

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.2

Customs Appeal No.75682 of 2020

(Arising out of Order-in-Appeal No.KOL/CUS(Port)/AKR/644-645/2020 dated 07.10.2020 passed by Commissioner of Customs (Appeals), Kolkata.)

M/s. Jupiter International Limited

(20A, Ashutosh Chowdhury Avenue, Unnayanam, Kolkata-700019.)

...Appellant

VERSUS

Commissioner of Customs (Port), Kolkata

.....Respondent

(15/1, Strand Road, Custom House, Kolkata-700001.)

WITH

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APPEARANCE

Shri K.K.Sanyal, Consultant for the Appellant (s)

Shri A.K.Choudhary, Authorized Representative for the Revenue

**CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)**

FINAL ORDER NO. 75280-75281/2025

DATE OF HEARING : 02.01.2025

DATE OF DECISION : 11.02.2025

Per : R. MURALIDHAR :

The appellant, Jupiter International Ltd imported a consignment of Two models of Multimedia Speakers having additional function such as Blue tooth/SD/MMC/USB/FM/AUX with remote wireless Microphone and some electronic spare parts of speakers. They have filed a Bill of Entry No.7866965 dated 01.09.2018 self assessing the Multimedia Speakers under heading no.85182200 . They imported another consignment of various models of Multimedia Speakers comprising of three categories of speakers i.e. (i) Multimedia Speakers with additional function of Bluetooth and FM radio,(ii) Multimedia Speakers with additional function of USB and (iii) samples of Multimedia Speakers without any additional function. The appellant filed a Bill of Entry No.7951966 dated 07.09.2018 self assessing all the Speakers under heading no.85182200. Both the Bills of Entry were processed through RMS accepting the classification of the Multimedia Speakers under heading no.85182200. Accordingly duty was paid and the goods were placed for physical examination in the dock.

2. The dock officers objected to the classification of the Multimedia Speakers under heading no.85182200. Consequently, the assessing officer reassessed Multimedia Speakers under heading no.85279100 considering the items as essentially broadcast receivers. The appellant was compelled to clear the goods with changed classification. The proper officer also issued two separate Speaking Orders in support of the changed classification holding 'Multimedia Speakers having additional function classifiable under heading no.85279100 being music system/home theatre with built-in radio broadcast receivers capable of operating with external source of power combined with sound reproducing apparatus. Being aggrieved, the appellant preferred appeal against both the speaking orders. The Commissioner (Appeal) vide a common impugned order no.KOL/CUS(Port)/AKR/644-645/2020 dated 07.10.2020 rejected the appeals thereby upholding the speaking orders. Being aggrieved, the appellant is before the Tribunal.

3. The Ld Consultant, appearing on behalf of the appellant submits that the classification of the goods in question is no more *res integra*. He relies on the case law of **M/s Logic India Trading Co-v-C.C[2016(337) ELT 65(Tri-Bang)] upheld by the Supreme Court [2016(342)ELT A34(S.C.)]**

4. He also relies on the case law of **C.C. (Port), Kolkata -v- M/s Santosh Radio Products—[order no. F/O 76070/2018 dated 04.05.2018-(Tribunal-Kol)]**, wherein the importer imported Multimedia Speakers with FM/USB/SD card and claimed classification under CTH 85182200. The department classified the goods under 85279100. The Commissioner (Appeals) allowed the appeal of the importer and ordered classification sought by the importer. The department preferred appeal before the CESTAT, Kolkata which was dismissed relying on the decision in M/s Logic India Trading Co-v-C.C[2016(337) ELT 65(Tri-Bang)].

5. Relying on these case laws, the appellant prays that the appeal may be allowed.

6. The Ld Authorized Representative of the Revenue, reiterates the findings of the lower authorities and justifies the classification of the goods under CTH 85279100.

7. Heard both the sides and perused the appeal and other documents placed before us.

8. We find that this issue was before the Bangalore Tribunal in the case of **Logic India Trading Co-v-C.C-2016(337) ELT 65(Tri-Bang)**. The Tribunal has held as under :

“4.3 In fact to the same effect is another circular of the Board being Circular No. 20/2013-Cus., dated 14-5-2013 wherein it was held that the classification of the ‘Tablet Computer’ having an additional facility of connecting to an cellular network to make a voice calls will not make the Table Computer divert from its main function and Table Computer would remain so.

4.4 When all the three circulars are viewed together, it is seen that the opinion expressed by the Board in Circular dated 1-8-2013 in respect of ‘multifunctional speaker system’ is diagonally opposite to the opinion expressed in the earlier two circulars being Circular No. 17/2007-Cus., dated 19-4-2007 and Circular No. 20/2013-Cus., dated 14-5-2013. In the other two circulars, the same Interpretative Rules have been taken into consideration and the same Section Note 3 to Section XVI stands taken note of and the products have been held to be classifiable according to their main and principal and essential function. We really fail to understand as to how subsequent circular stands issued wherein a different view stands expressed without assailing the fact that a speaker remains a speaker but with some additional facilities and features.

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 XVI, 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 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 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.

4.8 We are also strengthened in our view by the decision of the Hon'ble Supreme Court in the case of Xerox India Ltd. v. Commissioner of Customs, Mumbai - [2010 \(260\) E.L.T. 161](#) (S.C.). Though the said decision did not deal with the items under consideration in the present appeal but the ratio of law laid down by the Hon'ble Supreme Court would be squarely applicable to the facts of the present case. It was held that the multifunctional printing machines having fax facility and screening facility would continue to fall under Heading 8471 of the Customs Tariff Act as 'digital printers' only inasmuch as the predominant function of the machine in question was printing.

5. As such, we find no merits in the Revenue's stand. In view of the above, the impugned order is set aside and all the three appeals are allowed with consequential relief to the appellants.

8. Being aggrieved by this Tribunal's decision, the Revenue filed an Appeal before the Hon'ble Supreme Court. The Revenue's appeal was dismissed holding as under :

"We have heard learned counsel for the appellant.

Delay condoned.

We find no reason to interfere with the impugned judgment.

The appeal is accordingly dismissed."

The Appellate Tribunal in its impugned order had held that product 'multimedia speakers' having additional functions of FM Radio and USB port, was classifiable as speakers under Tariff Item 8518 22 00 of Customs Tariff Act, 1975.

[Commissioner v. Logic India Trading Co. - 2016 (342) E.L.T. A34 (S.C.)]

9. We find that the same issue was dealt by this Bench in the case of **B.C. (Port), Kolkata –v- M/s Santosh Radio Products—[order no. F/O 76070/2018 dated 04.05.2018-(Tribunal-Kol)]**, wherein it has been held 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 contain 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 (3370 ELT 65 (Tri.-Bangalore).

6. In view of the above discussions, we find no reason to interfere with the impugned order and the same is sustained.

7. Department's appeal is dismissed. (Dictated and pronounced in the open court)

9. We find that the issue is identical in the present appeal. Hence, we hold that the ratio laid down in the above cases are squarely applicable. Accordingly, we set aside the impugned order and allow the appeal.

10. The appellant would be eligible for the consequential relief, if any, as per law.

10. After going through the factual matrix, we find that the case laws cited above are squarely applicable. Hence, applying the cited case laws, we set aside the impugned order and allow the appeal.

11. The appellant would be eligible for consequential relief, if any, as per law.

(Order pronounced in the open court on 11.02.2025.)

Sd/

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/

(RAJEEV TANDON)
MEMBER (TECHNICAL)

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