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

REGIONAL BENCH – COURT NO.2

Customs Appeal No.75588 of 2020

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/AKR/640/D/2020 dated 25.09.2020 passed by Commissioner (Appeals) of Customs, Kolkata)

M/s Charchco Electronics (India) Private Limited
(8/1B, Chowringhee Lane, Kolkata-700016)

Appellant

VERSUS

Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Respondent

APPERANCE :

Shri P.R.Chowdhury, Consultant for the Appellant
Shri Ashwini Kumar Chaudhary, Authorized Representative for the Respondent

CORAM:
HON'BLE SHRI P.K.CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR.RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER NO.75889/2025

DATE OF HEARING : 21 MARCH 2025
DATE OF DECISION : 21 MARCH 2025

Per Rajeev Tandon :

The appellants have filed the present appeal assailing Order-in-Appeal No.Kol/Cus(Port)/AKR/640/D/2020 dated 25.09.2020 passed by Commissioner of Customs (Appeals), Kolkata.

2. The brief facts of the case are that the appellants imported consignment of Multimedia Speakers, amongst other items and cleared them under the cover of Bill of Entry No.3690642 dated 20th October, 2017. The appellants had filed for the clearance of the said goods under Tariff Heading 85182900. The Revenue has subsequently re-

assessed the Bills of Entry and classified the impugned goods under Tariff Heading 85272900. In appellate proceedings, the ld.Commissioner (Appeals) has upheld the said re-assessment made by the lower authority. Under these circumstances, the appellant is before us challenging the impugned order of the ld.Commissioner (Appeals).

3. We find that the present issue is no more *res integra* and has been covered by the series of decisions of the judicial/quasi-judicial authorities. This Tribunal in the case of **Logic India Trading Company Vs. Commissioner of Customs [2016 (337) ELT 65 (Tri.-Bang.)]** has held that the classification of "multi-media speakers" having additional functions of FM Radio and USB Port, are classifiable under Heading 85.18. The said decision of the Tribunal was maintained by Hon'ble Apex Court as reported in **2016(342) ELT A34 (S.C.)**. In the case of Logic India Trading Company (supra), the Tribunal has held as under :

> *"We find that the lower authorities have solely and mainly relied upon the said circular of the Board. It is well settled that <u>the circular issued by the Board are not binding on the Courts, be it judicial or quasi-judicial</u>. Though there are plethora of judgments to that count but one such reference can be made to Hon'ble Supreme Court's decision in the case of CCE, Bhopal v. Minwool Rock Fibres Ltd. 2012 (278) E.LT. 581 (S.C.). Further, the Larger Bench of the Tribunal in the case of Bimetal Bearings Ltd. v. CCE, Chennai 2008 (232) ELT. 790 (Tri-LB) 2010 (18) S.T.R. 539 (Tribunal-LB) has also held that the circulars which are against statutory provisions cannot be followed and cannot allow to override the statutory provisions in case of conflict."*

4. We find that a series of cases have since been pronounced on the subject, all holding classification of the impugned goods under Chapter 85.18. The following can be referred for sake of records :

(i) **Global Enterprises Vs. Commissioner of Central Excise, Delhi II :** 2017 (354) ELT 548 (Tri-Del.) ;

(ii) **M/s Jupiter International Limited Vs. Commissioner of Customs (Port), Kolkata** vide Final Order No.75280-75281/2025 dated 11.02.2025 (Tri.-Kolkata) ;

(iii) **Commissioner of Customs (Port), Kolkata Vs. Santosh Radio Products** vide Final Order No.76070/2018 dated 04.05.2018 (Tri.-Kolkata).

5. In view of the facts that the question of classification of the said goods has already been settled by the various judicial/quasi-judicial authorities. Therefore, the order of the ld.Commissioner (Appeals) is required to be set aside. Accordingly, we do so.

6. In view of our aforesaid findings, the appeal filed by the appellant is allowed with consequential relief, if any, as per law.

(Operative part of the order was pronounced in the open court)

(P.K.Choudhary)
Member (Judicial)

(Rajeev Tandon)
Member (Technical)

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