

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 76843 of 2018

(Arising out of Order-in-Original No. KOL/CUS/COMMISSIONER/PORT/21/2018 dated 28.02.2018 (dispatched on 05.03.2018) passed by the Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Jupiter Green Energy Private Limited, : **Appellant**
(Formerly 'M/s. Jupiter International Limited')
30, Jadunath Dey Road,
Kolkata – 700 012

VERSUS

Commissioner of Customs (Port) : **Respondent**
Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri Deepro Sen and Ms. Ekta Jhunjhunwala, both Advocates, for the Appellant

Shri Tariq Sulaiman, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76550 / 2025

DATE OF HEARING / DECISION: 11.06.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed by M/s. Jupiter Green Energy Private Limited (Formerly 'M/s. Jupiter International Limited'), 30, Jadunath Dey Road, Kolkata – 700 012 [hereinafter referred to as the "appellant"] against the Order-in-Original No. KOL/CUS/COMMISSIONER/PORT/21/2018 dated 28.02.2018 passed by the Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001.

1.1. The facts of the case are that the appellant is inter alia engaged in the manufacture and import of a wide range of computer hardware products for onward sales in India through its brand 'Frontech' including products such as multimedia speakers, headphones, gaming devices, computers, computer peripherals, etc. The multimedia speakers imported by the appellant are high power speakers capable of reproducing a very wide range of audible frequencies by receiving input from external audio playback devices connected to the speakers through wire/ auxiliary cable like CVD/DVD player, MP3 player, ADP machines, etc. Further, some of the speakers imported by the Appellant have audio playback facility also wherein the speakers can play music stored in storage devices in digital format like USB pen drives, memory cards, etc. which are connected to the speakers through USB/MMC jack available on the speakers. Further, some of the speakers also incorporate AM/FM tuner and can play radio.

2. The Appellant was importing the abovementioned multimedia speakers with added features of USB/SD card/ MMC Playback and/or in-built FM radio by classifying the same under Tariff Item 8518 40 00 as 'audio frequency electric amplifiers' till October 2013. However, post issuance of Circular No. 27/2013-Cus. dated 01.08.2013, the appellant, for smooth clearance of the said products, started to classify the same under CTH 8527/8519, as the case may be and accordingly started paying the duty under protest.

3. During the relevant period, the appellant also imported headphones which are cordless/wireless devices with the primary function to provide audio/sound facility restrictively to the person using

it, having added feature of in-built FM radio. The said headphones imported by the appellant were classified under Customs Tariff Item 8518 30 00 as "headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers".

5. In May 2013, the Officers of the Directorate of Revenue Intelligence, Kolkata Zonal Unit, initiated investigations into the import of the multimedia speakers and wireless headphones, including those made by the appellant. The said investigation culminated into issuance of the Show Cause Notice dated 06.08.2014 vide which the following products inter alia imported by the Appellant have been proposed to be re-classified as follows:

(i) Multimedia speakers having features of USB/SD Card/MMC Playback in addition to the regular features - Customs Tariff Item 8519 81 00 as 'sound recording or reproducing apparatus'.

(ii) Multimedia speakers having FM Radio and/or USB/SD Card/MMC Playback in addition to the regular features - Customs Tariff Item 8527 91 00 as 'radio reception apparatus combined with sound recording or reproducing apparatus'.

(iii) Headphones with in-built FM radio Customs Tariff Item 8527 19 00 as 'radio broadcast receivers capable of operating without an external source of power not combined with sound recording or reproducing apparatus'.

5.1. Pursuant to the aforesaid re-classification, differential duty demand was proposed, along with interest and penalty, on the ground that goods classifiable under CTH 8519 and 8527 are liable to assessment for CVD on the basis of MRP/RSP instead of transaction value as per proviso to Section 3(2) of the Customs Tariff Act, 1975 ('hereinafter referred to 'Customs Tariff Act') read with Section 4A of the Central Excise Act, 1944, by invoking extended period of limitation.

6. The above Notice was taken up for adjudication by the Ld. Commissioner of Customs (Port), Custom House, Kolkata, who, vide the impugned order, confirmed the demands as raised vide the above Notice, along with interest and penalties thereon.

6.1. Aggrieved from the said order, the appellant has filed the present appeal.

7. During the course of hearing, the Ld. Counsel appearing on behalf of the appellant, has made various submissions, which are summarized below: -

A. Issue Is No Longer Res Integra the classification of Multimedia speakers with additional ancillary features of USB/SD CARD/MMC PLAYBACK AND/OR FM RADIO stands settled in favour of the appellant under CTH 8518.

