

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 87743 TO 87745 & 87753 OF 2024

[Arising out of Order-in-Appeal No: MUM-CUSTM-AMP-APP-738 to 741/2024-25 dated 26th August 2024 passed by the Commissioner of Customs (Appeals), Mumbai- III.]

Wipro GE Healthcare Pvt Ltd
C/o DHL Supply Chain India Pvt Ltd
BGR Warehousing Complex, Bldg no. 3 Vahuli,
Mumbai Nashik Highway, Bhiwanti, Thane - 421302 *... Appellant*

versus

Commissioner of Customs (Import)
Mumbai – III
Air Cargo Complex, Sahar, Andheri East,
Mumbai 400099 *...Respondent*

APPEARANCE:

Shri Roshil Nichani, Advocate for the appellant
Shri Jitesh Kumar Jain, Joint Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 85098-85101/2026

DATE OF HEARING:	21/08/2025
DATE OF DECISION:	23/01/2026

PER: C J MATHEW

The order¹ of Commissioner of Customs (Appeals), Mumbai –

¹ [order-in-appeal no. MUM-CUSTM-AMP-APP-738 to 741/2024-25 dated 26th August 2024]

III, impugned in these appeals of M/s Wipro GE Healthcare Pvt Ltd, had decided four appeals agitating cavil in disposal of disputes over import of ‘M80281FQ AW MVCD-1619 Barco Monitor for Magnetic Resonance Imaging System’ in bills of entry no. 4418121/30.01.2023 and no. 4418125/30.01.2023 – for having rejected applications in each seeking amendments and assessment to duty therein – chargeable to basic customs duty (BCD) at rate corresponding to tariff item 8528 5200 of First Schedule to Customs Tariff Act, 1975 and ‘integrated tax’ at rate corresponding to serial no. 154 in schedule IV to notification no. 1/2017-Integrated Tax (Rate) dated 28th June 2017. According to the appellant, the dispute is limited to the ‘integrated tax’ rate applicable, at 18% corresponding to serial no. 384 in schedule III in the same notification as appropriate instead of the charged 28% and, instead of awaiting rectification, already applied for under section 149 of Customs Act, 1962 in letter of 16th February 2023, as prelude to payment of appropriate duty, had decided to discharge the higher levy, ‘under protest’, against ‘speaking order’ as required under section 17(5) of Customs Act, 1962. The rejection of their request for amendment, by letter dated 11th April 2023, is cause for two of the appeals while the other two challenge the revision of ‘self-assessed’ duties of customs to ₹25,534.20 purporting to be revised assessment. He placed reliance on the decision² of the Tribunal in *Philips India Limited v. Commissioner of*

² [final order no. A/86879/2024 dated 18th November 2024.]

Customs (Import), Air Cargo Complex (ACC), Mumbai, disposing off appeal³ against order⁴ of Commissioner of Customs (Import), Air Cargo Complex, Mumbai which was upheld by the Hon'ble Supreme Court.

2. According to Learned Counsel for appellant, the impugned goods are 'computers' of the appropriate size and was not amenable to the assigned description in schedule IV of the notification. It was further contended that, while designed for use with computers and capable of being connected to computers, that these were not solely or principally so precluded taking of the ambit of serial no. in the rate notification, as declared.

3. We have heard Learned Authorized Representative who took us through the technical details of the imported goods and made references to the findings in the impugned order.

4. The Tribunal, in *re Philips India Ltd* held that

'9.3 It could be seen that by applying the GIR 1 - rule at (i) above, the position is made clear that Sub-heading 8528 covers within its scope and ambit, mainly of three broad categories of goods for ascertaining proper classification:

(i) first category is about all the monitors and projectors not incorporating television reception apparatus;

(ii) second category covers television reception apparatus,

³ [customs appeal no. 87594 of 2023]

⁴ [order-in-original CAO no.CC-GSS/10/2023-24 Adj.(I) ACC dated 21st July 2023]

whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus, for the display of signals (television sets); and

- (iii) third category covering apparatus for the reception of television signals, with the display capabilities e.g., Receivers of satellite television broadcasts.*

As the impugned goods are related to monitors, the relevant category of items that needed to be closely examined, is the goods covered under the first category. Further, the goods under second and third category are not relevant for the purpose of the present factual matrix of the case. Since, we are not dealing with cathode ray tube (CRT) monitors which use cathode ray tube to form images on the screen, the sub-category of the goods which need to examine in detail is 'other monitors' covered under two sub-headings of 8528 52 or 8528 59. LCD monitors, LED monitors etc. which use a series of small light emitting diodes to illuminate the display screen, as opposed to the conventional cathode-ray tubes of the old technology.

