC) / Multirate Port Interface Card, Fixed Configuration MPC, Switch Control Board and Switch Fabric Board mentions:

> "(a) The above Products are 'Parts' of routers, manufactured by us.
>
> (b) These parts do not have any independent functional utility, apart from setting up a routing system.
>
> (c) The said parts are not capable of being used in any system, other than a router.
>
> (d) Each of these parts, on their own, are not capable to

perform the complete function of a router.

(e) Apart from the parts mentioned in point (a) above, there are several other components, which are also necessary components to set-up a routing system."

27. It would also be seen that the items imported by the appellant relate to Juniper Routers and the items imported in **Vodafone** related to CISCO ASR Routers.

28. The appellant has provided the following Chart to substantiate that the components of Juniper Routers imported by the appellant are functionally and structurally identical to CISCO components examined by the Tribunal in **Vodafone**:

Components	**Vodafone (Cisco Routers)**	**Appellant (Juniper Routers)**
Router Structure	Routers comprise Routing Processor, Input/Output Ports (Line Cards), Switch Processor Board, and Transceivers. Each components is a PCB inserted into a slot in the router's chassis.	Routers inter alia comprise of Routing Engine, Input/Output Ports (MPC, MIC, Fixed Configuration MPC, Transceivers), Switch Control Boards/Switch Fabric. Each component is a plug-in PCB inserted into a slot in the router's chassis.
Routing Processor	Routing Processor hosts routing protocols and functions such as IP addresses lookups are invoked. Requires integration with other chassis modules.	Routing Engine runs Junos OS, a proprietary operating system, that maintain the routing tables, managae the routing protocols used on the router, control the router interfaces, control some chassis components, and provide the interface for system management and user access to the router.
Line Cards/Interface Modules (items under dispute)	Line cards are interface modules which become functional when plugged into the slots in the router chassis. They derive power and intelligence from control and processor module of the router.	MPC, MIC, Fixed Configuration MPC are interface modules which become functional when plugged into the slots in the router chassis. They derive functionality from the power supplied and Switch Control Boards on the router.
Switch Processor Board (Items under dispute)	Switch Processor Board provides an interface between the Routing Processor and Line Cards. It is a fixed components essential for internal communication.	Switch Control Board/ Switch Fabric provides an interface between the Routing Engine and Line Cards (MPC, MIC, Fixed Configuration MPC); routing engine installs directly into the SCB; enables internal communication.

System Integration	All components are integral inseparable, and interdependent. Operate in pure proprietary (of OEM) format.	All components are integral, inseparable, and interdependent.
Slot-Based Configuration	Input/Output Ports (Line cards), Routing Processor, Switch Processor Board are slotted into Cisco router chassis; each of them has predefined slots.	Input/Output Ports (MICs/MPCs/Fixed configuration MPCs) Routing Processor, Switch Control Board/Switch Fabric are slotted into Juniper router chassis; each of them has predefined slots.

29. The Tribunal held in **Vodafone** that the products imported were parts of Routers as they cannot perform independently because unless and until they are slotted into the dedicated slot they cannot function. In the present case also, the imported items assist in setting up a communication apparatus, but the said function of communication can be achieved only when assembled with several other parts and cannot communicate with other devices independently. The imported parts on a stand-alone basis cannot perform any of the desired function and it is only when the imported parts are configured with other parts that it will produce the desired function. The imported items, therefore, deserve classification under CTI 8517 70 90 and not under CTI 8517 62 90.

30. It will now have to be examined whether the imported items are Network Interface Card. This is for the reason, the Principal Commissioner has held that the imported goods are of the nature of Network Interface Card and would, therefore, be classifiable under CTI 8517 62 90.

31. Newton's Telecom Dictionary defines 'Network Interface Cards' as:

> **Network interface card:** Also called a NIC card.
>
> A printed circuit board comprising electronic circuitry for the purpose of connecting a workstation to LAN. NIC usually is in the form of a

> card that fits into one of the expansion slots inside a PC. Alternatively, it can fit into a slot of a MAU (multi-station access unit), which serves multiple and attached devices such as workstations and printers. In the context of IEEE standards, NICs operate at the MAC (medium access control) layer. In the context of the OSI reference model, NICs is operated at Layer 1 (Physical Layer) and 2 (Data Link Layer). The basic job of the NIC is to take data from the transmitting workstation, form it into the specific packet format demanded by the LAN protocol you are running (e.g. Ethernet or Token ring), and present it to the shared medium (usually a cable). On the receiving end, the process is reversed, of course. Hard coded into the NIC at the time of manufacture is a MAC address, unique in all the world to that NIC card; the MAC address effectively identifies the LAN attached device with which it is associated. A NIC works with the network software and computer operating system to transmit and receive messages on the network.

