

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL,
WEST ZONAL BENCH
MUMBAI**

REGIONAL BENCH - COURT NO. 5

(Arising out of Order-in-Original No. CC-GSS/54/2023-24 Adj.(I) ACC dated 21.03.2024 read with addendum dated 10.07.2024 passed by the Commissioner of Customs (Import), Mumbai.)

M/s. Sandor Medicaids Pvt. Ltd.

8-2-325/5, 4th Floor,
Plot No.1, Road No.3,
Banjara Hills,
Hyderabad - 500 034.

Appellant(s)

VERSUS

**Commissioner of Customs
(Imports),**

Air Cargo Complex,
Sahar Andheri (East),
Mumbai - 400 099.

Respondent(s)

AND

Customs Appeal No. 87321 of 2024

(Arising out of Order-in-Original No. CC-GSS/54/2023-24 Adj.(I) ACC dated 21.03.2024 passed by the Commissioner of Customs (Import), Mumbai.)

Mr. Rajeev Sindhi

M/s. Sandor Medicaids Pvt. Ltd.

8-2-325/5, 4th Floor,
Plot No.1, Road No.3,
Banjara Hills,
Hyderabad - 500 034.

Appellant(s)

VERSUS

**Commissioner of Customs
(Imports),**

Air Cargo Complex,
Sahar Andheri (East),
Mumbai - 400 099.

Respondent(s)

APPEARANCE:

Shri Anil Balani, Advocate with Shri Ananta Khandait for the Appellant

Shri Ram Kumar, Deputy Commissioner (AR) for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 86948-86949/2025

DATE OF HEARING: 03.09.2025

DATE OF DECISION: 24.12.2025

PER : R. BHAGYA DEVI

Appeal No.87320/2024 is filed by the appellant M/s. Sandor Medicaids P. Ltd. and Appeal No. 87321/2024 is filed by Shri Rajeev Sindhi, Managing Director of the appellant against penalty imposed on him under Section 112b of the Customs Act, 1962 against Order-in-Original No. 54/2023-24 dated 21.03.2024 read with addendum dated 10.07.2024 passed by the Commissioner (Import), ACC, Mumbai.

2. Briefly the facts are that the appellant imported cartridges for I-STAT Analyzer Immuno along with the accessories and cartridges and classified the same under Customs Tariff Head (CTH) 9027. The revenue alleged that the product was rightly classifiable under CTH 3822 0019 and accordingly notice was issued for reclassifying the products and confiscating the goods under Section 111(m) of the Customs Act, 1962. The Commissioner after detailed analysis held that the product was rightly classifiable under CTH 38220019 and confirmed the differential duty of Rs.5,06,61,014, also held that the goods were liable for confiscation and imposed redemption fine of Rs.2,30,00,000 under section 125(1) of the Customs Act, 1962 and imposed penalty equal to the duty amount under Section 114A of the Customs Act, 1962. Aggrieved by this order the appellant is in appeal before us.

3. The learned counsel on behalf of the appellant submitted that the appellant imported blood gas cartridges and classified the same under 90279090 availing the benefit of Notification 25/2005-Customs (Sl.No.32), however, the revenue after two years issued the show-cause notice reclassifying the products under 3822. It is further submitted that since the goods were already assessed issuing the demand notice beyond the normal, without challenging the assessment was not in order. It is also submitted that the Hon'ble CESTAT Regional Bench, Hyderabad vide Final Order No. A /30019/ 2023 dated 10.03.2023 in the appellants own case held that the cartridges which are essential accessories of I-STAT blood gas analyzer are rightly classifiable under CTH 9027. The appellant also challenges the impugned order which distinguished the order of CESTAT Hyderabad on the ground that the products were different compared to the products imported by the appellant. It is submitted that the appellant had imported I STAT wireless analyzer along with the printer kit, one consignment of parts of I STAT instrument with the accessories and seven consignments of I-STAT blood gas investigation cartridges from 21.07.2017 to 09.02.2018 and all these goods were cleared by the importers classifying the same under CTH 9027 without any objections from the assessing officers. The show-cause notice issued by the Hyderabad Commissionerate attained finality with the order of the Tribunal vide Final Order No. A/30019/2023 dated 10.03.2023. it is stated that since the products are one and the same the decision of the above order is binding on the revenue as is held by the Supreme Court in the case of Goodrich Sara Ltd; and Jindal Die Intermediate Ltd; and Echo Valley Farms and Foods Ltd;.

