CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH

Customs Miscellaneous Application (EH) No. 85730 of 2022
(On behalf of Appellant)
Customs Appeal No. 86702 of 2022

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-581 to 583/2022-23 dated 07.07.2022 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Miscellaneous Application (EH) No. 85731 of 2022
(On behalf of Appellant)
Customs Appeal No. 86703 of 2022

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-581 to 583/2022-23 dated 07.07.2022 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Miscellaneous Application (EH) No. 85732 of 2022
(On behalf of Appellant)
Customs Appeal No. 86704 of 2022

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-581 to 583/2022-23 dated 07.07.2022 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85269 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85272 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85273 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85274 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85275 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85276 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85291 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85292 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**

Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85293 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85294 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85295 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85296 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85297 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85298 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**

(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85299 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85300 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85301 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85302 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85303 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-687 to 705/2019-20 dated 22.11.2019 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85380 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-825 to 832/2019-20 dated 02.01.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85381 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-825 to 832/2019-20 dated 02.01.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85382 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-825 to 832/2019-20 dated 02.01.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**

Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85383 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-825 to 832/2019-20 dated 02.01.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85384 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-825 to 832/2019-20 dated 02.01.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85385 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-825 to 832/2019-20 dated 02.01.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Respondent
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85386 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-825 to 832/2019-20 dated 02.01.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Respondent
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85387 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-825 to 832/2019-20 dated 02.01.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Respondent
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85997 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**

(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Respondent
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85998 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. Appellant
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Respondent
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 85999 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. Appellant
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Respondent
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86000 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86001 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86002 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86003 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86004 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86005 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**

Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86006 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86007 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1380 to 1390/2019-20 dated 13.07.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai **Respondent**
Air Cargo Import
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86013 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-410 to 415/2020-21 dated 09.10.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86014 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-410 to 415/2020-21 dated 09.10.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86015 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-410 to 415/2020-21 dated 09.10.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86016 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-410 to 415/2020-21 dated 09.10.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**

(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

WITH

Customs Appeal No. 86017 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-410 to 415/2020-21 dated 09.10.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

AND

Customs Appeal No. 86018 of 2020

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-410 to 415/2020-21 dated 09.10.2020 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s. Creative Newtech Ltd. **Appellant**
(Formerly known as M/s. Creative Peripherals
& Distribution Ltd.),
3rd & 4th Floor, Plot No.137, AB Kandivali
Co-op. Industrial Estate, Charkop,
Kandivali (W), Mumbai 400 067.

Vs.

Commissioner of Customs (Import), Mumbai Air Cargo Import **Respondent**
Air Cargo Complex, Navpada, Sahar Village,
Andheri (E), Mumbai 400 099.

Appearance:

Shri N.D. George, Advocate, for the Appellant
Shri D.S. Maan, Deputy Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

Date of Hearing: 28.10.2022
Date of Decision: 20.02.2023

FINAL ORDER NO. A/85188-85234/2023

PER: SANJIV SRIVASTAVA

These appeals are directed against order in appeals dated 22.11.2019, 02.01.2020, 13.07.2020, 09.10.2020 and 07.07.2022 of the Commissioner of Custom (Appeals), Mumbai – III. By the impugned order Commissioner (Appeals) has decided the appeals against the re assessment order made on the Bill of Entry modifying the self assessment made by the appellant claiming the benefit of exemption under Notification No 50/2017-Cus (S No 502) without issuance of any speaking order as per Section 17 (5) of the Customs Act, 1962. In some cases the issues have been determined finally on merits and in some case the matter remanded back to the original authority for passing the speaking order. Since the common issues are involved in these appeals they have been taken up for consideration simultaneously.

2.1 Appellant had filed Bill of entries for the clearance GoPro Digital cameras and their accessories, intended for use by end consumers while performing various activities like surfing, sky-diving etc. They claimed the classification of the said GoPro Digital Cameras under tariff heading 85258020, and exemption under Notification No 50/2017-Cus (Sl No 502).

2.2 Assessing Group modified the assessment made classifying the imported goods under heading 85258090 and denying the benefit of exemption claimed under Notification No 50/2017-Cus (S No 502). The said modification was done without issuance of any notice or hearing the appellant. No speaking order under section 17 (5) was issued. To save on demurrage appellant discharged the duty as amended Bill of Entries under protest.

2.3 Appellant challenged the re-assessment made before the Commissioner (Appeal) challenging assessment made sating following grounds:

- The goods imported by them were correctly classifiable under heading 85258020 as assessed by them on the Bill of Entry;
- the denial of exemption under Notification No 50/2017 was improper;
- no speaking order has been issued as required under Section 17 (5) of The Customs Act, 1962 despite the request made.

2.4 Appeals filed by the appellant against the re assessment done by the assessing officers were dismissed by the Commissioner (Appeal) vide the impugned order in appeals dated 22.11.2019, 02.012020, 13.07.2020, 19.10.2020 and 04.07.2022 upholding the re assessment made by the assessing officer holding the goods to be classifiable under Heading No 85258090 and denying the exemption claimed.

2.5 Appeals filed by the appellant were vide the impugned order in appeal dated 04.07.2022 at, were disposed of Commissioner (Appeal) remanding the matter back to assessing officer for passing the speaking order as per Section 17 (5) of the Customs Act, 1962.

2.6 Appellant have filed the application for early hearing in the three appeal filed in the year 2022, stating that the appeals filed by them for the earlier period are coming up for hearing, and matter in their own case has been decided by the tribunal vide Final Orders No. A/85606-85642/2020 dated 17.7.2020. taking note of the submissions made the applications for early hearing are allowed and all the appeals are taken up for hearing together.

3.1 We have heard Shri N D George, Advocate for the appellant and Shri D S Maan, Deputy Commissioner, Authorized Representative for the revenue.

3.2 Arguing for the appellant learned counsel submits

- The 'GoPro Cameras' imported were classified by the Appellants under Tariff Item 8525 80 20. The Appellants have been claiming exemption, from payment of basic customs duty, in terms of Notification No. 12/2012-Cus (Sl. No. 428A) (until 30.6.2017) and Notification No. 50/2017-Cus (Sl. No. 502) (from 1.7.2017), vide which 'Digital Still Image Video Cameras' have been exempted from the payment of Basic Customs Duty ('BCD') on such consignments of GoPro. Relevant portion of the exemption notification is extracted below:

Chapter or Heading or sub-Heading or tariff item	Description of goods	Standard rate	Condition No.
(2)	(3)	(4)	(6)
8525 80 20	Digital Still Image Video Cameras	Nil	-

- Tariff Item 8525 80 20 covers 'Digital Camera':
  - The word 'digital' in Chapter 85 refers to the technology used for capturing and storing of the images and videos. These digital cameras referred to in Chapter 85 are, as opposed to 'Analog Cameras' of Chapter 90.
  - The cameras in question capture still images and moving images (videos) and store the same on semi-conductor media. These can then be viewed digitally on the camera itself (LCD screen), and on other digital devices. Hence, the imported cameras are indeed 'digital cameras'.
  - The only reason cited by the Ld. Commissioner of Customs, (Appeals) in the impugned Order to reject the classification under Tariff Item 8525 8020 as 'Digital Camera' is due to the capability of the imported cameras to capture both still and moving images. According to him, these cameras being other

than video camera recorders, fall under the residual Tariff Item 8525 80 90.

- o The exemption notifications such as Notification Nos. 25/05-Cus. or 50/17-Cus., when they granted exemption to 'digital still image video camera', referred to the Tariff Item 8525 8020. Thus, the legislature itself has treated a digital camera capturing both still images and moving images (video), fall under Tariff Item 8525 8020 as digital cameras.

- ➢ In the notification claimed by them, there is no explanation within Sr. No.502 of Notification No.50/17-Cus., similar to what is present in Sr. No. 13 of Notification No.25/05-Cus "Digital still image video cameras". Therefore, the said Notification is a Customs Notification and not a ITA notification and no requirement of Equipment Type Approval (ETA) is required for the said product as stated by the AR. Further, there is no mention about ITA notification or ETA approval requirement in the impugned order. Therefore, adjudicating authority cannot act beyond the order of appellate authority as held in the case of Adani Enterprises Ltd [2015 (324) E.L.T. 461 (Mad.)]
- ➢ Hon'ble Supreme Court in Tata Teleservices case - 2006 (194) ELT 11 has held that circular cannot impose a restriction or limitation which is not there in the notification. Also refer to Inter Continental (India) Vs. UOI - 2003 ELT (154) 37 (Guj.) which stands affirmed by the Hon'ble Supreme Court.
- ➢ Reliance on referral order in M/s Nikon India Pvt. Ltd. Versus Commissioner of Customs (Imports) New Custom House, New Delhi reported in 2022 (3) TMI 419,where reference is made to the Hon'ble President of CESTAT to constitute a Larger Bench, is not proper as the issue referred for resolution in Nikon matter is different and distinct from the issue involved in the present case of the Appellants.

- The issue at hand namely classification of the imported "Digital Still Image Video camera" is already decided in favour of the Appellant by a decision in their own case by this Hon'ble Tribunal vide Final Orders No. A/85606-85642/2020 dated 17.7.2020. It has been held that the classification of the imported camera is correctly classifiable under Tariff Item 85258020, which decision has been accepted by the Customs Department without any reservations.
- The case be thus decided on merits, following the decision M/s. Creative Peripherals & Distribution Ltd versus Commr of Cus., ACC Mumbai, 2020 (374) ELT 794 (T) and must not be kept pending awaiting final decision in the reference to larger bench made by the court in Nikon's case.
- Advance Ruling No. CAAR/Del/Canon/12/2022 dated 19.09.2022 has been issued to Canon India Pvt. Ltd. by the Authority on Advance Ruling, New Delhi, wherein it was held that the imported camera, capable of capturing both images and videos is a Digital Camera and entitled to benefit available to "Digital Still Image Video Camera".
- The imported cameras are rightly classifiable as Digital camera and entitled to benefit of Notification 50/2017 at Sr No. 502 available to "Digital Still Image Video camera".
- The respondents are bound by the principles of Judicial discipline and the orders of the Tribunal is binding on all adjudicating and appellate authorities as have been held in case of Kamlakshi Finance Corporation Ltd [1991 (55) E.L.T. 433 (S.C.)]

3.3 Arguing for the revenue learned authorized representative submits that:

- The Appellant has cited a judgement of this Hon'ble Tribunal wherein the product under dispute was a similar product but not same product. It is humbly submitted that while delivering the said decisions, some relevant circumstances have not been considered at all.

- no doubt that appellant has claimed benefit of Notification no. 50/2017-Cus , Sr. No. 502, but it is a fact also the notification no. 15/2012-cus dated 17.03.2012 was never rescinded. Rather, the notification no. 12/2012-Cus dated 17.03.2012 was superseded vide now exiting notification no. 50/2017-Cus dated 30.06.2017. This may be seen from the first page of notification no. 50/2017-cus available in all appeals.
- Notification no. 25/2005-Cus dated 01.03.2005 and erstwhile notification no. 12/2012-Cus dated 17.03.2012 were parallels and were available to the impugned goods. It was also the similar situation at least from 01.03.2005. As in 2005, the erstwhile notification 02/2002-cus was running parallel to notification no. 25/2005-Cus. The Notification No. 02/2002-Cus was superseded by Notification No. 12/2012-Cus dated 17.03.2012 and now the Notification no. 12/2012-Cus is superseded by Notification no. 50/2017-Cus dated 30.06.2017. Thus it is submitted that for impugned goods there were parallel notifications available from 2005 onward.
- The parallel notification was available, because, the notification no. 50/2017-Cus is for general exemption to almost for all items coved by full tariff , but the notification no. 25/2005-Cus was issued for specific products of information technology, issued in compliance of WTO requirements.
- Circular no. 32/2007-Cus, was issued in reference to the Notification no. 25/2005-Cus, it is also a fact it was issued in reference to the then General Exemption Notification no. 02/2002-Cus as at that time similar definition was available against the impugned goods in that notification also. However, it is true at present similar definition is not available in notification no. 50/2017-Cus. But, it cannot be concluded otherwise as now definition of the impugned goods are available in statutes. Since, the definition of impugned goods is available in the notification no. 25/2005-Cus and said notification is still valid. And that

too is not a conditions in the said Notification . Rather, it part of description, thus for any dispute, it is prayed, it should be refereed.