9.4 We find that the classification of goods prescribed under the above two sub-headings have been distinguished by the following functions of the monitors, viz., (i) being capable of directly connecting to ADP machine (ii) designed for use with ADP machine. In order to further examine the classification in terms of HS explanatory notes of the (World Customs Organization), which describe in detail the scope and coverage of the goods under the Customs classification, the relevant notes were also perused. In terms of HS explanatory notes, monitors capable of directly connecting to and designed for use with ADP machine includes monitors which are capable of accepting a signal from the central processing unit of an automatic data processing machine and provide a graphical presentation of the data processed. These monitors classifiable under sub-heading 8528 52 are

distinguishable from other types of monitors and from television receivers by various characteristics/features as follows:

- (i) they usually display signals of graphics adapters which are integrated in the central processing unit of the ADP machine*
- (ii) they do not incorporate a channel selector on a video tuner*
- (iii) they are fitted with connectors characteristic of data processing systems*
- (iv) the viewable image size of these monitors does not generally exceed 76 cm (30 inches)*
- (v) they have display pitch size (Usually smaller than 0.3mm) suitable for close proximity viewing*
- (vi) they may have an audio circuit and built in speakers*
- (vii) they usually have a control button situated on the front panel*
- (viii) they usually cannot be operated by a remote control*
- (ix) they may incorporate, swivel and height adjusting mechanisms, glare-free surfaces, flicker-free display, and other ergonomic design characteristics to facilitate prolonged periods of viewing at close proximity to the monitor*
- (x) they may utilize wireless communication protocol to display data from an ADP machine.*

9.5 On the other hand, monitors which are not used with ADP machine, are of those monitors, which are capable of receiving signals when connected directly to video camera or recorder, by means of composite video, s-video or co-axial cables, so that all the radio frequency circuits are eliminated. These are typically

used by television companies or for closed-circuit television (such as those in the airports, railway stations, factories, hospitals etc.,) for display. They can, moreover, have separate inputs for red (R), green (G) and blue (B), or be coded in accordance with a particular standard such as NTSC, SECAM, PAL, D-MAC etc., for reception of coded signals, by incorporating video decoding device.

9.6 *On careful perusal of the tariff entries under the First Schedule to the Customs Tariff and the HS Explanatory Notes, we are of the opinion that if a monitor is capable of accepting signals from an ADP machine, and providing a graphical representation of the data presented, it will be treated as a monitor classifiable under CTI 8528 5200, since such monitors fulfil the twin conditions of 'capable of directly connecting to ADP machine' and 'designed for use with ADP machine'. In other words, whether a monitor is having the technical specifications by which it can be connected to an ADP machine, is the determining factor for its classification under CTI 8528 5200 and not the actual use for which these are being put to in each of the situation, where such monitors are used.*

9.7 *We further find that the facts on record indicate that various medical equipment such as Ultrasound equipment, CT scan, MRI scan systems, Digital x-ray machine etc. use monitors which are connected to an ADP machine, in order to compute large amount of data collected during the screening of patients. The computer connected to such medical equipment processes the image that is received in the main machine, and the output from the computer is displayed on the monitor (which are under dispute). Further information available is also stored in the computers connected to the medical equipment, and such stored information/images are displayed in the monitors, for comparison, analysis and for preparation of reports, for viewing in such*

monitors. Further such monitors can also process like a normal computer for preparation of documents / reports, connecting to the Internet for sending images generated by the medical equipment to the patients, hospitals or the concerned persons. Thus, it clearly demonstrates that the impugned goods can be used as monitors not only for display of images etc. of the medical equipment, but also is monitor for display of ADP machine connected to the medical equipment.