3.1. With regard to the limitation, it is submitted that the goods were imported during the period 04.04.2018 to 29.07.2019 and the show-cause notice was issued on 01.04.2023 beyond the normal period of limitation of two years as stipulated under

Section 28 of the Customs Act, 1962. Since there is no suppression the question of mis-declaration did not arise accordingly the extended period cannot be invoked.

3.2. The appellant a further vide additional written submissions stated that the product cannot be classified under CTH 3822 because this chapter heading dealt with only diagnostic or laboratory reagents while the product in question is an essential accessory for the analyzer and it is a single use product and contains many sub assemblies found in the complex laboratory systems, therefore rightly classifiable under chapter heading 9027, accordingly the impugned order reclassifying the same cannot be sustained.

4. The authorized representative reiterating the findings of the Commissioner in the impugned order submits that the products are rightly classifiable under 3822 as is held by the Commissioner and the reliance placed by the counsel on the decision of the Hyderabad Tribunal is not relevant in view of the fact that the classification of the product in question is different from that decided by the Tribunal at Hyderabad relied upon by the appellant.

5. Heard both sides. The period of dispute is from 04.04.2018 to 29.07.2019 and the show cause notice was issued on 01.04.2023, alleging mis-classification of cartridges used in the I-STAT analyser immuno under Chapter Heading 9027 instead of 3822 as claimed by the revenue. The issue before us is whether the cartridges imported by the appellant are classifiable under CTH 3822 0019 or under CTH 9027 8090.

5.1. The appellant has heavily relied on the decision of the Regional Bench Tribunal Hyderabad Final Order No.

A/30019/2023 dated 10.03.2023 in the appellant's own case.
The Observations of the Tribunal are reproduced below:

"The issue involved in this appeal is with regard to the classification of imported goods namely i) I Stat Blood Gas Investigation Cartridges, ii) I Stat Wireless Analysers with printer kit and iii) I Stat Alinity Instruments with accessories.— whether the said goods are classifiable under Customs Tariff Heading 9027 as classified by the Appellant Importer or under CTH 9018, as contended by Revenue and further regarding eligibility of concessional duty/exemption under Notification Nos.24/2005-Cus and 25/2005-Cus, both dated 1st March, 2005.....

12. Having considered the rival contentions, we find that it is not disputed that the I Stat System is prima facie an instrument/apparatus for physical or chemical analysis of various parameters of the blood by chemical analysis, electrolysis, etc. The instrument is capable of being used along with the cartridge either at patient's bedside or in the laboratory, etc. We further find that Explanatory Note (o) to CTH 9018, specifically mentions that the heading does not cover – instruments and appliances used in laboratory to test blood tissue, fluids, urine, etc. - whether or not such tests serve in diagnosis (generally Heading 90.27). Blood and other analysers are mainly used in laboratories etc, only for the reasons that the same is portable and can be used at patient's bedside or is being mostly used at bedside or in an ICU, will not change the classification from 9027 to 9018.

13. We further find that the court below has been influenced by the of the Commissioner (Appeals) in past. We hold that there is no res-judicata in taxation matters. We further find that the facts herein are squarely covered by the precedent order of this Tribunal in Bayer Pharmaceuticals Pvt. Ltd. (supra), wherein this Tribunal was considering the classification of blood glucose meter or glucometer, which analyses only one component i.e. blood sugar. In the facts of the present case, there are more than one parameters, being analysed, in addition to blood glucose like sodium, potassium, calcium, hemoglobin, blood gases, ACT,

coagulation parameters, cardiac markers, etc. The competing headings for classification of the impugned goods are extracted below:-

"9027 analysis Instruments and apparatus for physical or chemical (for example, polarity meters, refractory meters, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion.....

9018 instruments and appliances used in medical, surgical dental or veterinary sciences...."

14. On going through the product catalogue and considering the arguments, we hold that instrument – I Stat System along with cartridges, etc are prima facie used for anylysis of various parameters of blood, and is prima facie a blood analyser. Both in case of glucometer or in the case of the present I Stat System with cartridge, blood is drawn and a few drops of blood are put on the cartridges or test strip and thereafter, on being attached to the I Stat System/Analyser, gives the readings. The only difference is that the item under consideration is more sophisticated than the glucose meter. The testing of blood by analyzing and indicating the various parameters is undisputedly an outcome of chemical analysis, etc. In the facts and circumstances, we find that the heading 9027, which covers instruments for chemical analysis is more specific than CTH 9018, which covers instruments used in medical/surgical science, etc. Further, we find that Rule 3 of General Rules of Interpretation provides that a specific description is to be preferred over a general description. We further find that the Court Below have erred in deciding the classification relying on the facts that the goods in question are mostly used on bedside or in an ICU. Accordingly, following the precedent ruling of this Tribunal in Bayer Pharmaceuticals (supra), we hold that the goods under consideration are appropriately classifiable under CTH 9027. We further hold that the extended period of limitation is not attracted in the facts and circumstances, the issue being wholly interpretational in nature and there being no res judicata in tax matters".