- the present goods are not covered vide the said Order dated 17.07.2020 is that at present on the definition of impugned goods matter has already been referred by the Hon'ble Principal Bench , New Delhi to the larger bench on 08.03.2022, in the case of M/s Nikon India Pvt Ltd vide Interim Order no. 04/2022 dated 08.03.2022. The Copy of said order is placed at page 12 to 50 of my compilations tendered.
- In fact, impugned goods are action cameras and records videos of more than 2 hours in one sequence. On that count also the OIAs were proper besides on the count of more resolutions than 800x 600 and pixels more than 23 frames per seconds.
- Features of the impugned goods:-
    - The product "GoPro HERO5 Black" an Action camera was launched in the year 2016 whereas the product in the instant appeal "GoPro HERO 8 Black" and other GOPRO Hero-7, GOPRO Max were launched in the subsequent years, e. g the GOPRO Hero 8 was launched in 2019 and at present GOPRO Hero 10 are available in market. These are technically more advanced than the earlier models and has many new features listed as under;
    - Unlike the 5, 6, 7 and variants of, the Hero8 has been built anew from the ground up. The Hero 8 Black has a slightly more compact body compared to the Hero 7 Black;
    - It has a front-facing microphone for better audio and a single flap on the right which houses the microSD card slot, battery and USB Type-C port.
    - The camera can be used for professional blogging too as the Media Mod features a built-in shotgun microphone and two cold shoe mounts for a secondary display and LED fill-light.

- has a Type-C port, HDMI and one for an external 3.5mm microphone. The Display Mod is an external 1.9-inch display, which can fold in the front or back. The Light Mod is waterproof up to 10m and helps brighten the scene or your face when vlogging in low light.
- The big highlight is HyperSmooth 2.0 which promises even smoother video compared to the Hero 7 Black. There's a Boost mode which, crops the frame a bit more for even more aggressive stabilisation. HyperSmooth 2.0 is available with all shooting modes. Another feature that has been brought over from the Hero 7 Black is the Time Warp, which automatically adjusts the speed of the footage based on the data that is being captured by the camera's custom GP1 sensor. The user of the impugned goods can even tap on the display in between the Time Warp to capture real-time footage to focus on something.
- The interface has been redesigned a bit for easier accessibility. The user of the impugned goods can now easily switch between different fields of view or ‘Digital Lenses' as GoPro calls it; create up to 10 presets for various types of activity which are typically captured;
- Horizon Levelling for a cinematic effect and TimeWarp 2.0 lets the videographer vary the speed of the hyperlapse video when he needs it, by simply touching the display.
- can shoot 4K video up to 60fps; slow motion video at up to 240fps at 1080p; live streaming; voice control and can recognise voice commands.
- The 8th generation is the first to be completely waterproof without the need for a housing or cage. More features have been added with the new Mod system toping these releases new features list,

enabling the user to adapt the camera for vlogging with optional Media, Light and display Modes.

- with all the above mentioned features the impugned products has all features of a complete Video Camera which has the capability to record still images. With this cross over,
  - the impugned product has become a different class of product which is neither a video camera nor a digital still image video camera.
  - It is a new class of product, it is marketed, promoted, sold, purchased and used as a camera having specific function i.e. Recording video images of action scenes.
  - It is purchased and used to record action sequences from close quarters.
  - It has features which are distinct from the normal Digital still image video camera and Video camera.
  - Admittedly, it is a digital camera but an action camera and is not a substitute for a normal Digital still image video camera and Video camera.

➢ the impugned products are multifunctional cameras with the principal function being performed by the capturing of real-time images, which are then stored on a digital media in the camera or transmitted to a location outside the camera for viewing and recording.

➢ Appellant reliance decision of the United States Court International Trade in case of M/s. Sony Electronics Inc dated 23.12.2013. The product under dispute in that order, Sony NSC-GCI Net Sharing Cam, is a completely different product from the product in question in the instant appeal. The Sony NSC-GC1 Net Sharing Camcorder from Sony is a camera to capture high-quality digital video and still images. The Hon'ble Tribunal has overlooked the difference in technical specification of both the products.

Product literature of both the products have been placed as annexure- ….for better appreciation.

- while classifying goods, the foremost consideration is the 'statutory definition'. And as has already been pointed out above definition of the impugned goods are available in the exiting notification no. 25/2005- Cus at Sr. No. 13. Thus, it should be used to examine the issue in hand. Further, the Board Circular 32/2007 dated 10.09.2007 has also deliberated upon the specification of the "Digital Still image Video camera". According to the said Circular;
  - the digital cameras those record still images on Video format are covered under the description of the exemption entry i. e. "Digital Still image Video camera"
  - The "digital cameras" with still image recording as its principal function;
  - Also include those "digital Cameras" that have the capability of recording moving images for a limited period of time.
- The explanation in Notification No.15/2012 dated 17.03.2012 has been provided which clarifies that "digital still image video camera" means a digital camera not capable of recording video with minimum resolution of 800 x 600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence using the maximum storage (including expanded) capacity";
- In the instant appeals the classification of the said product under CTH 85258020 as claimed by the Appellant is the issue under dispute. The Department's contention is the product is classifiable under residual CTH 85258090 as the said product is an Action camera which is a special purpose camera and not ejesdem generis to the products classifiable under CTH 85258020 or CTH 85258030.
- contention of the Department is supported by an answer given by Mr. Moscovici on behalf of Commission in European Parliament on 15.04.2016, wherein the European Commission has clarified that the devices with

recording capacity of 30 minutes or more are classified as video cameras. By the reply given in EU Parliament the digital camera having capability to record video for more than 30 minutes is not "Digital Still Image Video Camera" and hence cannot be classified under CTH 85258020.

- Similarly European Union's proposal at ITA also mentions this issue. According to the said document in the year 2007 EU Nomenclature Committee adopted an EC regulation and explanatory note for the purpose of distinguishing video cameras from digital cameras. According to these guidelines, the standard for distinguishing between video cameras and digital cameras would place video cameras in the category of machines that record (i) at 800x 600 pixels or higher, (ii) for 30 continuous minutes or more, and (iii) at a speed of at least 23 frames per second. Page 55 to 59 of undersigned compilation tendered.
- It is submitted that the different category cameras available in the market can be broadly divided in to three types of Digital Cameras are basically used to record and store still photographs and the Video footage, digitally. They are;
    - "Digital Still Image Video Camera" whose Primary function is to click still images but has the capability to record video.
    - "Digital Video camera" whose Primary function is to record video but has the capability of clicking still images.
    - Special purpose camera such as Surveillance/Security camera, CCTV camera, infrared camera etc which have special features to accomplish specific functions.
    - The special purpose cameras have features which allow them to perform that specific purpose. Indian HS code mandates that different products shall be classified under different CTH subheading 8525. While the "Digital Still Image Video Camera" is

classified under CTH 85258020 the "Digital Video camera" is classified under CTH 85258030 and the rest is classified in 85258090 as "Others".

- o The impugned goods being promoted, sold, bought and used as Action Cameras belong to this "Other" category.

➢ Following characteristics of the Action camera differentiates it from the common digital still image video cameras.

- o Field of view- It is the angle which the lens covers. A 28mm wide angle lens covers about 63degrees whereas the Action cameras cover about an angle of 150 degree. That is one of the reasons why the still photographs shot with Action cameras suffer from Fish eye distortion. The standard digital cameras come with lens ranging from 18 to 50 mm for the point and shoot cameras. For DSLRs the standard lens starts at 50mm. The normal wide-angle lenses start at 18mm lens. But the GoPro action cameras come with distinctive ultra-wide-angle fisheye look.
- o Frame per Second- The finest of the common Digital Still image Video cameras boast of 10/12 Frame per second. Even the standard Video Cameras shoot with 24 per second. The worldwide standard frame rate for motion picture projection is 24 FPS. But the Action camera Gopro 8shoot with maximum240 frame per second.
- o Bit rate- Bit Rate is the amount of data encoded per second when you shoot video. The higher the bit rate, the higher the quality of your video. The bitrate for the Hero8 Black, in both 4K and 2.7K is 100 Mbps. The Action cameras have much high Bit rate than the common Digital cameras and the video cameras which is in the region of 12 to 24 Mbps.
- o Sensor Size – he Action cameras generally use small size sensors. While the standard DSLR Cameras have bigger sensors, usually the Action cameras have

1/2.3″ sensors. Admittedly, some advanced action cameras have larger one-inch sensors, which means better low light performance, and the ability to capture amazing photos and videos even at higher shutter speeds.

- In-camera Image Stabilisation – Action cameras incorporate Electronic Image Stabilization (EIS) technology to reduce blurring and maintain high image quality while in motion. While in the standard digital still images video cameras image stabilisation lies with the interchangeable lens in case of action cameras, it is in built. The impugned products boast of Hypersmooth in-camera image stabilisation.
- Live streaming – The impugned item has the capability of live-streaming which standard digital still images video cameras do not have. Only the cameras, be it a DSLR, a camcorder, cinema, mirrorless, or any other type which meets certain criteria, can be used for live streaming. The GoPro cameras on the other hand, are designed specifically for streaming.
- While the user of a standard digital still images video camera or video camera record the images by holding the camera in his/her hand and by clicking. The Action cameras are meant for hands-free point of view recording. In a standard digital still images video camera, the user has reasonable amount of control over the aperture and the shutter speed but in case of an action camera the user has practically no control over both the important function of the camera.
- Another feature available in Go Pro Action cameras is Location Capture, which allows you to automatically tag your GPS location to any image or video you capture. This feature enables the user to sort through your files by location, as well as simply

determine where a particular shot was taken. No common Digital camera has this feature.

- In a standard digital still images video camera the standard USPs are range of shutter speed, range of ISO, Megapixel, frame per second but the action cameras sold for their stabilization ability, indestructibility, waterproofing etc.
- For the above reasons the Action cameras are different from the common digital cameras and video cameras.

➢ This is well supported by the commercial or Trade perception of the impugned product. Common Parlance Test is the most common test used for classification of goods for Levy of Tax. Reliance is placed on the decision in case of United Offset Process Pvt. Ltd. [1989 Supp.(1) SCC 131], Porritts & Spencer (Asia) Ltd. A [1979 AIR 300, 1979 SCR (1) 545], Dunlop India Ltd. [[1976] 2 SCC 241],

➢ In the instant appeal the Department has also adhered to that contention that digital camera having the facility to record video for more than 30 minutes cannot be classified as digital camera under CTH Subheading 85258020 as they fall into category of Video Camera. Acceptance of Appellant stance that since the impugned product is a digital camera and hence, classifiable under CTH 85258020 will make the CTH subheading 85258030otiose because;

➢ Revenue submits the Doctrine of Harmonious interpretation does not envisage any interpretation of a provision of a statute which would make another provision of the statute dead or otiose. Hon’ble Supreme Court in case of Hindustan Bulk Carriers laid down five principles of rule of Harmonious Construction:

- The courts should avoid such provisions which are contradicting in nature and which brings the head-on clash between each other.
- The courts should interpret in such a way that brings harmony to the contradicting provisions.