9.8 From the above discussion of the legal provisions of the First Schedule to the Customs Tariff Act, 1975 and the explanation of coverage of products given in the Explanatory notes of HS of the WCO, we are of the considered opinion, that the impugned goods are appropriately classifiable under CTI 8528 5200 and not under CTI 8528 5900.'

and that

'10.2 From plain reading of the above notification entries relevant to the present case, it transpires that the specified rate of IGST mentioned in the schedule would apply to all the goods itemized therein. Accordingly, computer monitors, set top boxes for television and television set including LCD or LED television falling under heading 8528, if these are not exceeding 32 inches are attracting IGST at the rate of 18%, as prescribed under entry at Serial No.383C and 384 of Notification dated 28.06.2017. As distinct from the above (i) Monitors and projectors, which are not incorporating television reception apparatus and (ii) Reception apparatus for television, other than (a) computer monitors not exceeding 32 inches, (b) television set, set top box for television set of screen size not exceeding 32 inches, are attracting 28% IGST%, as prescribed under entry at Serial No.154 said of Notification dated 28.06.2017. Therefore, it clearly transpires that on the basis of size of display i.e., monitors of size less than 32 inches; and on

the basis of technical capability of the function of the monitor to be used, connected to or designed for use with ADP machines, there are appropriately chargeable to IGST at 18%, in terms of entry at Serial No.384 of above notification. It also transpires that television sets, other monitors not capable of connecting to ADP machine, if the screen size is not exceeding 32 inches, still they are chargeable to IGST at 18%, in terms of entry at Serial No.383C of above notification. As the impugned goods are of display screen not exceeding 32 inches and are used with or connected to the ADP machines, we find that the appropriate IGST leviable on the impugned goods are at 18% and not 28%, as held in the Impugned order.

10.3 In the impugned order, it has been recorded in paragraph 32.2, that the imported goods are of 19 inch LCD display monitors. Further, it has also been recorded in the impugned order that in order to fall under entry at serial No.384, monitors not only needed to be of screen size not exceeding 32 inches but it should also be classifiable under CTI 8528 5200 only. We find that such a finding in the impugned order passed by the learned Commissioner is contrary to the entry in the notification 384, inasmuch as the entry in column (2) for serial No.384 is heading “8528” and not tariff item “8528 5200”. Hence, such a finding is contrary to the legal position and therefore on this ground alone, the impugned order is liable to be set aside, as it does not stand for legal scrutiny.

10.4 In this regard, we find that the Ministry of Finance, Central Board of Excise & Customs (CBEC) had examined the issue of classification of monitors in the context of certain difficulties expressed by trade and industry association in classification of monitors for use with Automatic Data Processing (ADP) machine and consequent import duty exemption benefits available to those goods under Circular No. 33/2007-Customs dated 10.09.2007.

The extract of the relevant paragraphs of the said circular is given below:

*“Circular No.33/2007-Cus. F. No. 528/96/2001-Cus.(TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
159A, North Block, New Delhi-1.
Dated 10th September, 2007.
To All Chief Commissioners of Customs.
All Chief Commissioners of Customs & Central Excise.
Chief Departmental Representatives, CESTAT.
All Commissioners of Customs.
All Commissioners of Customs & Central Excise.*

*Subject: Classification of Digital LCD / Flat Panel Monitor -
Admissibility of Notification benefits - reg.*

It has been represented by the trade and industry association that certain difficulties have been faced in classification of monitors for use with Automatic Data Processing (ADP) machine and consequent import duty exemption benefits. Doubts have been expressed by field formations as to whether 'LCD or Flat Panel Monitors, if used along with ADP Machines would be classifiable as 'ADP Monitor' and whether exemption from Customs duty vide Sl.No.17 of Notification No. 24/2005-Cus dated 1.3.2005 would be admissible.