5.2. As seen from the above order, the dispute was between CTH 9018 & CTH 9027 and basically the issue was whether the I-stat analyser and the cartridges imported by the appellant were rightly classifiable under CTH 9018 as claimed by the Revenue or 9027 as claimed by the appellant. Moreover, the above order also observes the fact that the contention of the Revenue is that the goods are correctly classifiable under heading 9018 (sub-heading 9018 1990) and the benefit of notification No. 24/2005-Customs and No.25/2005-Cus is not available to the product. It is also a fact that the Revenue issued show cause notice alleging as follows: – “The cartridge under import is used in ‘I Stat Blood Gas Analyser’, a portable clinical analyser, used at the bedside of a patient. The analyser is a point of care instrument for use by the Physicians, intensivists, anaesthetists and surgeons or doctors at the patient's bedside. It has no provision to do more than single test at any point of time; the instrument uses the whole blood without any other process to be done on the blood before being injected into the machine; the instrument works on battery; the instrument measures various parameters like cardiac markers, blood gases, electrolytes, coagulation levels, etc., the device appears to satisfy the functions associated with instruments connected with checking the physiological parameters of patients as mentioned under CTH 9018 and, therefore, merits classification under it.” The Commissioner (Appeals) held that cartridges in question are accessories of I. Stat Blood Analyser, which is an instrument falling under 9018 of CTH. On appeal the Tribunal held that the I STAT analyser is an hand held device falling under CTH 9027 in view of the fact that the Explanatory Note (o) to CTH 9018, specifically mentions that the heading does not cover – instruments and appliances used in laboratory to test blood tissue, fluids, urine, etc. - whether or not such tests serve in diagnosis (generally Heading 90.27)” and the cartridges also get classified under CTH 9027 along with the ISTAT Analyser.

5.3 In the present case before us the dispute is with regard to very same cartridges imported by the same appellant and the claim of the revenue is that the cartridges are to be classified under CTH 3822. We examine this we need to understand the impugned product based on its technical literature placed on record. As per the technical literature placed on record the I STAT analyser is a handheld analyzer that delivers lab-quality diagnostic results in minutes. It is lightweight, portable and easy to use, and it operates with the advanced technology of I-STAT test cartridges. Together, they create the I-STAT System - a point-of-care-testing platform that provides healthcare professionals with diagnostic information as and when needed. The pictures of the same is reproduced below:

TRANSFORM PATIENT CARE WITH FAST,
ACCURATE WITH-PATIENT TESTING



i-STAT 1 Analyzer For Cardiac Markers

FOR IN VITRO DIAGNOSTIC USE ONLY.
NOT ALL PRODUCTS ARE AVAILABLE IN ALL REGIONS.



5.4. Further the cartridge of I STAT Analyser is a single use product and contains microfabricated thin film electrodes or sensors assembled in each of these cartridges. The cartridge provides chemistries that are important in the diagnosis and treatment of patients with hypertension, dehydration, cardiac distress etc; The Commissioner in the impugned order also notes that the *"I-STAT system is an advanced hand-held diagnostic tool intended for use in the in vitro quantification of lactate in arterial, venous or capillary whole blood. It provides a real time lab quality results within minutes. I-STAT hand-held device operates with the advanced technology of single use I-STAT test cartridges. Together, they create the I-STAT system which allows health care professionals to quickly respond to needs and conditions of the patient"*. The impugned products i.e. the cartridges are available for a range of clinical test, including cardiac markers, lactate, coagulation, blood gases, chemistries and electrolytes and hematology. These technical facts of the product are not in dispute. A few drops of blood are put up on the cartridge and then the same is inserted in the I Stat Instrument and immediately after two minutes, the analysis results are available on the screen. Single-use i-STAT test cartridges offer a broad menu of tests on a single, portable platform. Each test cartridge has a unique combination of

biosensors to suit a wide range of clinical needs. Thus, the hand-held device i.e. the ISTAT analyser is only a mechanism to read the results produced by the cartridge when a sample of blood is placed on it which works on sensors and not based on any chemical reaction. So, from the above analysis it is clear that that the cartridges as such are of no use but are to be necessarily used with the hand-held device I STAT Analyser.