32. Thomas' Concise Telecom & Networking Dictionary defines 'Network Interface Card' as follows:

> **Network interface card (NIC):** A network interface device in the form of a circuit card that is installed in an expansion slot of a computer to provide network access. Examples of NICs are

> cards that interface a computer with an ethernet alien and cards that interface of computer with an FDDI ring network.

33. Thus, the NIC is effectively a translator which allows a computer to communicate with a network by translating the output of the computer into a format understandable by the network and vice versa. If a computer is not to be connected to a network, there is no need for NIC of computer to function. Computer is complete in itself and does its job of data processing without any need for NIC.

34. The function of a NIC is, therefore, distinct from that of the overall equipment (i.e. computer/data processing machine). Also, the said NIC is also clearly separable from the overall equipment.

35. In **Vodafone**, the Tribunal while examining this issue, held:

> "41. NIC, therefore, satisfies the two tests as they perform a function distinct from that of computer. Furthermore, the NIC is capable of operating on its own in conjunction with a printer, computer, etc. This is in stark contradiction with Router Line Cards, which can be only operated with a Cisco ASR router chassis and nowhere else.
>
> 42. The individual Router Cards perform functions inseparable from that of the equipment. For example, a Router requires a line card to operate as much as the line card requires the power and intelligence of the Router to operate. This is distinct from a NIC, which other than drawing power from the Automatic Data Processing (ADP) machine, operates separately and independently of the ADP machine by performing the sole function of translating the output of the ADP machine. NIC would, therefore, qualify as 'an apparatus'.

> 43. NIC referred to under the category of 'other communication apparatus' in the HSN Explanatory Notes are those interface cards which can perform on a standalone basis. This is a standard item which can be fitted to any computer, unlike Router Line Cards in dispute which are tailor made for CISCO ASR Routers and can only perform function when plugged into the predetermined slot of the Router chassis.
>
> 44. This is supported by illustration of network interface cards provided in the HSN Explanatory Notes. The illustration provided is of an ethernet interface card. These are cards used to provide internet connectivity to desktops/laptops. It is quite clear that the main-equipment (i.e. the desktop/laptop) can operate and function even in the absence of a NIC. This is in contrast to line cards which are essential for the Routers to operate.
>
> 45. Even from the HSN Explanatory Notes to Heading 85.17, Category II (G), NICs have been clubbed in the same category/class of equipments such as modems, routers, hubs, repeaters, multiplexers, etc. These equipments are clearly standalone apparatus which are independently capable of performing their functionality. Thus, sub-units/sub-assemblies of equipments such as modems, routers, hubs, repeaters, multiplexers would not be apparatus and NIC (i.e. a standalone apparatus) cannot be compared with Router Line Cards."

36. NIC is a hardware which enables a device to connect to a network. For the purpose of such connection, it provides for a physical interface on the card (i.e. Layer 1 function, in the OSI Model) as well supports packet forwarding (i.e. Layer 2 function, in the OSI Model). Merely because a router is primarily a Layer 3 device (i.e. Network Layer), with only some elements of Layer 1 and Layer 2 would not mean that Router can be classified as NIC.

37. The inevitable conclusion that follows is that the items imported

by the appellant would merit classification under CTI 8517 70 90 as contended by the appellant and not CTI 8517 62 90 has contended by the department.

38. Learned counsel for the appellant also submitted that the extended period of limitation could not have been invoked in the facts and circumstances of the case.

39. The period of dispute in the appeal is from 30.03.2013 to 07.03.2018. The show cause notice was issued on 06.04.2020 invoking the extended period of limitation contemplated under section 28(4) of the Customs Act.

40. The Principal Commissioner has observed that as the appellant was aware of the correct classification, it intentionally classified the items under CTI 8517 70 90 in order to claim NIL rate of duty. This, according to the Principal Commissioner, would mean that the appellant intentionally classified them under this CTI in order to claim NIL rate of duty, which act points towards malafide intention on the part of the appellant and would amount to willful mis-statement. The Principal Commissioner also held that had the department not found out such non-payment of customs duty as a result of mis-classification, the issue would not have come to light. The Principal Commissioner also held observed that consequent upon introduction of self-assessment scheme, the extended period of limitation would have to be upheld as the self-assessment was contrary to the provisions of the Statute.

41. The aforesaid observations of the Principal Commissioner for invoking the extended period of limitation cannot be accepted.

42. In this connection, reference can be made to the decision of the Tribunal in **M/s. Raydean Industries** vs. **Commissioner CGST,**

Jaipur[8]. The Tribunal, in connection with the extended period of limitation, observed that even in a case of self-assessment, the department can always call upon an assessee and seek information and it is the duty of the proper officer to scrutinize the correctness of the duty assessed by the assessee. The Division Bench also noted that departmental instructions issued to officers also emphasise that it is the duty of the officers to scrutinize the returns.