2. The issue was examined in the Board. Monitors used along with ADP machines were classified till 31.12.2006, under heading 8471 of the First Schedule to the Customs Tariff Act, 1975. Due to HS 2007 changes brought into effect from 1.1.2007, such monitors are presently classifiable under sub heading 8528 40. All types of monitors and projectors which are solely or principally used with an ADP machine is covered under the sub headings 8528 41(Cathode Ray Tube Monitors), 8528 51(Other types) and 8528 61(Projectors) and are extended with exemption of customs duty vide Sl.No.17 of notification No. 24/2005-Customs dated 1.3.2005. Further, television or video monitors were classifiable earlier under heading 8528. Presently these monitors used as Television or Video reception apparatus are classified under sub heading 8528 71 or 8528 72 as the case may be, and are not eligible for the aforesaid exemption. 3. This issue was also deliberated at the Conference of Chief Commissioners' on Tariff and Allied Matters, wherein it was decided that the Board may issue guidelines on the basis of assessment practice that is being followed by Customs Commissionerate, Aircargo, Mumbai to distinguish 'computer monitors' from that of monitors for use with TV / Video and for classifying the goods under 8528 41 or 8528 51 (earlier classifiable under CTH 8471). However, to ensure uniformity, it was decided that

Board could issue a circular in this regard.

4. Accordingly the technical features distinguishing the computer monitors from the other types of Television/video monitors are enclosed. These could be used by the officers of the field formation as guidance for assessment, examination of the said goods for determining its proper classification and extension of the notification benefit.

Comparative chart of physical characteristics of Computer monitors versus Video monitors

Computer Monitors	TV/ Video Monitors
Computer Monitors cannot receive video/TV signals (eg: NTSC, SECAM, PAL) because they do not incorporate a TV tuner. They have DVI*** and/or mini D - Stub connectors to connect to the Central Processing Unit (CPU).	TV/Video Monitors receive television signals through a co-axial cable (Svideo input connector). They do not have a mini D - Stub connector
Only few ports like VGA*, DVI, USB are provided to receive signals from CPU or storage devices	Presence of composite video port, Svideo port** are essential for multi functional screen. These enable the monitors to receive broadcast signals or other video signals from DVD player or video gaming devices. May also additionally have DVI Port.
Computer monitors receive RGB signals, which is only video information and horizontal and vertical sync information. They do not possess separate audio circuits.	TV/Video monitors are capable of receiving composite signals which are a modulated signal containing both video and audio signal. Thus, they require built-in Tuner Cards
Computer monitors are characterized by low emission standards (brightness of 400 cd/m2 or less is an indication that a display is an ADP monitor) and have various ergonomic features such as swivel, tilt mechanism, glare free and flicker free surfaces, to enable close proximity and	TV displays are designed to be viewed across a room which is brighter than the computer displays. They are generally not provided with ergonomic features such as swivel and tilt.

<i>prolonged viewing.</i>	
<i>Technical specifications: Display pitch size is small usually 0.28 mm or less; Band width more than 15MHZ; Horizontal frequency 15 to 155 KHZ; Marked by high resolution to enable clear and sharp text messages</i>	<i>Technical specifications: Display pitch is larger 0.41 mm or greater; Band width or video frequency range is less than 6 MHZ to cover national, international broadcast frequency; Horizontal frequency is fixed between 15.6 to 15.7 KHZ; Low resolution.</i>
<i>Computer monitors do not contain components like TV Tuner Card, Audio Amplifying System, Remote Function, Control Panel function</i>	<i>These components are necessary for functioning as a video monitor</i>
<i>Computer monitors do not contain the features mentioned opposite to this Entry in the column TV/Video Monitors.</i>	<i>Channel selection panel with buttons for volume, channel etc., on display unit, wall mounting facility are present for facilitating television/video viewing</i>
<i>The aspect ratio for ADP monitor is generally 16:10 (for wide angle).</i>	<i>The aspect ratio for TV is generally 16:9 (for wide angle)."</i>

11. From the above clarification issued by CBIC, it transpires that in order to provide a guideline for the customs field formations to distinguish computer monitors which are used with ADP machines from that of the television/video monitors they have prescribed certain physical characteristics to be seen, in terms of certain specific eight broad technical specifications. It also transpires that the said CBIC circular had taken into account the customs assessment practices followed during the prevailing time at Air Cargo Complex (ACC), Mumbai, for specifying the various technical features that would enable the customs field officers to distinguish between computer monitors and television/video monitors and to classify the monitors properly. However, we find

that these have not been examined so and the impugned order does not even go into such details for arriving at a proper and legally sustainable decision on the issue of classification. Therefore, on this ground also the impugned order is not legally sustainable.