6. Now let's examine the relevant customs tariff headings which are placed below:-

3822 - Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials

--- For medical diagnosis:

3822 00 11 ---- Pregnancy confirmation reagents

3822 00 12 ---- Reagents for diagnosing AIDS

3822 00 19 ---- Other

3822 00 90 --- Other

6.1. Based on HSN Notes Chapter 38.22 includes the following:

"D. Reagents for the determination of HLA properties (HLA antigens) fall in this heading, they must be directly applicable. They are sera of either human or animal origin. These reagents react with peripheral blood lymphocytes of the test subject for the determination of the HLA antigens. The HLA antigens of the test subject may be determined on the basis of the reaction pattern of different HLA test sera. Besides the active ingredients the reagents contain additives for stabilisation and conservation".

Thus, the Chapter Heading 3822 includes diagnostic reagents such as pregnancy kits, AIDs diagnosing Kits etc which react based on the chemical reaction and the results are displayed. However, based on the technical literature of the impugned product though the cartridge is to test various parameters based on the blood samples placed on it, the results of it are known

only when it is placed on to the I STAT analyser. Therefore, since they do not provide any results based on chemical reactions as happens in the case of pregnancy kits they cannot be held as a diagnostic agent to be classified under CTH3822. The cartridges are nothing but an accessory as is held by the revenue in the earlier proceedings at Hyderabad as it has to necessarily function as part of the I STAT analyser and the Commissioner in the impugned has rightly observed that they both form the I STAT system. It is also to be noted that as per Section Notes 2(b) of Chapter 90 reads as follows:

“(b) other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instrument or apparatus, or with a number of machines, instruments or apparatus of the same heading (including a machine, instrument or apparatus of heading 9010, 9013 or 9031) are to be classified with the machines, instruments or apparatus of that kind”.

Even the HSN Explanatory notes under Parts and Accessories reads as *"subject to Chapter Note 1, parts or accessories identifiable as suitable for use solely or principally with the machines, appliances, instruments or apparatus of this chapter are rightly classifiable with those machines appliances etc;"* In view of the above since it's an admitted fact that the cartridge as such is of no use unless utilised along with the I STAT Analyser the product is rightly classifiable as an accessory of the I STAT Analyser.

7. Moreover, in similar set of facts with regard to classification of glucometer along with the gluco-strips the Hon'ble High Court at Bombay in the case of **Ascensia Diabetes Care India Pvt. Ltd. Versus Union of India (2023) 3 Centax 248 (Bom.) dated 10-11-2022** observed as follows:

"5. We have carefully considered the rival contentions of both sides. The competing Headings for classification of the impugned goods are extracted below:

9027 instruments and apparatus for physical or chemical analysis (for example, polarity meters, refractory meters, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion...

9018 instruments and appliances used in medical, surgical dental or veterinary sciences...

The learned Counsel showed us the product imported *i.e.* those which are covered by the earlier order of Commissioner appeals dated 12-11-2008 having the brand-name contour TS meter. These goods consist of Glucose meter, test strips, Lancing device and user guide. And the also showed product in question having the brand-name breeze 2 meter which consists of Glucose meter and user guide. A point to be examined is whether the two products would be classified separately only because in the first case the product includes lancets and test strips. We are of the view that the essential character of the goods in both cases is to draw the blood and test it for glucose content. With changes in technology, the glucose meter can be expected to become more sophisticated and compact without change in its essential function. The essential function of a Glucose meter is to draw the blood as well as test the blood for Glucose level. The product in question is also able to draw the blood as well as test the blood. The testing of blood and then its analysis for indicating blood sugar content as revealed by the Glucometer is undisputedly the outcome of a chemical analysis. That is, the Glucometer is an instrument for chemical analysis. Having noted the essential characteristic of both a Glucose meter system with strips and lancets and the Glucose meter without strips, it would be illogical to say that the Glucose meter with strips will be classifiable under heading 90.18 whereas the Glucose meter without strips will get classified under heading 90.27. Therefore, we reject this argument of the Commissioner.

6. For a deeper examination of the issue, we may refer to the HSN Explanatory Notes and the Customs Tariff Act. The General Rules for the Interpretation of the Customs Tariff Act provide that (Rule 1) for legal purposes classification shall be determined according to the terms of the Headings and any relative Section or Chapter notes We find in this case

that heading 90.27 covers instruments for chemical analysis. This heading appears to be more specific than the description of heading 90.18 which covers instruments used in medical, surgical etc. sciences. Thus, by virtue of Rule 3 which says that a specific description is to be preferred over a general description, the Heading 90.27 appears more appropriate.