43. The view that has been taken by the Commissioner was also not accepted by the Tribunal in **M/s G.D. Goenka Private Limited** vs. **The Commissioner of Central Goods and Service Tax, Delhi South**[9] and the observations are as follows:

> "**16. Another ground for invoking extended period of limitation given in the impugned order is that the appellant was operating under self-assessment and hence had an obligation to assess service tax correctly and take only eligible CENVAT credit and if it does not do so, it amounts to suppression of facts with an intent to evade and violation of Act or Rules with an intent to evade. We do not find any force in this argument because every assessee operates under self-assessment and is required to self-assess and pay service tax and file returns.** If some tax escapes assessment, section 73 provides for a SCN to be issued within the normal period of limitation. This provision will be rendered otiose if alleged incorrect self-assessment itself is held to establish wilful suppression with an intent to evade. **To invoke extended period of limitation, one of the five necessary elements must be established and their existence cannot be presumed simply because the assessee is operating under self-assessment.**"
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> **(emphasis supplied)**

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8. Excise Appeal No. 52480 of 2019 decided on 19.12.2022
9. Service Tax Appeal No. 51787 of 2022 dated 21.08.2023

44. Thus, merely because it was a case of self-assessment would not mean that the extended period of limitation can be invoked.

45. It is trite that for invocation of extended period of limitation the department is required to prove deliberate suppression and concealment of the material facts on the part of the assessee to evade duty liability. This is what was observed by the Supreme Court in **Stemcyte India Therapeutics Pvt. Ltd.** vs. **CCE & ST**[10]. The observation are as follows:

> "9.3 It is a settled principle of law that, for the Department to invoke the extended period of limitation, there must be an active and deliberate act on the part of the assessee to evade payment of tax. Mere non-payment of tax, without any element of intent or suppression, is not sufficient to attract the extended limitation period……
>
> 9.4 Therefore, in the absence of fraud, collusion, wilful mis-statement, or suppression of facts with an intent to evade payment of service tax, the invocation of the extended period of limitation under section 73 of the Finance Act, 1994 is wholly unwarranted. Mere non-payment of service tax, by itself, does not justify the invocation of the extended limitation period. Accordingly, the showcause notice issued by the Department is clearly time-barred. On this ground alone, the impugned order deserves to be set aside."

46. In **Commissioner of C. Ex. & Customs** vs. **Reliance Industries Ltd.**[11], the Supreme Court held that if an assessee bonafide believes that it was correctly discharging duty, then merely because the belief is ultimately found to be wrong by a judgment would not render such a belief of the assessee to be malafide. If a dispute relates to interpretation of legal provisions, it would be totally unjustified to

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10. 2025 SCC OnLine SC 1412
11. 2023 (385) E.L.T. 481 (S.C.)

invoke the extended period of limitation. The Supreme Court further held that in any scheme of self-assessment, it the responsibility of the assessee to determine the liability correctly and this determination is required to be made on the basis of his own judgment and in a bonafide manner. The relevant portion of the judgment is reproduced below:

> "23. **We are in full agreement with the finding of the Tribunal that during the period in dispute it was holding a bona fide belief that it was correctly discharging its duty liability. The mere fact that the belief was ultimately found to be wrong by the judgment of this Court does not render such belief of the assessee a mala fide belief particularly when such a belief was emanating from the view taken by a Division Bench of Tribunal. We note that the issue of valuation involved in this particular matter is indeed one were two plausible views could co-exist. In such cases of disputes of interpretation of legal provisions, it would be totally unjustified to invoke the extended period of limitation by considering the assessee's view to be lacking bona fides. In any scheme of self-assessment it becomes the responsibility of the assessee to determine his liability of duty correctly. This determination is required to be made on the basis of his own judgment and in a bona fide manner.**
>
> 24. **The extent of disclosure that an assessee makes is also linked to his belief as to the requirements of law.** xxxxxxxxxxx. On the question of disclosure of facts, as we have already noticed above the assessee had disclosed to the department its pricing policy by giving separate letters. It is also not disputed that the returns which were required to be filed were indeed filed. In these returns, as we noticed earlier there was no separate column for disclosing details of the deemed export clearances. Separate disclosures were required to be made only for exports under bond and not for deemed exports, which are a class of domestic clearances, entitled to certain benefits

> available otherwise on exports. **There was therefore nothing wrong with the assessee's action of including the value of deemed exports within the value of domestic clearances."**
>
> **(emphasis supplied)**

47. Thus, the extended period of limitation could not have been invoked in the facts and circumstances of the case. For this reason also the order passed by the Principal Commissioner deserves to be set aside.

48. Thus, for all the reasons stated above, the order dated 04.10.2023 passed by the Principal Commissioner deserves to be set aside and is set aside. The appeal is, accordingly, allowed.

(Order Pronounce on **06.01.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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