(i) The multimedia speakers imported by the appellant with additional features of USB/ SD card/ MMC playback and/ or FM radio have the principal functionality of loudspeakers with ancillary features of audio playback facility and/or FM radio. Note 3 of Section XVI of Schedule I to the Customs Tariff Act stipulates that in case of a composite machine capable of

performing two or more functions, it has to be classified as if consisting only of that component or as being that machine, which performs the 'principal function'. Further, in terms of Rule 3(b) of General Rules of Interpretation ('GRI'), mixtures or composite goods consisting of different materials or made up of different components, shall be classified on the basis of the material or component, which gives 'essential character' to the mixture or composite goods, as the case may be.

- (ii) It is submitted that the principal function of multimedia speakers is to perform the function of loudspeakers by reproducing a very wide range of audible frequencies. The multimedia speakers imported by the Appellant are principally bought, marketed and commercially sold as varieties of multi-media speakers [as evident from the brochures, invoices raised by the Appellant, dealer's opinion on the matter and screenshots of the various web stores selling various kinds of multimedia speakers given under Annexure 4, Annexure 5, Annexure 6 (and Annexure 8 respectively and not as audio players or music systems or radio. Therefore, the principal function of the multimedia speakers in question is indeed to act as loudspeakers and certainly not the audio players/music system/radio. The features of USB/SD card/MMC playback/radio are merely ancillary functions/add-ons. Hence, by virtue of Rule 3(b) of GRI read with Section Note 3 of Section XVI of the Customs Tariff Act, the classification of the imported multimedia

speakers shall be under Heading 8518, basis their principal function.

(iii) Reliance in this regard is placed on the following decisions in the appellant's own cases:

- *M/s. Jupiter International Limited vs Commissioner of Customs (Port), Kolkata [2025 (2) TMI 430 CESTAT, Kolkata]*
- *M/s. Jupiter International Limited vs Commissioner of Customs (Port), Kolkata [FINAL ORDER Nos. 75404-75405/2025 dated 05.02.2025 – CESTAT, Kolkata]*

(iv) Further reliance in this regard is placed on the decision pronounced in the case of *Logic India Trading Company vs. CC [2016 (337) ELT 65 (Tri. - Bang.)]* as maintained in *2016 (342) ELT A34 (SC)*.

(v) In view of these submissions, the appellant stresses that it is evident that multimedia speakers having additional functions of USB port with playback and facility of FM radio are classifiable under Heading 8518 as the main and principal function is that of a speaker. Reliance is further placed on the following judgments:

- *M/s. Santosh Radio Products versus Commr. Of Customs (Port), Kolkata [2025 (1) TMI 1456 CESTAT Kolkata]*
- *C.C. (Port), Kolkata vs M/s. Santosh Radio Products [2018 (5) TMI 1956-CESTAT Kolkata]*
- *Onkyo Sight and Sound India Pvt. Ltd. Vs CC, Chennai - 2019 (368) E.L.T. 683 (Tri. Chennai) [Maintained in 2023 (383) E.L.T. 497 (S.C.)].*

- (vi) Hence, it is their contention that the demand confirmed vide the impugned order classifying the multimedia speakers under CTH 8519/8527 is unsustainable and liable to be set aside.
- (vii) Further, that as evident from the Bill of material (Annexure 7 providing details of materials used in manufacture of a complete set of multimedia speaker and break-up of cost thereof), the cost attributable to the USD/ SD card reader or FM is miniscule. Therefore, it is amply clear that the essential character/principal function of the subject goods is to function as a multimedia speaker or loudspeaker. Hence, classification of the subject products in terms of the ancillary functions or add-on features under CTH 8519/8527 is untenable and the demand confirmed basis the same is accordingly liable to be set aside.
- (viii) The appellant had classified the multimedia speakers under Customs Tariff Item 8518 40 00 as 'audio frequency electric amplifiers' till October 2013 at the time of importation. However, the same was re-classified under Customs Tariff Item 8518 29 00 as 'Multiple or single loudspeakers not mounted in their enclosures' at the adjudication stage itself.
- (ix) In this regard, it is submitted that it is a settled position of law that there is no estoppel against law. Hence, the Appellant is not debarred from contending that the impugned goods are appropriately classifiable under Tariff Item 8518 29 00. Reliance in this regard is placed on the following judgments:

- *Dalmia Industries Ltd. vs Union of India [2002 (150) E.L.T. 1440 (Raj.)] - affirmed by Hon'ble Supreme Court vide 2003 (154) E.L.T. A168 (S.C.)*
- *Tata Chemicals Ltd. Versus Commissioner of Cus. (Preventive), Jamnagar [2015 (320) E.L.T. 45 (S.C.)]*

(x) It is further submitted that the aforesaid re-classification does not have any revenue implications inasmuch as the same is chargeable to duty at the same rate as has been paid by the Appellant at the time of importation. Hence, the demand confirmed vide the impugned order is untenable and liable to be set aside.