  - The provision of one section cannot defeat the other provision.
  - When the court fails to bring harmony to both parties, it should at least interpret in such a manner where both the provisions are given effect as much as possible.
  - Courts should keep in mind that the interpretation which reduces one provision to the dead is not harmonious, here harmonising doesn't mean destroying.

- Reliance is also placed on the decision in the case of Westinghouse Saxby Farmer Ltd. (2021) 5 SCC 586
- In the cited decision of this Hon'ble Tribunal in case of the Appellant for some other imported goods, lot of reliance has been placed on decision of the United States Court International Trade in case of M/s. Sony Electronics Inc dated 23.12.2013. The same judgement has also been cited by the Appellant in the instant appeal. A close look at the said judgement will prove the reliance placed on the said judgement is misplaced.
- From the literature that product under dispute in that case and the impugned product in the instant appeal are two completely different products with completely different specifications. Hence, both the products cannot be compared and as it has been mentioned above the issues are different too.
- These are the basic reason to introduce explanation in the Sr. no. 13 for definition of Digital Still Image Video camera in Notification no. 25/2005-Cus.to differentiate it from video cameras. In present goods, the frame rate per seconds is quite higher than this limit or the limit set in that explanation.
- Submissions made by the appellant are not tenable for the reason that:-
  - goods are Digital Camera; that the CTH 85258020 simply refers to 'Digital Cameras 'without any stipulation on type of images to be captured. Under

CTI 85258010, 85258020, 85258030 and even CTI 85258090 are meant for 'Digital Cameras'. If this submission is accepted, there is no need of CTI except CTI 85258020. i.e it will make other **CTI otiose.**

- These are rightly classifiable under CTH 85208020 and after latest amendment in the CTH in 2022; it is classifiable under CTH 85258900
- The Notification Nos 25/2005 or 50/2017-cus granted exemption to 'DSC' and it referred Tariff Item 85258020- undersigned agree with this submission **provided** the instant goods are DSC i.e their principal function is of taking Still Images and all the specification are as per the explanation given in the description of the ITA notification no. 25/2005-Cus(SI no. 13). Undersigned again reiterate that impugned goods principal function is **taking motion picture at higher frame rate per second and have feature to recording video in single sequence more than 30 minutes** i.e video and it has specification of all the goods classifiable under CTI 85258010, 85258020 and 85258030, thus in terms of Section XVI, note 3 of Customs Tariff Act, said goods are classifiable under CTI 852580290 as others.
- as long as it is undisputed fact that it is ITA product and **if it is proved that its specification are of taking still image , there is no dispute. But if it violates any of the conditions of the explanation as given in the 25/2005-cus, it should not be considered as DSC. It is also not disputed by appellant that it violates the limitation of taking video in single sequence upto 30 minutes.**
- **Hon'ble Supreme Court in Tata Teleservices - 2006(194)ELT 11 has held that circular cannot impose a restriction or limitation which is not**

there in the notification and in Inter Continent (India) Vs UOI-2003ELT (154) 37(Guj.) also laid down same principal. Thus the appellant's argument appears to be not proper.

- The reliance placed by the appellants on various decisions is not proper and the same are distinguishable as stated earlier in the submissions made.
  - Sony India [2018(362) ELT 637(Tri)]
  - Sony Electronic decision of US Customs Tribunal called International Trade Tribunal
  - Creative Peripherals & Distribution Ltd -2020(374) ELT 794(Tri. Mumbai)
  - Order-In- Appeal No. 525/2021 dated 11.11.2021 at Bangalore
  - Advance Ruling No. CAAR/Del/Canon/12/2022 dated 19.09.2022

4.1 We have considered the impugned orders along with the submissions made in appeal, during the course of arguments and in written submissions filed by both the sides.

4.2 The impugned orders dated 22.11.2019, 02.012020, 13.07.2020, 19.10.2020 in para 1 above have decided the issue on the merits denying the benefit of exemption claimed by the appellant under Notification 50/2017-Cus and upholding the classification of the imported goods under heading 85282090. By the impugned order dated 04.07.2022 in para 1, the appeals filed by the Appellant were disposed of remanding the matter back to assessing office for passing an speaking order as per Section 17 (5) of the Customs Act, 1962, though this ground was taken by the appellant in the appeals decided by the impugned order dated 22.11.2019, 02.012020, 13.07.2020, 19.10.2020. Might be change in the person holding the office of Commissioner (Appeal) has resulted in the change in approach towards the identical appeals on the same issue.

4.3 Be that as it is the orders at dated 22.11.2019, 02.012020, 13.07.2020, 19.10.2020 which considered the issue on merits are identically worded and record as follows for rejecting the appeals on merits:

6. I have carefully gone through the submissions and facts of the case. The issue involved in the present matter is whether to extend the benefit under Sr. No. 502 of notification no. 50/2017-Cus dated 30.06.2017 which is applicable to "Digital still images video cameras" classifiable under CTH 85258020. I find that "Digital still images video cameras" were previously falling under CTH 85254000 and were exempted from BCD vide Notification No. 25/2005- Cus dtd. 01.03.2005 at Sr. No. 13. Further amendment had been made in the said. notification vide notification 15/2012 dated 17.03.2012 vide which "Digital still image video cameras" had been explained in the following manner:

Explanation. - For the purposes of this entry, "digital still image video camera" means a digital camera not capable of recording video with minimum resolution of 800 x 600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence using the maximum storage including expanded) capacity' .

Therefore a 'Digital still image video camera' requires to meets all the three conditions as provided in explanation to qualify for CTH 85258020 under the current Tariff heading and consequential BCD exemption under Notification No. 50/2017 (Sr. No. 502) or the same can be denied if any of the condition is not fulfilled. I find that the basic function of a digital still image video camera is to shoot still images but at the same it may shoot or record video film which of course would be of small length in comparison to video camera which is commonly known as camcorder. The other difference is of low resolution and less frames captured per second. Conversely video camera should have capacity of recording pictures with high resolution with high speed of frame capturing ability. The storage capacity of digital still image video camera should also be on lower side in comparison to video camera which makes the latter better adapted for long duration recording. The first category i.e. digital *still image video camera also includes 'digital camera' that apart from taking still images can take moving images for limited period of time but due to lower resolution and lesser number of frames captured per second, the clarity of video shall be of substandard quality in comparison to camcorder. Having gone through the primary difference between the digital still image video camera and video recording camera (camcorder), if the above definition of digital still video camera as provided under notification no. 15/2012-cus is taken into consideration, I find that digital still image video camera cannot record video of 800x600 pixels and more resolution (in other words it can record less than 800x600 pixels resolution video only and therefore the maximum upper limit is 800x600 pixels); secondly it cannot record at a speed which exceeds 23 frames per second (here again the speed of 23 per second is its maximum speed or upper limit) and at the same time its total one time recording using its maximum storage capacity including expanded capacity cannot be more than 30 minutes.*

4.4 From the perusal of the impugned order we are convinced that only issues that need to be considered by us and pronounced upon in these appeals are:

a. What is the correct classification of the imported goods whether under heading No 85258020 or under the heading 85258090;
b. Whether exemption under the notification No 50/2017-Cus at Sl No 502 is admissible to the appellant.

4.5 Revenue has contended that the matter be kept pending as the issue has under dispute is akin to the dispute referred to larger bench by the Interim Order No 04/2022 dated 08.03.2022 in Customs Appeal No 52218 of 2019. We have considered the said order whereby following question has been referred to the larger bench:

"(i) Whether the 'digital still image video cameras' imported by the appellant would be entitled to BCD exemption under the notification dated 01.03.2005, as amended by the notification dated 17.03.2012, whereby an 'Explanation' was added;

(ii) Whether the Tribunal, in the decision rendered on 19.12.2017, has correctly interpreted the scope of 'Explanation'."

4.6 In the present case we are neither concerned with the exemption notification dated 01.03.2005 as amended by the notification dated 17.03.2012 nor with the explanation inserted by the amending notification. None of the issue which has been referred by the Delhi Bench is involved in the present case and hence we do not find any reason to keep these appeal is abeyance awaiting the decision of larger bench.

4.7 The chapter headings from the tariff are reproduced below:

8525		Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders.
852580	-	Television cameras, digital cameras and video camera recorders
85258010	---	Television cameras
85258020	---	Digital cameras
85258030	---	Video camera recorders
85258090	-	Other

From the perusal of the above entries it is quite evident that headings 85258010, 85258020 and 85258030 are the three dash (---) headings while the heading 852580 and 85258090 are single dash (-) heading. Their seem to be some error in the structuring of the tariff headings for the reason that if the heading 85258090 is single dash heading then it cannot be the part of other single dash heading 852580 as the headings at the same level are comparable. Hence heading 85258090 will have to be read independent of the group covered by the heading

852580 that is "Television cameras, digital cameras and video camera recorders". Further from the plain reading of 852580 and three subsequent three dashed headings (---) it is evident that what is covered by the group specified by this heading is specifically covered by these three heading marked by (---). To understand the issue we referred to the corresponding entries in the HSN.

85.25			*Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders.*
	8525.50	-	*Transmission apparatus*
	8525.60	-	*Transmission apparatus incorporating reception apparatus*
	8525.80	-	*Television cameras, digital cameras and video camera recorders*

From the HSN entries also it is evident that there is no single dash heading available in the group of 85.25 reading as "Others". The existence of such single dash entry reading "Other" in the Customs Tariff at the relevant time seem to be obvious mistake as the same will result in un-aligning the Customs Tariff from the HSN which would be contrary to principle of aligning the Customs Tariff with HSN.

4.8 HSN Explanatory Note for Heading 8525 80

(B) TELEVISION CAMERAS, DIGITAL CAMERAS AND VIDEO CAMERA RECORDERS

This group covers cameras that capture images and convert them into an electronic signal that is :

(1) Transmitted as a video image to a location outside the camera for viewing or remote recording (i.e. television cameras); or

(2) Recorded in the camera as a still image or as a motion picture (i.e. digital camera and video camera recorders).

Many of the cameras of this heading may physically resemble the photographic cameras of Heading 90.06 or the cinematographic cameras of Heading 90.07. The cameras in Heading 85.25 and the cameras in Chapter 90 typically include optical lenses to focus the image on a light-sensitive medium and adjustments to vary the amount of light entering the camera. However, photographic and cinematographic cameras of Chapter 90 expose images onto photographic film of Chapter 37, while the cameras of this heading convert the images into analogue or digital data.

....

....

....

....

In digital cameras and video camera recorders, images are recorded onto an internal storage device or onto media (e.g. magnetic tape, optical media, semiconductor media or other media of Heading 85.23). They may include an analogue/digital convertor (ADC) and an output terminal which provides the means to send images to units of automatic data processing machines, printers, televisions or other viewing machines. Some digital cameras and video camera recorders include input terminals so that they can internally record analogue or digital image files from such external machines.

Generally, the cameras of this group are equipped with an optical viewfinder or a Liquid Crystal Display (LCD), or both. Many cameras equipped with an LCD can employ the display both as a viewfinder when capturing images and as a screen for displaying images received from other sources or for reproducing images already recorded.