6.1 Further, we may refer to the HSN Explanatory Note to heading 90.18 which states that This heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice (for example, by doctors, surgeons, dentists,.) either to make a diagnosis, to prevent or treat an illness or to operate etc. Instruments and appliances for anatomical or autoptic work, dissection etc. are also included. From the language of this Note it appears that only those instruments fall under heading 90.18 which are used in professional practice in the vast majority of cases. It is obvious that the Glucose meters are not vastly used only in professional practice. Mostly they are used by individuals at home or in the workplace, that is, by common people other than professional practitioners. Further under paragraph (o) of the same Note it is stated This heading does not cover, -instruments and appliances in laboratories to test blood, tissue fluids, urea etc. whether or not such tests serve in diagnosis (generally heading 90.27). It is quite evident that the product in question is not an instrument which is generally used in laboratories. Therefore, by virtue of the Explanatory Note under Heading 90.18, the impugned goods, that is Glucose meters are classifiable under heading 90.27.

7. In view of the above, we hold that the imported goods namely Glucose meters are classifiable under heading 90.27 and are eligible for exemption under notification No. 24/05-CUS dated 1-3-2005.

7.1 The above order has been Upheld by the Hon'ble Supreme Court **Union of India Versus Ascensia Diabetes Care India Pvt. Ltd. (2023) 11 Centax 334 (S.C.) dated 06.10.2023** where the appeal filed by the revenue was dismissed.

7.2 Since the glucometer strips have the same function of the Cartridges that are used in the I STAT analyser we do not find

any reason to deviate from the above decision of the Hon'ble High court and accordingly hold that the impugned products are rightly classifiable under CTH 9027.

8. With regard to limitation on examining the sample copies of Bills-of -Entry placed on record, we find that the appellant has described the product as accessories of I-stat Blood Gas investigation and classified the same under CTH 9027-9090. The only ground to invoke suppression is that on investigation it was noticed that the commercial invoice received from APOC, US pertaining to I-stat cartridges described the classification under 3822. However, it is also a fact that the revenue had issued show-cause notice dated 05.04.2019 to the appellant at Hyderabad Commissionerate which was adjudicated by the Commissioner vide order dated 04.02.2020 classifying the imported products I-stat analyser and the cartridges under CTH 9018 denying the benefit of Notification No. 24/2005 & Notification No. 25/2005 Customs both dated 01.03.2005, which was appealed against and the products were reclassified under CTH 9027 by the Tribunal Hyderabad vide Final Order No. A/30019/2023 dated 10.03.2023. The Commissioner in the impugned order observes that the cartridges for I-stat analyser described as accessories vide 15 Bills of Entry for the period from 04.04.2018 to 29.03.2019 were misclassified under CTH 9027. The description of the goods is clearly shown as accessories of CTH 9027 as earlier claimed by the appellant and disputed by the revenue only to the extent of reclassifying the I STAT analyser under CTH 9018 considering the cartridges imported along with it as accessories. Therefore, the question of misdeclaration cannot be alleged since the description of the products are clearly mentioned.

8.1. The Supreme Court judgment in the case of **Uniworth Textiles Ltd. Versus Commissioner of Central Excise,**

Raipur 2013 (288) E.L.T. 161 (S.C.) dated 22-1-2013

wherein the Hon'ble Apex Court held as follows:

"22. We are not persuaded to agree that this observation by the Commissioner, unfounded on any material fact or evidence, points to a finding of collusion or suppression or misstatement. The use of the word "willful" introduces a mental element and hence, requires looking into the mind of the appellant by gauging its actions, which is an indication of one's state of mind. *Black's Law Dictionary, Sixth Edition (pp 1599)* defines "willful" in the following manner :-

"*Willful*. Proceeding from a conscious motion of the will; voluntary; knowingly; deliberate. Intending the result which actually comes to pass...

An act or omission is "willfully" done, if done voluntarily and intentionally and with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done..."

9. In view of the above, we find that the allegation of suppression or misdeclaration also cannot be sustained. Therefore, we do not find any reason to uphold the classification under CTH 3822. Accordingly, the impugned order dated 21.03.2024 along with Addendum dated 10.07.2024 to the above Order stands set aside.

Appeals are allowed both on merit and limitation.

(Order pronounced in Open Court on 24.12.2025)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

(DR. SUVENDU KUMAR PATI)
MEMBER (JUDICIAL)

K. Radha