12.1 It is also seen from the facts of the case, that such technical details have been examined in the very same appellants-importer's case on similar product 'colour LCD monitor CR' by the Commissioner of Customs, Air Cargo Complex, Chennai vide Order-in-Original No. 07/2024-AIR dated 12.01.2024 and the data-sheet of the distinguishing specification as per instructions of CBIC have been demonstrated to prove that such monitors are fulfill those technical specifications to be treated as 'computer monitors'. Therefore, we find that the impugned goods are properly classifiable as 'computer monitors'.

12.2 In addition to the above, in deciding the issue of classification within the Chapter Heading 8528, learned AR has stated that in terms of Section Note 4 to Section XVI and in terms of Chapter Note 5(E) to Chapter 84 providing for classification of 'machine' forming part of whole combination of machines to be classified along with such machine and that even though such machine being part of ADP machine, since provide a specific function has to be classified under the heading appropriate to their respective function, for treating it as a part of the medical equipment. In this regard, we find that the Section Note 5 to Section XVI clearly state that for the purposes of these section notes, the expression 'machine' means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85. Further, medical or surgical instruments or apparatus including ultrasound scanning machine, MRI apparatus, ECG machine etc. are covered under heading 9018. Thus, the reference to the above section/chapter notes for arguing the classification of monitors along with the medical equipment of 9018 is neither contemplated

in the SCN nor discussed in the impugned order, and hence we do not find it necessary to examine these aspects submitted by the learned AR.

13.1 The appellants have also relied upon CBIC circular dated 11.01.2005, to submit that on interpretation of the exemption available to 'general purpose machine', CBIC had clarified that such exemption benefits should be extended as long as they are capable of use in the specified industry. Since such circular of CBIC on clarification of products, is issued after detailed discussion and decision thereof having been taken in Customs Tariff Conferences, and these circulars are issued for the purpose of uniformity in classification and levy of duty, in terms of section 151 A of the Customs Act, 1962, we find that these CBIC circular have the force of law and the Customs field formations like the Customs Commissionerate of ACC, Mumbai cannot deviate from such instructions to be followed. The extract of the said circular is given below:

*“Circular No. 1/2005-Cus., dated 11-1-2005
F. No. 528/78/2004-Cus(TU)
Government of India
Ministry of Finance (Department of Revenue)
Central Board of Excise & Customs, New Delhi*

Subject : Clarification on various Tariff Issues - Regarding.

I am directed to say that divergence of practice regarding various Tariff related issues has been brought to the notice of the Board. A number of such matters were discussed at the Tariff Conferences of Chief Commissioners of Customs held at Kolkata on 22nd and 23rd January, 2004 and Shillong from 13th to 15th May, 2004. On the basis of the recommendations of these Tariff Conferences, draft circulars were prepared and put up on the Deptt.'s web-site (www.cbec.gov.in) and also circulated to various trade bodies for giving it wider publicity. Various parties were asked to give their comments and feedback on the draft circulars within 3 weeks. Board has taken decisions on these issues after considering the feedback received.

(A) Briefs of such issues and the decisions taken by the Board on the same are enclosed herewith.

(B) Field formations may finalise the pending assessments, if

any, accordingly.

(C) Suitable Public Notices may be issued for the benefit of the Trade.

(D) Hindi version will follow.

Enclosure

(iii) Subject : Eligibility of general purpose Labelling Machine under Notification No. 21/2002-Cus., dated 1-3-2002 for use in Textile Industry.

Issue in Brief : This matter was discussed in the Tariff Conference of Chief Commissioners of Customs held at Kolkata on 22nd and 23rd January, 2004 [Agenda Point N-8]. Concessional rate of duty of 5% is extended to specified machinery/equipment which are meant for use in textile industry vide S. No. 250 of Notification No. 21/2002-Cus., dated 1-3-2002. List 30 of the said Notification specifies labeling machine at Sl. No. 84 therein. The intention of the Notification is to allow concessional duty for labeling machines which are for use in textile industry. The field formations have noticed import of Labeling machines of general purpose which can be used not only in textile industry but also in other industries. Labeling machines, imported by trading firms are normally used for general purposes and not in textile industry alone. But importers of such machines are claiming concessional rate of duty under the said notification by declaring them as machinery/equipment for use in textile industry. Rejection of the claim of the importers may not be found sustainable as the imported labeling machines can be used also in textile industries. Labeling machines being an omni-bus term, the Notification gives room for unscrupulous importers to avail of unintended benefit.

Decision : The Board deliberated upon the language of the notification. The expression used in the notification is ".....goods for use in the textile industry". The notification, therefore, does not appear to restrict the concession to only those machinery or equipment which was 'specifically designed for use' in the textile industry. The notification allows the import of general purpose machinery also as listed in List 30 so long as they are capable of use in textile industry. It has accordingly been decided that 'general purpose labelling machine' was eligible for exemption under S.No. 250 of Notification No. 21/2002-Cus., dated 1-3-2002, if it could also be used in the textile industry."

13.2 We also find that classification decisions taken by HS Committee of World Customs Organization (WCO) over the years during 2001 to 2010, from its 27th to 16th session, on monitors consistently have held it under heading 852852. We find that these

classification opinions given by WCO have been relied upon by the appellants, and it duly support and are in favour of the appellants. The extract of the same is given below: ...'

Further, the said decision of the Tribunal relied on another in *Ortho Clinical Diagnostics India Pvt Ltd v. Commissioner of Customs (Import)* [2022 (9) TMI 1109 – CESTAT MUMBAI] holding that

'11. Despite the incorporation in Customs Tariff Act, 1975 of the parallel world corresponding to the new regime, the legality of

'7) Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent. as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8).'

in section 3 appears to need the simultaneous support of

'Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.'

in section 5 of the Integrated Goods and Services Tax (IGST) Act, 2017– not considered essential for the erstwhile authority to charge either of the additional duties. The legislative intent in placement of the said proviso, as a particular departure from

'5. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:'

of Integrated Goods and Services Tax (GST) Act, 2017, indicates that section 3(7) of Customs Tariff Act, 1975 needs to be carefully examined for its scope. Doubtlessly, it charges a liability on the goods under import but circumscribed by section 5 of Integrated Goods and Services Act, 2017 which, ordinarily, applies to 'inter state supply' for levy at a notified rate on value determined in accordance with section 15 of Central Goods and Services Tax (CGST) Act, 2017. Supply of goods from outside India, envisaged to be at par with 'inter state supply' of goods, is treated differently under the authority of the proviso to be levied and collected in accordance with section 3 of Customs Tariff Act, 1975 with its own attendant valuation mechanism supplementing the valuation of such goods in accordance with section 14 of Customs Act, 1962 and treating the levy of duties under Customs Act, 1962 as the point at which the 'integrated tax' liability is fastened on imported goods. It is not collected as a duty of customs and the authority conferred by section 3(7) of Customs Tariff Act, 1975 requires charging at the rate as is leviable under section 5 of Integrated Goods and Services Tax (IGST) Act, 2017. The legislated bundle for implementation of the scheme of goods and services tax (GST) is founded on self-assessment by adopting the value envisaged in section 15 of Central Goods and Services Tax (CGST) Act, 2017 to which the rate as notified under the relevant statutes is applied by the assessee for discharge of liability that is reflected in the return which, in turn, is scrutinized by the 'central tax officer' for correctness.

12. *The scheme of rule 3(7) of Customs Tariff Act, 1975, therefore, imposes 'integrated tax' on imported goods, at a rate as prescribed under the authority of section 5 of Integrated Goods and Services Tax (IGST) Act, 2017, on value as prescribed in section 3(8) therein which is the arithmetical addition of duties of customs to value for assessment of*

imported goods and posing no discretionary authority therein. In the light of this being a distinct 'integrated tax', and not an additional duty of customs equal to another duty charged and collected under a scheme of assessment, the adoption of rate claimed by an importer can be disputed only by such officers conferred with authority to do so. Such officers with jurisdiction to intrude into self-assessment are central tax officers. The enabling of levy of 'integrated tax' in Customs Tariff Act, 1975 does not confer any power to intrude upon rate claimed in the bill of entry and 'proper officer', invoking power of assessment or power of recovery under Customs Act, 1962, would be in excess of jurisdiction to venture into determination of rate of duty under a law that is outside jurisdictional competence. This perspective on the enabling provision is not prejudicial to revenue for reasons discussed supra and it is only such prejudice that may prompt an alternative perspective. Learned Authorized Representative has not been able to demonstrate so.

13. *The rate of duty for levy of 'integrated tax' is prescribed under the authority of section 5 of Integrated Goods and Services Tax (IGST) Act, 2017. Our appellate jurisdiction is limited, as far as 'rate of duty' is concerned, to those prescribed in Customs Tariff Act, 1975, Central Excise Tariff Act, 1985 or in Finance Act, 1994. This appellate jurisdiction originates with exercise of adjudicatory authority under Customs Act, 1962, Central Excise Act, 1944 and Finance Act, 1944 thereby binding the original, and first appellate, authorities therein to such jurisdictional circumscribing. 'Central tax officers' appointed under Central Goods and Services Tax (CGST) Act, 2017 are subject to a different appellate structure. We would consider it inappropriate for us to venture into the exercise of classification under a law that is beyond our jurisdiction and the adjudicating authority should*

also have been similarly cautious. The arguments of Learned Senior Counsel and of Learned Authorized Representative on the merit of their respective stands on the classification of the impugned goods are, thus, deliberately not being taken up for decision on correctness or otherwise. In adverting so, we desist also from elaborating upon the obvious inadequacy of domain knowledge of a tax law that is extra jurisdictional. However, the legal framework for re-classification is not beyond such appellate jurisdiction and we may subject the impugned order to that test.

14. *We find that, for assessment to basic duties of customs, the declared heading has not been disputed in the notice. The adjudicating authority has subjected all goods in the impugned bills of entry to revision by adoption of the ultimate residuary description; the absence of specific and detailed discussion on each of the articles separately is a grave want in the impugned order. The impugned goods are 'ELISA kits', 'CLIA kits', 'diagnostic reagents on a backing', 'calibrators', 'controls' and others such as 'wash solutions', 'wash buffers', 'reference fluid', 'diluent packs', 'maintenance packs' and 'marker kits' with claim for coverage under serial no. 180 of Schedule I in the 'integrated tax' rate notification owing to specific enumeration in List 1 for the first two items and under serial no. 80 of Schedule II in the 'integrated tax' rate notification owing to description corresponding to it. It is seen that the columnar reference to First Schedule to Customs Tariff Act, 1975 is to 'Chapter 30 or any other chapter', insofar as the former is concerned, and to 'heading 3822' as far as the latter is concerned; considering the specifics therein, the claim for application of these rates of 'integrated tax' respectively is not to be brushed aside.*

15. *The effect of the proposition of Revenue, in support of the adjudication order, on the part of Learned Authorized Representative is that the impugned goods are not specifically emplaced in the claimed Schedules or in Schedule IV, V and V of the 'integrated tax' rate notification with consequent application of the residuary serial no. 453 corresponding to 'goods which are not specified in Schedule I, II, IV, V and VI' with columnar reference to any Chapter of the First Schedule to Customs Tariff Act, 1975. The question that begs an answer, and in the context of the rules for interpretation of the Customs Tariff Act, 1975 as well as the Explanations therein being applicable to the placement of goods in the Schedules to the 'integrated tax' rate notification combined with absence of such residuary entry in the First Schedule to Customs Tariff Act, 1975, is the significance of the very resort that Revenue seeks shelter within. From the scheme of the 'integrated tax' rate notification, it appears that the rates enumerated therein are to be read as corresponding to the tariff items in the First Schedule to Customs Tariff Act, 1975 and with the default rate or residuary rate of 18% to be read as corresponding to any tariff item lacking in such rates. This follows from the mandate of Article 269A of the Constitution and the provisions of section 5 of Central Goods and Services Tax (CGST) Act, 2017 that eliminates any scope for perceiving the rates as an exemption notification – which the adjudicating authority appears to have adopted as the guiding prism.*

16. *It is not the case of Revenue that any or all of the impugned goods do not find fitment in heading 3822 of the First Schedule to Customs Tariff Act, 1975 or that the 'integrated tax' rate at serial no. 80 of Schedule II is, by the corresponding description, unquestionably excluded from every tariff item comprising heading 3822 of the First Schedule to Customs Tariff Act, 1975. Nor is it the case of Revenue that*

the 'kits' at serial no. 180 of Schedule I of the 'integrated tax' rate notification do not find placement in chapter 38 of First Schedule to Customs Tariff Act, 1975.

17. *The Hon'ble Supreme Court, in HPL Chemicals Ltd v. Commissioner of Central Excise, Chandigarh [2006 (197) ELT 324 (SC), has held that*

'29. This apart, classification of goods is a matter relating to chargeability and the burden of proof is squarely upon the Revenue. If the Department intends to classify the goods under a particular heading or sub-heading different from that claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof. In the present case the said burden has not been discharged at all by the Revenue. On the one hand, from the trade and market enquiries made by the Department, from the report of the Chemical Examiner, CRCL and from HSN, it is' quite clear that the goods are classifiable as "Denatured Salt" falling under Chapter Heading No. 25.01. The Department has not shown that the subject product is not bought or sold or is not known or is dealt with in the market as Denatured Salt. Department's own Chemical Examiner after examining the chemical composition has not said that it is not denatured salt. On the other hand, after examining the chemical composition has opined that the subject matter is to be treated as Sodium Chloride.'

and further in Hindustan Ferodo Ltd v. Collector of Central Excise, Bombay [1997 (89) ELT 16 (SC)] that

'3. It is not in dispute before us, as it cannot be, that the onus of establishing that the said rings fell within Item 22F lay upon the Revenue. The Revenue led no evidence. The onus was not discharged. Assuming therefore, that the Tribunal was right in rejecting the evidence that was produced on behalf of the appellants, the appeal should, nonetheless, have been allowed.

xxxx

7. Learned Counsel for the Revenue submitted that the matter be remanded to the Tribunal so that the evidence on record may be reappreciated. As we have stated, no evidence was led on behalf of the Revenue. There is, therefore, no good reason to remand the matter.'

stipulating the rules of engagement in adversarial contentions on classification of goods for assessment. Hence, the

classification proposed, and adopted, in the impugned proceedings must first pass muster as an appropriate description of the impugned goods before revision can be approved.

18. *The exercise in classification undertaken in adjudicating the proposal to take recourse to an alternate entry should have adhered to the judicially established rules of engagement. Instead of deliberating on the validity, and appropriateness, of a tariff item in the First Schedule to Customs Tariff Act, 1975 other than that claimed in the bills of entry after due notice to the importer, the adjudicating authority adopted a process of elimination of the enumeration of descriptions in the Schedules to the 'integrated tax' rate notification, and ignoring the scheme of its presentation, with the erroneous assumption of jurisdiction to place goods within the ambit of the residuary entry in Schedule III of the 'integrated tax' rate notification.*

19. *We, therefore, hold that, insofar as the imported goods are concerned in the light of statutory circumscribing of levy of 'integrated tax' as discussed supra and there being no prejudice to interests of revenue thereby, the declared classification of the imported goods prevails. Legislative intent is not imposition of burden of 'integrated tax' on the person importing goods and the onus for altering classification has not been discharged. The charge of misdeclaration of goods does not sustain and hence confiscation and penalty are also set aside.'*

demonstrating no prejudice to the exchequer in revising the rate of duty downwards. In any case, had the appellant discharged the liability at 18% for integrated tax, it was not open to customs authorities to revise

it to 28% as set out in *re Ortho Clinical Diagnostics India Pvt Ltd*. Consequently, we set aside the orders rejecting the applications for amending the respective bills of entry and restore the assessments to the ‘proper officer’ in section 17(5) of Customs Act, 1962 to determine the consequential duty liability. In view of this direction, the impugned orders sustaining the assessment at 28% for integrated tax are set aside.

(Order pronounced in the open court on 23/01/2026)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)