4.9 The Explanatory notes to the Combined Nomenclature of the European Union for the heading 8525 80 reads as follows:

8525 80 11 to 8525 80 99	Television cameras, digital cameras and video camera recorders See the HS Explanatory Note to heading 8525, (B). These subheadings do not cover electronic reading devices for the visually handicapped (see the explanatory note to subheading 8543 70 90).
8525 80 30	Digital cameras Digital cameras of this subheading are always capable of still-image recording, whether on an internal storage medium or on interchangeable media. Most cameras of this subheading have the design of a traditional photographic camera and do not have a foldable viewfinder. These cameras may also have video-capture capability to record sequences of video. Cameras remain classified in this subheading unless they are capable, using the maximum storage capacity, of recording, in a quality of 800 × 600 pixels (or higher) at 23 frames per second (or higher) at least 30 minutes in a single sequence of video. Compared to the video camera recorders of subheadings 8525 80 91 and 8525 80 99, many digital cameras (when functioning as video cameras) do not offer an optical zoom function during video recording. Unaffected by the storage capacity, some cameras automatically terminate the recording of video after a certain period of time.
8525 80 91 and 8525 80 99	Video camera recorders Video camera recorders of these subheadings are always capable of recording sequences of video, whether on an internal storage medium or on interchangeable media. In general, the digital video camera recorders of these subheadings have the design which differs from digital cameras of subheading 8525 80 30. They often have a foldable viewfinder and are frequently presented together with a remote control. They always offer an optical zoom function during video recording. These digital video camera recorders may also have still image recording capability. Digital cameras are excluded from these subheadings if they are not capable, using the maximum storage capacity, of recording, in a quality of 800 × 600 pixels (or higher) at 23 frames per second (or higher) at least 30 minutes in a single sequence of video.
8525 80 99	Other This subheading covers video camera recorders (so-called ‘camcorders’) for the recording not only of sound and images taken by the camera but also of signals

	from external sources, for example, DVD-players, automatic data-processing machines or television receivers. The images thus recorded can be reproduced by means of an external television receiver or monitor. This subheading also includes 'camcorders' in which the video input is obstructed by a plate or in another way, or in which the video interface can be subsequently activated as video input by means of software. The apparatus is nevertheless designed to record television programmes or other externally incoming signals. However, 'camcorders' with which only the images taken by the camera can be recorded and reproduced by means of an external television receiver or monitor fall in subheading 8525 80 91.

Further USITC has following entries:

852580	Television cameras, digital cameras and video camera recorders:
85258010	Television cameras: gyrostabilized television cameras
85258020	Studio television cameras excluding shoulder-carried and other portable cameras
85258030	Television cameras, nesoi
85258040	Digital still image video cameras
85258050	Television cameras, digital cameras and video camera recorders
8525805010	Camcorders: 8 mm
8525805020	Other
8525805050	Other

From the above it is quite evident that the tariff entries in respect of US Tariff, and Combined Nomenclature for EU, are though identical at the six digit level (HS is six digit level) are not identical at the eight digit level. While the US Tariff, against heading 85258040 classifies "Digital still image video cameras" and classifies the digital cameras and video camera recorders against heading 85258050. Similarly Combined Nomenclature of European Union, puts a restriction on the classification of goods under 85258030 as digital cameras, in terms of *"storage capacity of recording in a quality of 800 × 600 pixels (or higher) at 23 frames per second (or higher) at least 30 minutes in a* *single sequence of video".* Indian Tariff do not do so and classify the digital cameras simultaneously under the heading 85258020. Further should be noted the benefit of exemption has been extended not to the heading 85258020, but only to "Digital Still Image video cameras" classifiable under this heading in terms of the various exemption notifications which will be discussed in subsequent paragraphs.

4.10 Classification is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. From the plain reading of the heading 85258020, it is quite evident that for classification under this heading the goods under question should be a "Digital Camera" and the terms of the heading are not restricted to "Digital Still Image Video Camera". All the cameras which are digital cameras get classified under this heading. Further revenue do not dispute that the goods covered by the above referred bill of entries are "action cameras". In para 7 of the impugned order specific finding has been recorded to this effect. As per article available on Wikipedia (https://en.wikipedia.org/wiki/Action_camera assessed on 10.02.2023) following is explained about the action cameras:

*"**An action camera or action cam is a digital camera designed for recording action while being immersed in it.** Action cameras are therefore typically compact and rugged, and waterproof at surface-level. They typically use CMOS image sensors,[1] and can take photos in burst mode and time-lapse mode as well as record high-definition video (as of 2019, mid-range to high-end action cameras can record 4K video at 60 fps). Slow-motion video recording at 120 or 240 fps is also a common feature.*

The camera is typically worn or mounted in such a way that it can shoot from the point of view of the shooter. Some examples of common places to mount an action camera are on a hat or helmet, on the chest, or on the handlebars of a bike or similar *vehicle. They may also be mounted on a tripod or on a monopod for handheld use. An action camera is usually designed to require minimal interaction once recording has begun, as this allows continuous capture of the action without having to interact with the camera. A typical action camera records onto a micro SD card, and has either a Micro-USB or a USB-C connector.*

Action cameras are associated with outdoor sports, and, often attached to helmets, surfboards or handlebars, are an integral part of many extreme sports such as base jumping and wingsuit flying. Sometimes several cameras are used to capture specific perspectives, such as a helmet camera that sees the perspective of the actor in combination with a second camera attached to the environment of the rider, such as a board, wing, handlebar or wrist, that looks back onto the rider and records their reactions.

The category commonly is associated with the GoPro range of cameras, and many action cameras come with a GoPro mount adapter to take advantage of the accessories available for these cameras. *However, there are many GoPro alternatives which are entering the market of action cameras in recent times."*

Undisputedly the cameras imported by the appellant of Models referred in table in para 1 are "Digital Cameras", and would merit classification in this heading 85258020 only which is more specific rather than the residual entry at 85258090 as held by the Commissioner (Appeal). The only reason for holding the classification of these cameras under heading 85258090 as stated in the impugned order is that the imported cameras are capable of recording video also. The said reasoning is contrary to the classification of "Digital Still Image Video Camera" in the exemption notifications from 2005 onwards. Reference is made to Notification No 25/2005-Cus, 12/2012-Cus & 50/2017-Cus. It is worth noting that the entry in the tariff is not identical to the wordings used in the exemption notification. The tariff classifies all the *"Digital cameras"* 85258020 unlike USITC of United States of America or Combined Nomenclature of European Union.

Accordingly on the issue of classification we clear in our view that the classification of the imported action cameras by the appellants of the models as indicated in table in para 1 will be under CTH 85258020, at the relevant time.

4.11 Our view is in line with the view expressed by the tribunal earlier in the case of appellant holding as follows:

"8.3 For the period up to the year 2005-06, 'still image video cameras' and 'video camera recorders'; 'digital cameras' were classified under Tariff Item 8525 40 00 of the First Schedule to the Customs Tariff Act, 1975 (CTA). However, in the year 2006-07, the Tariff Item was aligned with the Harmonised System of Nomenclature (HSN). As a result of the alignment, digital still image video cameras came to be classified under Tariff Item 8525 80 20 and video camera recorders were classified under Tariff Item 8525 80 30 of the CTH. With regard to proper classification of 'digital still image video camera', in the relied upon case, the Plaintiff M/s. Sony Electronics INC. prayed for a ruling: from the U.S, Court of International Trade, New York. After detailed discussions and upon analysis of the relevant Tariff description, HSN notes and considering the functional test of the camera, the U.S. Court vide judgment dated 23-12-2013 had opined that 'digital still image video camera' is that which is capable of recording still images as well as videos, in digital format. The Court also held that it is irrelevant as to which feature/function is more fundamental or principal and that as long as the camera is capable of recording both photographs and videos, the same qualifies to be a 'digital still image camera'. Since the camera is an electronic device, capable of digitally capturing and recording still and moving images, the U.S. Court has held that such camera should appropriately be classifiable under 8525.80.40 as digital still image video camera. In view of the fact that the Tariff classification of the goods as per HSN is determined according to the standards prescribed by the World Customs Organisation, where India is a member country, we are of the considered opinion that the declaration made by the U.S. Court; in respect of classification of the subject goods should

have persuasive value in consideration of the classification of the disputed goods under CTH 8525 80 20 in the present case.

8.4 The alternate submissions made by the Learned AR for Revenue that the disputed goods might be classifiable under Tariff Item 8525 80 30 is not acceptable by the Bench at this juncture. Such issue was neither the subject matter of dispute at the assessment nor the first appellate stage. Thus, the focus before the Tribunal is confined for consideration of the rival classification of the imported goods either under Tariff Item 8525 80 20 or 8525 30 90 and not otherwise. The cameras imported by the appellant are satisfying the requirements of the HSN notes, explaining the characteristics of a Digital Camera. With regard to proper classification of goods, Rule 3(a) of the General Rules for Interpretation of the Harmonized System provides that the heading which endowed with the most specific description shall be preferred to headings, providing a more general description. Further, Rule 4 of the said Rules also explains that goods which cannot be classified in accordance with the said Rules shall be classified under the heading appropriate to the goods to which they are most akin. The impugned order, in this case, has accepted the fact that the cameras in question are Digital Cameras. But due to short in recording capacity and low resolution in capturing the images, it has changed the classification and also denied the benefit contained in notification dated 30-6-2017. On close scrutiny of the product description mentioned in Heading 8525, we are not inclined to accept classification of subject goods under Tariff Item 8525 80 90, for the reason that the description under such sub-heading as 'others' is of more in general type. On the contrary, by accepting the trade parlance theory, confirmation of the manufacturer, HSN clarificatory notes etc., we find that the proper interpretation of the law and statute demands that the impugned goods are to be more appropriately classifiable under Tariff Item 8525 80 20, as claimed by the appellant."

4.12 Now coming to the issue of exemption claimed by the appellant under Notification No 50/2017-Cus is taken up for consideration. The relevant entry in the notification is reproduced below:

S. No.	*Chapter or Heading, Sub-Heading or Tariff Item*	*Description of Goods*	*Standard rate*	*Additional duty rate*	*Condition No.*
(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
502	85258020	Digital Still Image Video Cameras	Nil	-	-

To determine the admissibility of exemption notification, Commissioner has referred to the explanation inserted in the Notification 25/2005-Cus dated 01.03.2005 by the Notification dated 17.03.2012. Tracing the entire history of the amendments made in the Notification 15/2012-Cus, Delhi Bench has in its interim order referred earlier recorded as follows:

"3. The issue involved in this appeal is whether these cameras imported by the appellant are eligible for exemption from BCD under serial no. 13 of the notification dated 01.03.2005, as amended by notification dated 17.03.2012.

4. It would be necessary for appreciating the issue, to first understand what factors led to the issuance of these two notifications. Information Technology Agreement 6 is an agreement that was enforced by the World Trade Organization and concluded in the Ministerial Declaration on Trade in Information Technology Products in 1996. The aim of the said treaty was to lower all taxes and tariffs on information technology products by the signatories to zero. The 'digital still image video cameras' are also mentioned in the list of products covered under the ITA. Various countries that are signatories to the ITA, therefore, undertook to reduce import tariff rates for the digital still image video cameras to NIL. Being a signatory to the *said agreement, India also undertook to allow the imports of various electronic goods, including 'digital still image video cameras' classifiable under Customs Tariff Heading7 8525 at nil rate of duty.*

5. To fulfill its obligations under the ITA, the Ministry of Finance of the Government of India issued BCD exemption under notification dated 01.03.2005. The exemption to 'digital still image video cameras' was provided under serial no. 13 of the notification dated 01.03.2005 and the relevant portion of this notification is reproduced below: "Exemption to specified goods of Chapters 84 & 85 (ITA Bound expositions).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts following goods of the description specified in column (3) of the Table below and falling within the heading, sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as are specified in the corresponding entry in column (2) of the said Table, when imported into India, from the whole of the duty of customs leviable thereon under the said First Schedule, namely:-

S.No.	*Heading, Sub-Heading or Tariff Item*	*Description of Goods*
(1)	*(2)*	*(3)*
13.	*8525 40 00*	*Digital still image video cameras*

6. Thereafter, w.e.f. 01.01.2007, the notification dated 01.03.2005 was aligned with the Harmonised System of Nomenclature 8 amendments and the tariff entry for 'digital still image video cameras' was changed to CTI 8525 80 20, but the description remained the same.