B. The classification of the headphones with built in FM radio under CTH 8518 is correct and the ratio of judgments relating to multimedia speakers in the grounds cited above would squarely apply to the classification of headphones:

(i) It is submitted that in the impugned order, the Department has also re-classified headphones with built in FM radio under Customs Tariff Item 8527 19 00 as 'radio broadcast receivers capable of operating without an external source of power not combined with sound recording or reproducing apparatus' as against Customs Tariff Item 8518 30 00-'headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers' claimed by the appellant. In this regard, placing reliance on Rule 3(b) of GRI read with Section Note 3 of Section XVI of the Customs Tariff Act,

as detailed above, it is argued that the same ought to be classified as headphones under CTH 8518, basis their principal function.

- (ii) Reliance in this regard is placed on the judgment pronounced in the case of *Logic India (supra)*, wherein by placing reliance on the Interpretative Rules, Section Note 3 to Section XVI and the judgment pronounced by Hon'ble Apex Court in the case of *Xerox India Ltd. v. Commissioner of Customs, Mumbai [2010 (260) E.L.T. 161 (S.C.)]*, it has been held that the criteria for classifying the product under consideration is the principal and the main function it performs, which remains to be speakers, in spite of the fact that the multimedia speakers under consideration had added features of USB playback and/or FM radio. In the instant case as well, the headphones imported by the appellant are primarily meant to provide audio/sound facility restrictively to the person using it with merely an ancillary feature of in-built FM radio. Hence, the headphones imported by the Appellant merit classification under Customs Tariff Item 8518 30 00 as 'headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers' and not as radio broadcast receivers as contended by the Department.
- (iii) Hence, basing on these submissions, the appellant contends that the entire demand confirmed vide the impugned order is liable to be set aside.

7.1. With regard to the invocation of the extended period of limitation against the appellant, It is the submission of the Ld. Counsel for the appellant that in the present case, there cannot be suppression of facts or wilful misstatement with intent to evade payment of duty and hence, extended period of limitation is not invokable. They have pointed out that the Show Cause Notice in this case was issued on 06.08.2014 for the imports made between November 2009 to October 2013 and hence, applying normal period of limitation, the entire duty demand till FY 2012-13 amounting to Rs. 1,26,47,707/- is barred by limitation; only the remaining amount of Rs. 420,102/- pertaining to FY 2013-14 falls within the normal period of limitation. It is also stated that out of the demand confirmed for FY 2013-14, Rs. 77,049/- pertains to the import of headphones with FM radio and balance Rs. 3,43,053/- pertains to multimedia speakers with added functionalities of USB/ SD card/ MMC playback and/or FM radio.

7.1.1. In this regard, it is their further submission that claiming classification under a particular Customs Tariff would not amount to wilful misstatement or suppression of facts; in the matter of classification of imported goods which is technical in nature, no wilful misstatement on the part of the importer can be alleged. They contend that even assuming without admitting that the imported goods are classifiable under CTH 8519/8527 and not under CTH 8518, merely claiming classification under the particular heading on bona fide belief should not be treated as misstatement of material facts in the Bills of entry; the bona fides of the appellant and lack of intent to evade duty is clearly evident from the fact that the description of goods, i.e. import of multimedia

speakers with features of USB/SD card/MMC playback and/or FM and headphones with FM radio have been clearly specified in the bills of entry /Sample Bill of Entry copy submitted by the appellant.

7.1.2. Reliance herein is placed on the following decisions:

- *Madhepura Electric Locomotive Pvt. Ltd. vs Principal Commissioner of Customs (Port), Appeal Nos. 75445 of 2021 decided by Hon'ble CESTAT, Kolkata vide Final Order No. 75210/2025 dated 27.01.2025*
- *DIC India Limited vs. CC (Port), Kolkata [2024 (9) TMI 186 - CESTAT KOLKATA]*
- *KPR Fertilizers Ltd. v. CCE, Cus. and ST, Visakhapatnam-I [2023 (384) E.L.T. 216 (Tri. - Hyd.)]*
- *Densons Pultretaknik v. Commissioner of Central Excise, [2003 (155) E.L.T. 211 (S.C.)]*

7.2. In view of these submissions, the Ld. Counsel for the appellant prays for setting aside the demands, along with interest and penalties, confirmed against the appellant in the impugned order.

