CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 85037 OF 2022

[Arising out of Order-in-Appeal No: MUM-CUSTM-AMP-APP-647/2020-21 dated 24th December 2020 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

Xylem Water Solutions India Pvt Ltd
Plot No. 731, Manjusar GIDC, Savli Road
Vadodara – 391 775 … ***Appellant***

versus

Commissioner of Customs
Air Cargo Complex
Sahar, Andheri (E), Mumbai - 40099 ***…Respondent***

APPEARANCE:

Shri T Vishwanathan, Ms Shrinidhi and Shri Akshay, Advocates for the appellant

Shri D S Maan, Deputy Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 86776/2025

DATE OF HEARING: 09/05/2025
DATE OF DECISION: 10/11/2025

PER: CJ MATHEW

M/s Xylem Water Solutions India Pvt Ltd was proceeded against, following scrutiny of assessment of bill of entry no. 3696005/17.06.2019 filed for import of ‘Ipearl DN 15 Water meter’ valued at ₹ 92,220 having discharged duty liability corresponding to tariff item 9026 1090 of First Schedule to Customs Tariff Act, 1975, for re-determination of the current and past consignment. Relying upon the *Explanatory Notes to Harmonized Systems of Nomenclature (HSN)* relating to heading 9028 of First Schedule to Customs Tariff Act, 1975 and the catalogues and the exclusion of water meters, *inter alia*, from heading 9026 of First Schedule to Customs Tariff Act, 1975 was held as sufficient to merit assessment to duty at the rate corresponding to tariff item 9028 2000 of First Schedule to Customs Tariff Act, 1975. In addition, by relying upon the National Information Data Base (NIDB) and the classification thereof in seven bills of entry filed at Chennai and Delhi, the re-determination of the tariff item was claimed to be reinforced.

2. Commissioner of Customs (Appeals), Mumbai – III, *vide* order[1], dismissed the appeal of M/s Xylem Water Solutions India Pvt Ltd by holding that the purpose of the said ‘water meters’ was billing of customers according to consumption and mere measuring mechanism would not suffice for exclusion from the exclusion incorporated in heading 9026 of First Schedule to Customs Tariff Act, 1975.

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[1] [order-in-appeal no. MUM-CUSTM-AMP-APP-647/2020-21 dated 24th December 2020]

3. Learned Counsel for the appellant submitted that the *Explanatory Notes* to *Harmonized Systems of Nomenclature (HSN)* placed emphasis on the methodology by which these meters operated and for that reason alone the substituted heading would not apply. It was further argued that the Tribunal in *Larsen & Toubro Limited v. Commissioner of Customs (Import) [2025-VIL-573-CESTAT-MUM-CU]* and in *Anjali Enterprises v. Commissioner of Customs (Airport & Admn), Kolkata [2024 (11) TMI 1243 – CESTAT KOLKATA]* had rendered finality to the scope of heading 9028 of First Schedule to Customs Tariff Act, 1975. Furthermore, the 'Advisory on Water Meters, Instrumentation & SCADA' issued by Government of India, in the Ministry of Housing and Urban Affairs had also acknowledged the distinct placement of electromagnetic water meters.

4. Learned Authorized Representative submitted that the excluded component of heading 9026 of First Schedule to Customs Tariff Act, 1975 endorses primacy to heading 9028 of First Schedule to Customs Tariff Act, 1975. It was also submitted that the finding in the impugned order on the actual function performed by the impugned goods rather than the measurement of rate of flow which was incidental and peripheral to the measurement of the actual consumption over a period of time could not be discarded. He also placed reliance on the US Customs Ruling no. HQ H249751 dated 3rd April 2015 on classification of the very same product.

5. On perusal of the records and scrutiny of the submissions it would appear that heading 9028 of First Schedule to Customs Tariff Act, 1975 acquires more significance for its particularity in the light of exclusion from heading 9026 of First Schedule to Customs Tariff Act, 1975. Nonetheless, the lower authorities have not had the benefit of the decisions of the decisions of the Tribunal on the classification of 'water meters' in *re Larsen & Toubro Ltd* and *re Anjali Enterprises.* In these circumstances, it would be appropriate to set aside the impugned order and remand the matter back to the adjudicating authority for a fresh decision bearing in mind the conformity of the descriptions of the goods in the disputes decided by the Tribunal *supra* with that of the impugned goods.

6. Appeal is allowed by way of remand.

(Order pronounced in the open court on 10/11/2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*