7. A Circular dated 10.09.2007 was also issued clarifying the difference between 'digital still image video cameras' and 'video camera recorders'. It clarifies that the term 'digital still image video cameras' covers only digital cameras that have the *capability of taking still images but this would also include digital cameras that take moving images for a limited period of time though they are primarily still image cameras. Such cameras would fall, it was clarified, under CTI 8525 80 20 but digital cameras that can take both still images and moving images like camcorder or video recorder falling under CTI 8525 80 30 shall not be covered under CTI 8525 80 20.*

8. Thereafter, the notification dated 01.03.2005 was amended by notification dated 17.03.2012 and an 'Explanation' was inserted. The relevant portion of the notification is reproduced below:

S.No.	*Heading, Sub-Heading or Tariff Item*	*Description of Goods*
(1)	*(2)*	*(3)*
13.	*8525 80 20*	*Digital still image video cameras.* *Explanation.- For the purposes of this entry, "digital still image video camera" means a digital camera not capable of recording video with minimum resolution of 800 x 600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence using the maximum storage (including expanded) capacity.*

9. With effect from 01.03.2015, the notification dated 01.03.2015 was further amended to read as follows:

S. No.	*Chapter or Heading, Sub-Heading or Tariff Item*	*Description of Goods*	*Standard rate*	*Additional duty rate*	*Condition No.*

(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
428A.	*8525 80 20*	*Digital Still Image Video Cameras capable of recording video with minimum resolution of 800 x 600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence using the maximum storage (including expanded) capacity*	*Nil*	-	-

10. The aforesaid notification dated 01.03.2005 was further amended by notification dated 30.04.2015 and the same is reproduced below:

S. No.	*Chapter or Heading, Sub-Heading or Tariff Item*	*Description of Goods*	*Standard rate*	*Additional duty rate*	*Condition No.*

(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
428A.	*8525 80 20*	*Digital Still Image Video Cameras*	*Nil*	-	-

11. It would thus be seen that 'Explanation' was inserted from 17.03.2012 to 30.04.2015 only. Prior to 17.03.2012 and post 30.04.2015, the exemption from BCD was granted to 'digital still image video cameras' without the Explanation."

4.13 In case of Panam Corporation [2020 (374) ELT 743 (T)] for the period prior to insertion of the Explanation in 2012, tribunal refused to restrict the meaning given to the phrase "Digital Still Image Video Cameras" and allowed the benefit of exemption at Sl No 13 of 2005 notification observing as follows:

"6. In these cases, the appellant had claimed the classification of the imported goods namely, TCL-DV710 cameras under CTH 8525 80 20, which describes the goods as "Digital Cameras". There is no definition provided for the Digital Camera; neither the Customs Tariff nor Notification No. 25/2005. The HSN Explanatory notes to Heading 85.25 too do not have a definition for such goods as such. But the said Explanatory note describes the characteristic of a digital camera by explaining that the images are recorded on an internal storage device like semiconductor media; the camera has an output terminal, to send the images to other viewing machines. The features of a digital camera as submitted by the appellants are in conformity with the Explanatory Notes. According to the technical information, the 'digital cameras' are those wherein the images and/or video are stored digitally (without a film) in the camera and can be viewed digitally on other devices like computer etc. It is an admitted fact on record that the cameras imported by the appellant were meant for capturing images/videos and stored the same on semiconductor media for viewing digitally on the camera itself and on other digital devices.

7. We find that the impugned goods have capacity to record video images also in addition to still images. Furthermore, on perusal of the literature submitted by the appellants, it is clear that the accessories of cameras include PC connection set indicating that they store images and/or video are stored digitally (without a film) in the camera and can be viewed digitally on other devices like computer etc. This conforms to the explanatory notes. Moreover, the notification does not define the cameras but says that the exemption is applicable to 'Digital Still Image Video Cameras'. Hon'ble Apex Court in the case of Associated Cement Co. Ltd. v. State of M.P. [2004 (168) E.L.T. 151 (S.C.)], held that when the words in the notification have not been specifically defined, then their popular or commercial meaning given by those dealing with them has to be resorted to.

8. We find that after alignment of the impugned Tariff Item was aligned with the Harmonised System of Nomenclature (HSN). As a result of the alignment, digital cameras came to be classified under Tariff Item 8525 80 20 and video camera recorders were classified under Tariff Item 8525 80 30 of the CTH. With regard to proper classification of "digital still image video camera", we find that on a prayer by M/s. Sony Electronics INC, U.S. Court of International Trade, New York, after detailed discussions and upon analysis of the relevant Tariff description, HSN notes and considering the functional test of the camera, vide judgment dated 23-12-2013, opined that 'digital still image video camera' is that which is capable of recording still, images as well as videos, in digital format; the Court also held that it is irrelevant as to which feature/function is more fundamental or principal and that as long as the camera is capable of recording both photographs and videos, the same qualifies to be a 'digital still image camera'. Since the camera is an electronic device, capable of digitally capturing and recording still and moving images, the U.S. Court has held that such camera should appropriately be classifiable under 8525 80 40 as digital still image video camera. In view of the fact that the Tariff classification of the goods as per HSN is determined according to the standards prescribed by the World Customs Organisation, where India is a member *country, we are of the considered opinion that the declaration made by the U.S. Court in respect of classification of the subject goods should have persuasive value in consideration of the classification of the disputed goods under CTH 8525 80 20 in the present case.*

9. The Department relies upon Circular No. 32/2007, dated 10-9-2007, the Circular mentions at Paras 5, 6 and 7 as follows :

5. The WCO has clearly outlined the features of the Digital Video camera. Such cameras have been described as Digital cameras that capture light images, convert them to digital electronic signals and then record such digital image data on internal or removable media (built-in memory or diskettes). These images can be reproduced by connecting the camera to a video monitor (or TV), an ADP machine, or by inserting the media in the ADP machine. This type of digital cameras can produce both video signals (e.g., NTSC, PAL, SECAM or other similar video format) and computer readable image data tike MPEG.

6. The term 'Video' relates to recording, reproducing or broadcasting of visual images. It is a technology of electronically capturing, recording, processing, storing, transmitting, and reconstructing a sequence of still images representing scenes in motion. The term "Still image video" camera covers the types of camera that take still images and stores them as single frame of video. These single video frames, when reproduced at a specified frame rate achieve an illusion of a moving image. The minimum frame rate is about fifteen frames per second. The term 'digital still image video camera' covers only digital cameras that have the capability of taking still images. This would also include digital cameras that take moving images for limited period of time although they are primarily still image cameras. Such cameras fall under tariff item 8525 80 20. However, digital cameras that can take both still images and moving images like Camcorder or video recorder falling under Tariff item 8525 80 30 shall not be covered under the said entry. Digital still image video cameras can also be differentiated from the still cameras *of heading 9006 i.e. photographic film cameras. Cameras of this type are also not eligible for the benefit of these notifications.*

7. It is accordingly clarified that the benefit of entry at Sl. No. 314 of notification No. 21/2002-Cus. as well as Sl. No. 13 of Notification 25/2005-Customs, dated 1-3-2005 would be available to 'digital cameras' with still image recording as its principal function. This would also include those digital cameras that have the capability of recording moving images for a limited period of time.

10. In view of the above Circular, exemption will be available to "Digital Cameras" with still image recording as the principal function. This should also include those digital cameras that have the capability of recording moving images for a limited period of time. We find that the appellants submit that on testing the product, if would be clear that the number of still image photos clicked would be about 200, whereas, at the same time, the video recording/shooting would be not more than 3 to 3.5 minutes. We find that Revenue has not denied the fact and have not recorded any findings contracting the submissions of the appellant. The appellants also submit that the packaging indicated the impugned goods to be digital still image video camera and the functions are explained in the Manuals. We find that as per the HSN Explanatory Notes, the impugned goods are digital cameras. Therefore, the exemption contained in [Circular] No. 32/2007 is applicable to digital still image video cameras. It is not the case of the Department that the impugned goods are not digital cameras. Once the fact is established, exemption cannot be denied. Moreover, it is also not denied that the impugned cameras have a limited capability of recording videos. Even as per the Circular, such cameras are eligible for exemption. We also find that the case laws relied upon by the Department are not relevant in view of the above discussion and in view of the fact that goods discussed wherein are different"

4.14 In the case of Prestige Engineering India Ltd. [1994 (73) ELT 497 (SC)] Hon'ble Supreme Court, did not agreed to the contention of the revenue that the definition of the word manufacture as per Central Excise Act, 1944 should be referred to while interpreting the exemption notification observing as follows:

"17.*Sri Vellapally, learned counsel for the Revenue - and the Special Bench of the CEGAT - is, therefore, right in pointing out the said defect in the reasoning of the Calcutta and Gujarat High Courts and in saying that the expression "manufactured" in the Notification should be understood as defined in the Act. At the same time, we find it difficult to agree with the learned counsel that the expression "manufacture" contemplated by the Notification is confined to those processes alone which are "incidental or ancillary to the completion of manufactured product" - processes contemplated by clause (i) of Section 2(f). We do not see any warrant for restricting the meaning of the expression "manufactured" occurring in the Notification only to the aforesaid processes. In our opinion, the stress in the Notification is rather upon the word "job work". Now, what does the expression `job work' mean? On this question, the Explanation is not of much assistance. The Concise Oxford Dictionary assigns several meanings to the expression `job' but the relevant meaning having regard to the present context is "a piece of work especially one done for hire or profit". The expression `job work' is assigned the following meaning : "work done and paid for the job". The Notification, it is evident, was conceived in the interest of small manufacturers undertaking job-works. The idea behind the Notification was to help the job-workers - persons who contributed mainly their labour and skill, though done with the help of tools, gadgets or machinery, as the case may be. The Notification was not intended to benefit those who contributed their own material to the articles supplied by the customer and manufactured different goods. We must hasten to add that addition or application of minor items by the job-worker would not detract from the nature and character of his work. For example, a tailor entrusted with a cloth piece and asked to stitch a shirt, a pant or a suit piece may add his own thread, buttons and lining cloth. Similarly, a factory may be supplied the shoe uppers, soles etc. by the customer and the* *factory applies its own thread or bonding material and manufactures shoes therefrom and supplies them back to the customer, charging only for its work. The nature of its work does not cease to be job-work. Indeed, this aspect has been stressed in all the decisions of High Courts referred to hereinbefore.*

18.*The interpretation placed by us does not render the Explanation in the Notification redundant in any manner, while at the same time it advances the object of the Notification, viz., helping factories undertaking manufacturing processes in the nature of job-work. The restricted interpretation contended for by the Revenue unduly curtails the operating field of the Notification. True it is that processes incidental or ancillary to the completion of the manufactured product are within the purview of the Notification, but it may not be correct to say that the Notification refers only to those processes and to nothing else. In the two illustrations given in Anup Engineering, viz., where the brass sheet is moulded into a brass pot and where the cloth piece is stitched into a suit, or in the illustration given by us, viz., where shoe uppers and soles etc. are supplied by the customer and the factory prepares shoes out of them, it cannot be said that the article that is entrusted to the factory (undertaking job-work) and the article that is supplied back to the customer are totally different. They are the same articles though in a different form. Insisting upon the same article being returned to the customer after undergoing the manufacturing process at the hands of the job-worker may rob the Notification of any substance whatsoever. The Special Bench evidently laid more emphasis upon the Explanation which led it to confine the operation of the Notification only to those processes which are incidental or ancillary to the completion of the manufactured product. That in our view amounts to undue curtailment of the ambit of the Notification. If that were the intention of the Central Government in issuing the Notification, it would have said so clearly. It must be remembered that the Notification was issued simultaneously with the introduction of Tariff Item 68 in Schedule-I to the Act and was intended to help those factories undertaking job works, who were charging their customers only* *for the work done by them. In their hands, the value of the article would be the value of the job-work done by them - and not the total value of the article which would have been the case but for the Notification. According to the restricted view contended for by the Revenue, a tailoring factory stitching clothes out of the cloth supplied or a factory preparing shoes out of material supplied by the customer, in the illustrations given hereinabove, would not qualify for the benefit of the Notification. (We are not concerned herein how such articles would be valued in the hands of the supplier.)"*

4.14 Thus we are not in agreement with the findings recorded in the impugned order, to the effect that the phrases used in the Notification No 50/2017-Cus at Sl No 502 has to be interpreted in light of the Explanation which was there in some other Notification at any point of time we are not concerned with the interpretation of the Notification wherein explanation was given defining the phrase "*Digital Still Image Video Cameras".* The said explanation cannot be used to restrict the phrase used in the notification under consideration. If government intended that the said phrase should have been interpreted according to the explanation contained in the earlier notification then same explanation could have been inserted in the present notification.

4.15 While holding that the benefit of exemption under Notification 50/2017-Cus Sl No 502 will be admissible to the similar goods imported by the appellant, tribunal has held as follows:

"9.2 The Central Government vide Notification No. 25/2005-Cus., dated 1-3-2005 has exempted the 'digital still image video cameras' falling under the Tariff Item 8525 80 40 from the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975. After alignment of the said Tariff Item in the HSN, the notification dated 1-3-2005 was substituted w.e.f. 1-1-2007 and the Tariff Item was renumbered as 8525 80 20. No condition was prescribed in the said notification for grant of exemption from payment Customs duty. Subsequently, the above notification dated 1-3-2005 was amended vide Notification

No. 15/2012-Cus., dated 17-3-2012. The effect of amendment was that against Sl. No. 13, for the entry in column (3) of the earlier notification dated 1-3-2005 in respect of the product 'Digital still image video cameras', an explanation was added by way of substitution, which reads as - 'For the purpose of this entry, 'digital still image video camera' means a digital camera not capable of recording video with minimum resolution of 800×600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence using the maximum storage (including expanded) capacity'. While the aforementioned notification dated 17-3-2012 was in existence, the Central Government, vide another Notification No. 50/2017-Cus., dated 30-6-2017, has prescribed 'Nil' rate of duty in respect of the said product, without attaching any condition thereto. The notification dated 30-6-2017 was issued by the Central Government in supersession of the provisions contained in the earlier notification dated 17-3-2012, referred supra.

9.3 In the present case, it is an admitted fact on record that the appellant had claimed the benefit of notification dated 30-6-2017, which was purportedly denied by the authorities below on the ground that imported cameras are not capable of recording the images as per the parameters prescribed under notification dated 17-3-2012. On careful examination of both the notifications dated 17-3-2012 and 30-6-2017, it clearly reveals that the later notification was issued by superseding the former notification, wherein the character and features of the digital cameras of Tariff Item 8525 80 20 were defined by way of inserting an explanation. For ascertaining the true scope and ambit of the phrase 'supersession', we may refer to the meaning assigned to it in the dictionary. The Shorter Oxford English Dictionary - Third edition, defines the said term to mean an action of superseding or condition of being superseded. The said dictionary also assigns the meaning of 'supersede' to indicate that to put a stop to; to render superfluous or unnecessary; to make of no effect; to annul; to take the place of; to succeed to the place occupied by. Further, Hon'ble Supreme Court in the case of State of Rajasthan v. Mangilal Pindwal, reported in

MANU/SC/0549/1996 have delineated the meaning of 'supersession' by holding that the old Rule is made to cease to exist and a new Rule is brought into existence in its place. It has also been held that the substitution of a provision results in repeal of the earlier provision and its replacement by the new provision. The legislative intent behind the superseding notification dated 30-6-2017 (in dispute) is manifest that the embargo created in the earlier notification dated 17-3-2012 should not be looked into, meaning thereby that the 'Digital Still Image Video Cameras' falling under Tariff Item 8525 80 20 should be eligible for the benefit of duty exemption and the criterion of quality and capacity to record images/events provided in the explanation appended to the earlier notification dated 17-3-2012 should not be insisted upon by the Customs authorities. In the present case, it is an undisputed fact that the Learned Commissioner (Appeals) has accepted that the cameras in question imported by the appellant have functionality of both digital still cameras as well as capable of capturing videos. Thus, we are of the considered opinion that the duty exemption provided under notification dated 30-6-2017 for 'digital still image video camera' should be available to the appellant.

10.1 Reference made by the Learned AR for Revenue to the Circular No. 32/2007-Cus., dated 10-9-2007 is incorrect on two folds. Firstly, the said circular was issued with respect to Sl. No. 13 of Notification No. 25/2005-Cus., dated 1-3-2005 and secondly, the said circular evidently referred to the restriction on Video recording as per the explanation provided within the notification defining the goods as 'digital still image video camera'. In the case in hand, the appellant had claimed the duty exemption provided under the Notification No. 50/2017-Cus., dated 30-6-2017, whereunder no condition was prescribed for availment of the benefit. The law is well settled by the Hon'ble Apex Court in the case of Tata Teleservices Ltd., (supra) that the C.B.E. & C. Circular cannot impose limitation or restriction, which is not provided in the notification itself."

4.16 Revenue has in its submission asserted that the parallel notification in respect of the same goods existed at the relevant time stating as follows:

i) *In 2005, the erstwhile notification 02/2002-cus was running parallel to notification no. 25/2005-Cus. The Notification No. 02/2002-Cus was superseded by Notification No. 12/2012-Cus dated 17.03.2012. and Notification No. 25/05 Cus, dated 01.03.2005 was amended vide Notification No. 15/2012 Cus. dated 17.03.2012.*

ii) *The Notification no. 12/2012-Cus is superseded by Notification no. 50/2017-Cus dated 30.06.2017. Notification no. 15/2012-cus, vide which the parallel notification no. 25/2005-Cus dated 01.03.2005 was amended is still valid and it is still existing.*

iii) *Consequence to WTO agreement the First Schedule to The Customs Tariff Act, 1975 was amended and the erstwhile CTI 85258020 was replaced with New CTI 85258900 for all types of Digital Camera. In new scheme of classification for Digital Cameras, all distinctions are replaced and only one CTI 85258900 is available. i.e now there is no separate entry existing for Television Camera, Digital Camera, Camcorder Camera, Video Camera etc. Only a few new entries are introduced for very specialized Cameras.*

iv) *The appellant has claimed benefit of Notification no.50/2017-Cus, Sr. No. 502, but it is a fact also that the notification no. 15/2012-cus dated 17.03.2012 was never rescinded.*

v) *The Notification No. 02/2002-Cus was superseded by Notification No. 12/2012-Cus dated 17.03.2012 and now the Notification no. 12/2012-Cus is superseded by Notification no. 50/2017-Cus dated 30.06.2017. Thus it is submitted that for impugned goods there were parallel notifications available "from 2005 onwards.*

vi) *The parallel notification was available, because, the notification no. 50/2017-Cus is for general exemption to* *almost all the items, but the notification no. 25/2005-Cus was issued for specific products of information technology, issued in compliance of WTO requirements."*

4.17 We do not find any merits in the said argument of the revenue because it is settled law that if two notifications are available to the importer at the same time in respect of the imported goods, then it is for importer to choose the exemption which is beneficial to him, revenue cannot force him to chose a particular exemption notification. The argument made by the revenue by the revenue that the exemption notification No 50/2017_Cus was General exemption Notification and Notification No 25/2005-Cus as amended by the Notification No 15/2012 dated 17.03.2012, is more specific for the goods under question, is still in existence and should have been applied, was rejected by the Hon'ble Supreme Court in case of HCL Limited [2001 (130) ELT 405 (SC)] stating as follows:

"*The question in these appeals is covered in favour of the appellant by the order of this Court in Collector of Central Excise, Baroda v. Indian Petro Chemicals [1997 (92) E.L.T. 13]. Where there are two exemption notifications that cover the goods in question, the assessee is entitled to the benefit of that exemption notification which gives him greater relief, regardless of the fact that that notification is general in its terms and the other notification is more specific to the goods."*

Hon'ble Supreme Court has in case of Share Medical Care [2007 (209) ELT 321 (SC)] has observed as follows:

"14. *In Kerala State Cooperative Marketing Federation Ltd. & Ors. v. Commissioner of Income Tax, (1998) 5 SCC 48 : JT 1998 (4) SC 145, interpreting Section 80-P(2)(a) of the Income Tax Act, 1961, this Court said;*

"We may notice that the provision is introduced with a view to encouraging and promoting growth of co-operative sector in the economic life of the country and in pursuance of the declared policy of the Government. The correct way of reading the different heads of exemption enumerated in the section would be

to treat each as a separate and distinct head of exemption. Whenever a question arises as to whether any particular category of an income of a co-operative society is exempt from tax what has to be seen is whether income fell within any of the several heads of exemption. If it fell within any one head of exemption, it would be free from tax notwithstanding that the conditions of another head of exemption are not satisfied and such income is not free from tax under that head of exemption. The expression "marketing" is an expression of wide import. It involves exchange functions such as buying and selling, physical functions such as storage, transportation, processing and other commercial activities such as standardisation, financing, marketing intelligence etc. Such activities can be carried on by an Apex Society rather than a primary society".

(emphasis supplied)

15. *From the above decisions, it is clear that even if an applicant does not claim benefit under a particular notification at the initial stage, he is not debarred, prohibited or estopped from claiming such benefit at a later stage.*

16. *In the instant case, the ground which weighed with the Deputy Director General (Medical), DGHS for non-considering the prayer of the appellant was that earlier, exemption was sought under category 2 of exemption notification, not under category 3 of exemption notification and exemption under category 2 was withdrawn. This is hardly a ground sustainable in law. On the contrary, well settled law is that in case the applicant is entitled to benefit under two different Notifications or under two different Heads, he can claim more benefit and it is the duty of the authorities to grant such benefits if the applicant is otherwise entitled to such benefit. Therefore, non-consideration on the part of the Deputy Director General (Medical), DGHS to the prayer of the appellant in claiming exemption under category 3 of the notification is illegal and improper. The prayer ought to have been considered and decided on merits. Grant of exemption under category 2 of the notification or withdrawal of the said benefit cannot come in the* *way of the applicant in claiming exemption under category 3 if the conditions laid down thereunder have been fulfilled. The High Court also committed the same error and hence the order of the High Court also suffers from the same infirmity and is liable to be set aside."*

4.18 Further we are also not in agreement with the submissions made by the revenue that at the relevant time there were two parallel exemption notifications available at the same time. Notification No 25/2005-Cus ate Sl No 13, was amended by the Notification No 39/2018-Cus dated 02.04.2018, stating as follows:

"(i) against serial number 13, for the entry in column (3), after the words "Digital still image video cameras", the words "other than camera or camera module of cellular mobile phones" shall be inserted;"

Thus the amended entry along with the explanation read as follows after the amendments made in 2018.

S No	Heading, Sub – heading or Tariff item	Description of goods
13	85258020	Digital still image video cameras other than camera or camera module of cellular mobile phones Explanation.-For the purposes of this entry, "digital still image video camera other than camera or camera module of cellular mobile phones" means a digital camera not capable of recording video with minimum resolution of 800 x 600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence using the maximum storage (including expanded) capacity";

4.19 Further following has been clarified by the Board vide Circular no 32/2007-Cus dated 10.09.2007-

"2. Prior to 1.1.2007, tariff Item 8525 40 00 of the Customs Tariff Act (CTA) 1975, covered "still image video cameras and other video camera recorders; digital cameras". According to Harmonized System (HS) Explanatory Notes (Third edition,2002), the apparatus of sub-heading 8525.40 consisted of a combination of video camera and a video recording or reproducing apparatus; these apparatus record the images taken by the camera. All types of digital cameras perform these functions. With effect from 1.1.2007, based on HS 2007 changes, all digital cameras have been grouped under tariff item 8525 80 20 of the Customs Tariff Act, 1975 as 'digital cameras'. However, 'Video Camera Recorders' are separately classifiable under Tariff Item 8525 80 30.

3. Import duty exemption was extended to 'Digital Still Image Video camera' falling under sub-heading 8525.40, vide entry at Serial Number 314 of Notification No.21/2002-Customs dated 1.3.2002. This exemption is presently covered under Serial Number 13 of Notification No. 25/2005-Customs dated 1.3.2005. Since the notification entry at Sl. No. 314 of Notification No. 21/2002-Cus. dated 1.3.2002 used the words 'video' as well as 'still image', there was a doubt in the field formations whether this entry covers such digital cameras which are capable of both still image photography as well as video film shooting.

4. This issue was deliberated at the Conference of Chief Commissioners' on Tariff and Allied Matters in 2006, wherein it was decided that only those digital cameras that record still images on Video format are covered under the description of the exemption entry i.e. 'digital still image video cameras'. However, to ensure uniformity, it was decided that the Board would issue a circular in this regard. The minutes of this Conference were circulated to the field formations.

5. The WCO has clearly outlined the features of the Digital Video camera. Such cameras have been described as Digital *cameras that capture light images, convert them to digital electronic signals and then record such digital image data on internal or removable media (built-in memory or diskettes). These images can be reproduced by connecting the camera to a video monitor (or TV), an ADP machine, or by inserting the media in the ADP machine. This type of digital cameras can produce both video signals (e.g., NTSC, PAL, SECAM or other similar video format) and computer readable image data like MPEG.*

6. The term 'Video' relates to recording, reproducing or broadcasting of visual images. It is a technology of electronically capturing, recording, processing, storing, transmitting, and reconstructing a sequence of still images representing scenes in motion. The term "Still image video" camera covers the types of camera that take still images and stores them as single frame of video. These single video frames, when reproduced at a specified frame rate achieve an illusion of a moving image. The minimum frame rate is about fifteen frames per second. The term 'digital still image video camera' covers only digital cameras that have the capability of taking still images. This would also include digital cameras that take moving images for limited period of time although they are primarily still image cameras. Such cameras fall under tariff item 8525 80 20. However, digital cameras that can take both still images and moving images like Camcorder or video recorder falling under Tariff item 8525 8030 shall not be covered under the said entry. Digital still image video cameras can also be differentiated from the still cameras of heading 9006 i.e. photographic film cameras. Cameras of this type are also not eligible for the benefit of these notifications.

7. It is accordingly clarified that the benefit of entry at Sl. No. 314 of notification No.21/2002-Cus. as well as Sl.No.13 of Notification 25/2005-Customs dated 1.3.2005 would be available to 'digital cameras' with still image recording as its principal function. This would also include those digital cameras that have the capability of recording moving images for a limited period of time.”

This circular was considered by the Authority of Advance Ruling New Delhi in its Ruling No CAAR/Del/Canon/12/2022 dated 19.07.2022 stating as follows while extending the benefit of exemption under Notification 50/2017-Cus.

"11.2 As regards. applicability of Notification No. 50/2017-Cus. dated 30.06.2017 [Sl. No. 502). I notice that exemption from BCD is admissible to Digital Still Image Video Camera other than Camera or Camera module of cellular mobile phone. It is also observed that the said CBIC Circular has clarified that exemption to Digital Still Image Video Camera' would be available to digital camera with still image recording as its principal function and this would include those digital cameras that have the capability of recording moving images for a limited period of time.

11.3 I notice that comments of the concerned Principal Commissioner of Customs. ACC Import. New Delhi on applicability of Sl. No. 502 of Notification No. 50-2017-Cus. dated 30.06.2017 primarily based on the reason that the term 'digital still image video camera' covers only digital cameras that have the capability of taking still images; this would also include digital cameras that take moving images for limited period of time although they are primarily still image cameras: as per the applicant's submission, the product under consideration will not have any limit on video recording capability in a single sequence; recording function will be dependent of the storage space and the temperature inside the camera: consequently. it appears that the impugned item falls out of the purview of the Digital Still Image Video Camera, for the reason that recording time is not limited; in this regard, and in view of the aforementioned circular, it appears that the impugned good is not eligible for the benefit of S.No. 502 of Notification No. 50/2017-Cus, dated 30.06.2017. However, the wording used in the said Circular lay emphasis on principal function and not exclude cameras which has the capability to record moving images for a unlimited period of time. Language used in the Circular is of inclusive nature whereby under the term. "Digital Still Image Video Camera includes, digital cameras that take moving images for limited *period of time although they are primarily still image cameras. This may leads to inference that exemption under the notification is admissible to only those digital camera whose principal function relates to still photography. Based on the reasons cited by the applicant in the application, said model of digital camera proposed to be imported by the applicant is principally a still image digital camera. Accordingly, exemption under Sl. No. 502 of Notification No. 50/2017-Cus. dated 30.06.2017 is admissible on import of said model no. of digital camera.*

11.4 However, before concluding the discussion regarding the classification and benefit of exemption notification, there remains a question regarding the treatment of standard accessories i.e.. lens and battery charger, noting that the application mentions that lens are optional. I note that as per the Accessories (Condition) Rules, 1963. accessories for any article when imported along with that article shall be chargeable at the same rate of duty as that article in case such accessories are compulsorily supplied along with that article and no separate charge is made for such supply. Therefore, the classification and eligibility for benefit of the exemption notification of standard accessories. viz. lens and battery charger shall be limited to consignments of Canon Camera Model No. DS126864. wherein the same are imported together lens and battery charger and compulsorily supplied along with the said digital camera. However, in case of optional lens. not to be compulsorily supplied with the Canon Camera Model No. DS126864 would merit classification in the tariff heading appropriate to it."

Hence we are not in arguments advanced by the revenue relying on this circular of the Board. In our opinion there are two notifications one of which impose a restriction in terms of capacity and time limitation of the recording, whereas the other do not impose and such restriction, once we find that the imported action camera qualifies as *"Digital Still Image Video Camera"* , benefit of exemption under the notification no 50/2017-Cus cannot be denied.

4.20 Now we take up for consideration the individual order in appeal:

5.1 O-I-A No. MUM-CUSTM-AMP-APP-687 to 705/2019-20 dated 22.11.2019

Sr No.	Bill of Entry Nos.& date	Appeal No	Model No.
1.	2858076 dt. 16.04.2019	C/85273/2020	GOPRO HERO 7
2.	2952357 dt. 23.04.2019	C/85269/2020	GOPRO HERO 7
3.	2951478 dt. 23.04.2019	C/85275/2020	GOPRO HERO 7
4.	3047298 dt. 30.04.2019	C/85294/2020	GOPRO HERO 7
5.	3230010 dt. 14.05.2019	C/85274/2020	GOPRO HERO 7
6.	3460755 dt. 31.05.2019	C/85303/2020	GOPRO HERO 7
7.	3539203 dt. 06.06.2019	C/85295/2020	GOPRO FUSION
8.	3677307 dt. 17.06.2019	C/85297/2020	GOPRO HERO 7
9.	3727386 dt. 20.06.2019	C/85300/2020	GOPRO HERO 7
10.	3747309 dt. 21.06.2019	C/85298/2020	GOPRO HERO 7
11.	3866920 dt. 29.06.2019	C/85299/2020	GOPRO HERO 7
12.	3989502 dt. 09.07.2019	C/85292/2020	GOPRO HERO 7
13.	3988757 dt. 09.07.2019	C/85291/2020	GOPRO HERO 7
14.	4344857 dt. 03.08.2019	C/85296/2020	GOPRO HERO 7
15.	4437959 dt. 09.08.2019	C/85302/2020	GOPRO HERO 7
16.	4763630 dt. 04.09.2019	C/85293/2020	GOPRO HERO 8
17.	4991497 dt. 21.09.2019	C/85276/2020	GOPRO HERO 7
18.	5055978 dt. 25.09.2019	C/85272/2020	GOPRO HERO 7
19.	5127026 dt. 01.10.2019	C/85301/2020	GOPRO HERO 7

Impugned order while considering the appeals filed against the re assessment made on the Bill of entries without any speaking order records the findings as follows:

7. I find that the technical details as reflected in the technical literature of various models and also explained during the course of earlier personal hearing, the cameras imported by the appellant are action cameras which can be mounted on any moving object to record high resolution videos. I find that the cameras imported by the appellant are capable of recording of *video having resolution 1080 and up to 4K, at the speed of more than 30 frames per second. Thus, these two conditions are not satisfied by the respondents and thus the cameras imported by them are not eligible for benefit under s.no. 502 of notification no. 50/2017-cus dated 30.06.2017. Apart from the fact that the specific description and its further explanation as regards to the goods which will be covered under the nomenclature of Digital Still Image Video Camera as provided vide Customs Notification No. 15/2012, I find that CTH 85258020 covers Digital Cameras and 85258030 covers Video Camera Recorders (Camcorder) but the impugned goods have functionality of both Digital Still Camera as well as Video Camera. To qualify as Digital Still Image Video Camera, the scope of and parameters are very much clear and the impugned goods do not pass the test as provided under Customs Notification No. 15/2012. At the same time, since, the imported cameras are having functionality of digital still camera as well as video camera, the classification adopted by the department under Heading 85258090 as 'Other goods' appears logical and correct. As regards to the two bills of entries 9791027 dated 25.02.2019 and 9364760 dated 22.10.2018 these covers import of accessories of Digital Camera and as such there is no dispute regarding applicability of Notification no. 50/2017-cus dated 30.06.2017 and the goods have rightly been classified under CTH 85299090 attracting merit rate of duty.*

We do not find any merits in the impugned order for which these appeals are filed and set aside the same, in view of the findings recorded above. We also note from impugned order in para 7, that it decides the issue in respect of two bill of entries dated 25.02.2019 and 22.10.2018 which are not even the referred in the table of appeals being considered by the Commissioner (Appeal) by the impugned order, might be a cut paste problem from some earlier order deciding the appeals against those bill of entries.