8. The Ld. Authorized Representative of the Revenue reiterated the findings in the impugned order.

9. Heard both sides and perused the appeal records.

10. After hearing both sides, we find that the issues that are primarily required to be decided in this appeal are: -

- (1) Whether the multimedia speakers with added ancillary features of USB/SD card/ MMC Playback and/ or FM radio imported by the appellant are classifiable under CTH 8527/8519 as claimed by the Revenue or under CTH 8518 as claimed by the appellant.
- (2) Whether the headphones with added feature of FM radio is classifiable under CTH 8527 as 'radio broadcast receivers' as claimed by the Revenue or under CTH 8518 as claimed by the appellant.

11. With regard to the first issue, we find that an identical issue had come up before this Tribunal in the appellant's own cases. In *M/s. Jupiter International Limited vs Commissioner of Customs (Port), Kolkata [2025 (2) TMI 430 - CESTAT Kolkata]*, under similar facts and circumstances, it has been observed as under: -

"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 (ii) samples of Multimedia Speakers without any additional function.....

...

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:

...

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:

...

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."

11.1. Further, in the appellant's own case in *M/s. Jupiter International Limited vs Commissioner of Customs (Port), Kolkata* vide Final Order Nos. 75404-75405 of 2025 dated 05.02.2025 in Customs Appeal Nos. 75580 & 75581 of 2020 (CESTAT, Kolkata), this Tribunal has held as under: -

"1. The appellant has imported Multimedia Speakers/Computer Speakers on 11.01.2018 classifying the said goods under CTH 85182200. The department proposed classification of the product under CTH 8519/8527 attracting CVD on retail sale price basis. The Adjudicating authority vide O-I-O dated 13.02.2018 determined the classification of the imported goods under 85279100. Being aggrieved the appellant filed their appeal before Commissioner (Appeals), which come to be dismissed. Hence, the appellant is before the Tribunal.

2. We find that the aforesaid, question of classification of the said products has been examined in extenso and the rival entries discussed threadbare. The subject issue is no more res integra. There are a catena of decisions holding the classification of the impugned goods under heading under CTH-8518. In the case of *Logic India Trading*

Company US Commissioner of Customs, Cochin (2016(337)ELT 65(Tr-Bang.), as maintained by the Hon'ble Apex Court, reported in 2016(342)ELT A-34(SC), while dealing with similar set of facts, the courts have held the classification of the said goods under CTH 8518. Relevant paras of the said decision are referred to hereunder below:

....

6. The detailed analysis of the classification of all such Audio-Visual Receivers was also undertaken independently by this Tribunal in the case of ONKYO SIGHT & SOUND INDIA PVT.LTD. vs Commissioner of Customs, Chennai (2019(368) ELT 683(Tri-Chen.), wherein too the Southern Regional Bench of the Tribunal did not agree with the department's stance for classification of the said products under CTH 8527 and had retained the CTH 8518 claiming the goods as Audio Frequency Amplifier along with Home Theatre Systems as multiple loudspeakers mounted in the same enclosure.

7. In view of said matter having been examined ad nauseam as referred supra, we find no merit in the order of the lower authority which is therefore set aside.

8. The appeal filed by the appellant is hereby allowed with consequential relief, if any, as per law."

11.2. Thus, we find that the issue is no longer res integra as the same has already been dealt with by this Tribunal in the above cited cases. Therefore, following the above judicial precedents, we hold that the appellant has rightly classified the multimedia speakers with added ancillary features of USB/SD card/ MMC Playback and/ or FM radio under CTH 8518. Accordingly, the demands confirmed against the appellant by reclassifying the said goods under CTH 8527/CTH 8519 are not sustainable and therefore, we set aside the same.

12. With regard to the second issue i.e., whether the classification of the headphones with added feature of FM radio would be under CTH 8527 as 'radio broadcast receivers' as claimed by the Revenue or under CTH 8518 as claimed by the appellant, we observe that the Revenue has re-classified these headphones with built in FM radio under Customs Tariff Item 8527 19 00 as 'radio broadcast receivers capable of operating without an external source of power not combined with sound recording or reproducing apparatus' as against Customs Tariff Item 8518 30 00-'headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers' claimed by the Appellant. In this regard, the appellant contends, by relying on Rule 3(b) of GRI read with Section Note 3 of Section XVI of the Customs Tariff Act, that the same ought to be classified as headphones under CTH 8518, basing on their principal function.

