

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.2

Customs Appeal No.75427 of 2018

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/AA/1369-1370/2017 dated 17.10.2017 passed by Commissioner (Appeals) of Customs, Kolkata)

Commissioner of Customs (Port), Kolkata

15/1, Strand Road, Kolkata-700001

Appellant

VERSUS

M/s Clarion Computers Private Limited

4, Madan Street, Kolkata-700072

Respondent

WITH

Customs Appeal No.75428 of 2018

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/AA/1369-1370/2017 dated 17.10.2017 passed by Commissioner (Appeals) of Customs, Kolkata)

Commissioner of Customs (Port), Kolkata

15/1, Strand Road, Kolkata-700001

Appellant

VERSUS

M/s Clarion Computers Private Limited

4, Madan Street, Kolkata-700072

Respondent

APPEARANCE :

Shri S.Chakraborty, Authorized Representative for the Appellant

Shri Souvendu Banerjee, Advocate for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.....76299-76300/2023

DATE OF HEARING : 03 .08.2023

DATE OF DECISION : 03 .08.2023

Per Ashok Jindal :

The Revenues are in appeals against the impugned order.

Customs Appeal Nos.75427,75428 of 2018

2. The respondents imported certain electronic goods described as multi-media speakers and claimed the classification Tariff CTH 851822/851829. It is alleged that the respondents have mis-classified the goods and availed of CVD on RSP Basis. The impugned order was passed classifying the same under CTH 85279100.

3. Against the said order, the Revenue are before us.

4. We find that the said issue came up before this Tribunal in the case of Commissioner of Customs (Port), Kolkata v. M/s. Santosh Radio Products and this Tribunal vide Final Order No.F/O/76070/2018 dated 04.05.2018 has decided the issue of classification and observed as under:-

"5. After considering the arguments from both sides and on perusal of the records, we note that the goods imported have been described as "multi-media speaker system". It is stated to certain features of playing USB/FB/FM either by connecting the same or through blue tooth. The Department has argued that in view of the additional features in the imported goods, the same are more properly classified as music system under 8527 but we note that essential function of the imported goods is nothing but multi media speakers. We also find that similar goods have been classified as sought by the respondent under 8518 in the case of Logic India Trading Co. Vs. Commr. of Customs, Cochin [2016 (337) ELT 65 (Tri.-Bangalore). Tribunal observed as follows:-

4.7 ..."As we have already observed that even the lower authorities are not disputing the fact that the goods in question are speakers with added function, as such the main role of the item in question remains amplifying the sound received by it either from outside source or from inbuilt feature. As such, going by the Interpretative Rules and Section Note 3 to Section SVI, the criteria for classifying the product is the principal and the main function it performs, which in the present case remains to be that of a speaker. We accordingly hold that the goods in question are

Customs Appeal Nos.75427,75428 of 2018

properly classifiable under Chapter Heading 8518 22 00. We may also add that the invoices raised by the seller of the goods stand examined by it and the description stand given as "Multimedia Speaker". This also reflects upon the fact that the Customs Appeal Nos.75426-75429 of 2023 3 goods in question, in common parlance are also traded as speakers. The appellants have also submitted an affidavit of the dealers, the invoices raised by them against the customers and the statement of service Manager of the assessee. Examination of these documents shows that goods are primarily sold as speakers. Even the brochures placed on record indicate that the goods are being traded as speakers only and not as either FM radio or the sound reproduction system."

5 . In view of the observation made by this Tribunal in the case of in the case of Santosh Radio Products (supra), the goods in question have been classified under CTH 8518 of the Customs Tariff Act wherein the decision of Hon'ble Supreme Court was followed in the case of Commissioner v. Logic India Trading Co. [2016 (342) ELT A-34 (S.C.)], wherein the Hon'ble Apex Court has also classified the multi-media speaker under Tariff Heading 8518 2200 of Customs Tariff Act, 1975.

6. Following the above said decision, we hold that the issue is no more res integra. Accordingly, we classify the multi-media speaker in question under CTH 85182200 of Customs Tariff Act, 1975.

7. In view of this, we do not find any infirmity in the impugned order and the same are upheld.

8. The Revenue's appeals are dismissed.

(Dictated and pronounced in the open Court)

Sd/-
(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)
Member (Technical)