5.2 O-I-A No. MUM-CUSTM-AMP-APP-825 to 832/2019-20 dt. 02.01.2020

Sr No.	Bill of Entry Nos.& date	Appeal No.	Model No.
1.	5813154 dt. 26.11.2019	C/85384/2020	GOPRO HERO 8
2.	5699884 dt. 16.11.2019	C/85383/2020	GOPRO HERO 8
3.	5407513 dt. 23.10.2019	C/85382/2020	GOPRO HERO 8
4.	5203046 dt. 07.10.2019	C/85381/2020	GOPRO MAX
5.	5764317 dt. 21.11.2019	C/85386/2020	GOPRO MAX
6.	5502985 dt. 31.10.2019	C/85380/2020	GOPRO HERO 8
7.	5157192 dt. 03.10.2019	C/85385/2020	GOPRO MAX
8.	5794291 dt. 22.11.2019	C/85387/2020	GOPRO HERO 8

Impugned order while considering the appeals filed against the re assessment made on the Bill of entries without any speaking order records the findings as follows:

"8. I find that the technical details as reflected in the technical literature of various models and also explained during the course of earlier personal hearing, the cameras imported by the appellant are action cameras which can be mounted on any moving object to record high resolution videos. I find that the cameras imported by the appellant are capable of recording of video having resolution 1080 and up to 4K, at the speed of more than 30 frames per second. Thus, these two conditions are not satisfied by the respondents and thus the cameras imported by them are not eligible for benefit under S.No. 502 of notification no. 50/2017-cus dated 30.06.2017. Apart from the fact that the specific description and its further explanation as regards to the goods which will be covered under the nomenclature of Digital Still Image Video Camera as provided vide Customs Notification No. 15/2012, I find that CTH 85258020 covers Digital Cameras and 85258030 covers Video Camera Recorders (Camcorder) but the impugned goods have functionality of both Digital Still Camera as well as Video Camera. To qualify as Digital Still Image Video Camera, the scope of and parameters are very much clear and the impugned goods do not pass the test as provided under Customs Notification No. 15/2012. At the same time, since, the imported cameras are having functionality of digital still camera as well as video camera, the classification

adopted by the department under Heading 85258090 as Other goods' appears logical and correct. As regards to the two bills of entries 9791027 dated 25.02.2019 and 9364760 dated 22.10.2018 these covers import of accessories of Digital Camera and as such there is no dispute regarding applicability of Notification no. 50/2017-cus dated 30.06.2017 and the goods have rightly been classified under CTH 85299090 attracting merit rate of duty."

This order records the findings which are identical word by word to the earlier order referred in para 5.1 above. Even the two bill of entries dated 25.02.2019 and 22.10.2018 which were neither part of the bill of entries referred for decision in order at para 5.1 are again part of this order. Might be Commissioner (Appeal) was so obsessed with these two bill of entries that these are part of third order in appeal passed by him without any reference to any appeal against these bill of entries. We do not find any merits in the impugned order and set it aside.

5.3 O-I-A NO. MUM-CUSTM-AMP-APP-1380 to 1390/2019-20 dt. 13.07.2020

Sr No.	Bill of Entry Nos.& date	Appeal No.	Model No.
1.	6260442 dt.27.12.20219	C/853997/2020	GOPRO HERO 7
2.	6021940 dt. 10.12.2018	C/86004/2020	GOPRO HERO 7
3.	5886394 dt.30.11.2019	C/86005/2020	GOPRO MAX
4.	5887742 dt.30.11.2019	C/86006/2020	GOPRO HERO 7
5.	6518142 dt.17.01.2020	C/86007/2020	GOPRO MAX
6.	6472132 dt.14.01.2020	C/86003/2020	GOPRO MAX
7.	6887362 dt.14.02.2020	C/86002/2020	GOPRO HERO 7
8.	6886690 dt.14.02.2020	C/86001/2020	GOPRO HERO 8
9.	6411448 dt.09.01.2020	C/853999/2020	GOPRO HERO 8
10.	6694645 dt.30.01.2020	C/853998/2020	GOPRO HERO 7
11.	6518546 dt.17.01.2020	C/86000/2020	GOPRO HERO 8

Impugned order while considering the appeals filed against the re assessment made on the Bill of entries without any speaking order records the findings as follows:

"8. I find that the technical details as reflected in the technical literature of various models and also explained during the course of earlier personal hearing, the cameras imported by the appellant are action cameras which can be mounted on any moving object to record high resolution videos. I find that the cameras imported by the appellant are capable of recording of video having resolution 1080 and up to 4K, at the speed of more than 30 frames per second. Thus, these two conditions are not satisfied by the respondents and thus the cameras imported by them are not eligible for benefit under S.No. 502 of notification no. 50/2017-cus dated 30.06.2017. Apart from the fact that the specific description and its further explanation as regards to the goods which will be covered under the nomenclature of Digital Still Image Video Camera as provided vide Customs Notification No. 15/2012, find that CTH 85258020 covers Digital Cameras and 85258030 covers Video Camera Recorders (Camcorder) but the impugned goods have functionality of both Digital Still Camera as well as Video Camera. To qualify as Digital Still Image Video Camera, the scope of and parameters are very much clear and the impugned goods do not pass the test as provided under Customs Notification No. 15/2012. At the same time, since, the imported cameras are having functionality of digital still camera as well as video camera, the classification adopted by the department under Heading 85258090 as 'Other goods' appears logical and correct."

We do not find any merits in the impugned order for which these appeals are filed and set aside the same, in view of the findings recorded above.

5.4 O-I-A No. MUM-CUSTM-AMP-APP-410 to 415/2020-21 dt. 09.10.2020

Sr No.	Bill of Entry Nos.& date	Appeal No.	Model No.
1.	7123371 dt.05.03.2020	C/86013/2020	GOPRO HERO 8
2.	8006725 dt.26.06.2020	C/86014/2020	GOPRO MAX
3.	7081863 dt.02.03.2020	C/86015/2020	GOPRO HERO 8
4.	8164595 dt.14.07.2020	C/86016/2020	GOPRO HERO 8

5.	7079044 dt.02.03.2020	C/86017/2020	GOPRO MAX
6.	7079046 dt.02.03.2020	C/86018/2020	GOPRO HERO 8

Impugned order while considering the appeals filed against the re assessment made on the Bill of entries without any speaking order records the findings as follows:

"9. Further, in para 9.3 of the impugned order of Hon'ble CESTAT, the Tribunal has inferred that since Commissioner (Appeals) has accepted that the cameras in question have functionality of both, digital still camera as well as capable of capturing videos. exemption provided under Notfn dtd. 30.6.2017 for digital still image video camera should be available to the appellant. I find the inference of Hon'ble CESTAT is stretched without reasonable basis here so much so that in this situation suppose if any importer imports mobile phone which is capable of capturing digital still photos as well as recording videos, then going by the above logic can the importer declare the same as 'digital still video cameras?' The point which want to observe here is that importer's claim for classifying the imported goods as digital still image videos camera cannot be taken as a gospel truth if it has both capabilities until and unless it is tested on the touch stone provided by the Revenue vide its Notfn No. 50/2017-Cus dtd. 30.6.2017 and it clears the bar. Based on the above discussions, I am not convinced with the ratio provided by the learned CESTAT and hence, am of the consistent view, which I have taken in the case of the impugned goods in my earlier Appellate Order and I stand by them."

Interestingly the impugned order has been passed relying on the order in appeal which has been set aside by the tribunal. Commissioner (Appeal) find the view taken by him in earlier order which has been set aside to be more logical and legally sound than the order of tribunal setting aside the same. However this approach has to be condemned as the same is against the principal of judicial hierarchy and discipline. Hon'ble Supreme Court has in case of Kama Lakshmi Finance has observed as follows:

6. *Sri Reddy is perhaps right in saying that the officers were not actuated by any mala fides in passing the impugned orders. They perhaps genuinely felt that the claim of the assessee was not tenable and that, if it was accepted, the Revenue would suffer. But what Sri Reddy overlooks is that we are not concerned here with the correctness or otherwise of their conclusion or of any factual mala fides but with the fact that the officers, in reaching their conclusion, by-passed two appellate orders in regard to the same issue which were placed before them, one of the Collector (Appeals) and the other of the Tribunal. The High Court has, in our view, rightly criticised this conduct of the Assistant Collectors and the harassment to the assessee caused by the failure of these officers to give effect to the orders of authorities higher to them in the appellate hierarchy. It cannot be too vehemently emphasised that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities. The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not "acceptable" to the department - in itself an objectionable phrase - and is the subject-matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent Court. If this healthy rule is not followed, the result will only be undue harassment to assessees and chaos in administration of tax laws.*

7. *The impression or anxiety of the Assistant Collector that, if he accepted the assessee's contention, the department would lose revenue and would also have no remedy to have the matter rectified is also incorrect. Section 35E confers adequate powers on the department in this regard. Under sub-section (1), where the Central Board of Excise and Customs [Direct Taxes] comes* *across any order passed by the Collector of Central Excise with the legality or propriety of which it is not satisfied, it can direct the Collector to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Board in its order. Under sub-section (2) the Collector of Central Excise, when he comes across any order passed by an authority subordinate to him, if not satisfied with its legality or propriety, may direct such authority to apply to the Collector (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Collector of Central Excise in his order and there is a further right of appeal to the department. The position now, therefore, is that, if any order passed by an Assistant Collector or Collector is adverse to the interests of the Revenue, the immediately higher administrative authority has the power to have the matter satisfactorily resolved by taking up the issue to the Appellate Collector or the Appellate Tribunal as the case may be. In the light of these amended provisions, there can be no justification for any Assistant Collector or Collector refusing to follow the order of the Appellate Collector or the Appellate Tribunal, as the case may be, even where he may have some reservations on its correctness. He has to follow the order of the higher appellate authority. This may instantly cause some prejudice to the Revenue but the remedy is also in the hands of the same officer. He has only to bring the matter to the notice of the Board or the Collector so as to enable appropriate proceedings being taken under S. 35E(1) or (2) to keep the interests of the department alive. If the officer's view is the correct one, it will no doubt be finally upheld and the Revenue will get the duty, though after some delay which such procedure would entail."*

In view of the above we do not find any merits in the impugned order and set aside the same.

5.5 O-I-A No. MUM-CUSTM-AMP-APP-581 to 583/2022-23 dt. 04.07.2022

Sr No.	Bill of Entry Nos.& date	Appeal No.	Model No.

1.	6664701 dt 28.01.2020	C/86703/2022	Gopro Digital Still Image Video Camera
2.	8350012 dt 01.08.2020	C/86702/2022	
3.	7081863 dt 0203.2020	C/86704/2022	

By the impugned order in respect of the bill of entries indicated in table below following has been held:

"8. As speaking order under section 17(5) has not been passed by the respondent department in the instant case, thus without going into the merits of the case, I remand the matter back to the adjudicating authority to re-examine the case afresh after taking into consideration of the above facts and discussion and pass appropriate 'speaking order' with reasons in consistence with law, rules/regulations and instructions on the subject. While doing so the adjudicating authority shall provide due opportunity to the Appellant to justify and explain its stand with documentary evidences."

In these three appeals appellant have filed application for early hearing stating that appeals on same issue are being taken up for final hearing. We find merits in the ground stated and allow the miscellaneous application filed for early hearing of these appeals. Having allowed the early hearing these appeals were heard with the consent of both the parties.

Since no speaking order has been made either by the assessing officer Commissioner (Appeal) and matter remanded to the assessing officer to pass an speaking order we do not find any infirmity in the order of the Commissioner (Appeals). However while dismissing the appeals filed by the appellant against this order, we direct the assessing officer to finalize the assessment orders as per our observations made in paras above.

6.1 All the appeals are allowed in the cases where the bill of entries pertain to importation of the "Digital Cameras" by the appellant, holding that the benefit of exemption under Notification No 50/2017-Cus as claimed by them will be admissible to the appellant. Thus appeal C/85269, 85272 to 85276, 85291 to 85303, 85380 to 85387, 85997 to 86007 & 86013 to 86018/2020 are allowed setting aside the impugned orders. Matter is referred back to the original assessing officer to assess the Bill of Entries as per directions contained in this order.

6.2 Miscellaneous application for early hearing No C/EH/85730,85731 & 85732/2022 in Appeals No C/86702, 86703 & 86704/2022 are allowed.

6.3 The appeals no C/86702, 86703 & 86704/2022 are dismissed. Assessing officer is directed to decide the matter in remand proceedings after taking note of our observations in the present order.

6.2 All the matter remanded to assessing officer to modify the assessments accordingly.

(Order pronounced in the open court on 20.02.2023)

(Sanjiv Srivastava)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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