12.1. For better appreciation of the facts, the relevant Tariff Headings along with the relevant entries thereunder, are extracted below: -

8518	Microphones and stands therefor, loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets			
8518 30 00	- Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers	u	10%	-

8527	Reception apparatus for radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock <i>- Radio-broadcast receivers capable of operating without an external source of power:</i>			
8527 19 00	-- Other <i>- Radio-broadcast receivers not capable of operating without an external source of power, of a kind used in motor vehicles:</i>	u	10%	-

12.2. A perusal of the above two Tariff Entries clearly reveals that the Tariff Heading 8518 covers ‘headphones and earphones’ specifically. While classifying goods, as per the General Rules of Interpretation, a specific heading is always to be preferred over a general heading. In the present case, the appellant has imported ‘headphones and earphones’, which are specifically covered under Tariff Item No. 8518 30 00. Thus, we hold that the goods imported by the appellant are appropriately classifiable under Tariff Item No. 8518 30 00, as claimed by the appellant.

12.3. In this regard, we also take note of the judgment pronounced in the case of *Logic India Trading Company vs. CC [2016 (337) ELT 65 (Tri. - Bang.)]* , wherein by placing reliance on the Interpretative Rules, Section Note 3 to Section XVI and the judgment pronounced by Hon'ble Apex Court in the case of *Xerox India Ltd. v. Commissioner of Customs, Mumbai [2010 (260) E.L.T. 161 (S.C.)]*, it has been held that the criteria for classifying the

product under consideration is the principal and the main function it performs, which remains to be speakers, in spite of the fact that the multimedia speakers under consideration had added features of USB playback and/or FM radio. Admittedly, the headphones imported by the appellant in this case are primarily meant to provide audio/sound facility restrictively to the person using it with merely an ancillary feature of in-built FM radio. Hence, we agree with the contention of the appellant on this count that the headphones imported by the Appellant merit classification under Customs Tariff Item 8518 30 00 as headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers' and not as radio broadcast receivers as contended by the Department.

12.4. Consequently, the demands confirmed in the impugned order, by reclassification of the said goods under Tariff Item No. 8527 19 00, is not sustainable and therefore, the same are set aside.

13. From a perusal of the impugned order, we also find that the Id. adjudicating authority has redetermined the classification of goods in respect of models as per Annexure-D to the Show Cause Notice under Tariff Item No. 8518 29 00. Since this issue has not been contested by the appellant, we do not propose to interfere with the above said findings in the impugned order and hence, we uphold the same.

14. We have also examined the contentions raised by the appellant with regard to invocation of the extended period of limitation. It is seen that there is no evidence available on record to establish intent on the part of the appellant to evade payment of duty.

The issue also pertains to interpretation of statutory provisions under the Customs Tariff Act and hence, in such a case, the invocation of extended period provisions are not warranted. Thus, we hold that the invocation of the extended period of limitation in this case is not sustainable and hence, the demand confirmed by invoking the extended period of limitation is set aside.

15. The appellant therefore succeeds on merits as well as on the ground of limitation.

15.1. Since the demands raised against the appellant in the impugned order as discussed hereinabove do not survive except the demands confirmed as discussed in paragraph 13 (supra), the question of demanding interest thereon does not arise. As suppression of facts with intention to evade the duty has not been established in this case, we hold that no penalty is imposable in this case.

16. In view of the above, we pass the following order:

- (i) The demands confirmed against the appellant by reclassifying the said goods, namely, multimedia speakers with added ancillary features of USB/SD card/ MMC Playback and/ or FM radio under CTH 8527/CTH 8519, are not sustainable and therefore, we set aside the same.
- (ii) The demands confirmed in the impugned order, by reclassification of the said goods, namely, headphones with built in FM radio under Customs Tariff Item 8527 19 00 as 'radio broadcast receivers' are not sustainable and therefore, the same are set aside.

- (iii) The classification of goods in respect of models as per Annexure-D to the Show Cause Notice under Tariff Item No. 8518 29 00, has not been contested by the appellant and hence, we uphold the same.

17. In the result, the appeal is disposed of in the above manner.

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

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd