CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH

CUSTOMS APPEAL NO: 86685 OF 2016

[Arising out of Order-in-Original No: SA/13/2015-16 NS-V dated 31/03/2016 passed by the Commissioner of Customs (NS-V), Nhava Sheva.]

Johnson and Johnson Pvt. Ltd
501 Arena Space Behind Majas Bus Depot
Off: Jogeshwari -Vikhroli Link Road,
Jogeshwari East Mumbai – 400 060 … ***Appellant***

versus

Commissioner of Customs (NS-V)
Jawaharlal Nehru Customs House, Nhava Sheva
Tal: Uran, Dist: Raigad - 400707 ***...Respondent***

APPEARANCE:

Shri Parth Parikh with Shri Yash Prakash, Advocates for the appellant

Shri CS Pavan, Deputy Commissioner (AR) for the respondent

CORAM:

HON'BLE MR S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO: 85870/2026

DATE OF HEARING: 03.07.2026
DATE OF DECISION: 03.07.2026

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellant is engaged in import and sale of 'complete blood glucose monitoring system'. During the disputed period, the appellant had filed 12 bills of entries in respect of the said goods imported by them. In the bill of entry, the appellant had claimed the classification of the said goods under CTH 9027 8090. However, the department had objected to the classification claimed by the appellant and re-classified the same under CTH 9018 9099.

3. We find that the issue arising out of the present dispute with regard to classification of blood glucose monitoring system is no more *res integra,* in view of the Final Order No. A/85310/2025 dated 21st February 2025 passed by this Bench of the Tribunal in the case of *Commissioner of Customs (Export), Nhava Sheva v. Abbott Healthcare Pvt Ltd.* The relevant paragraphs as recorded in the said order, are quoted herein below:

> *'4. The issue involved in the present appeal relates to classification of the subject goods imported by the appellant. The appellant had contended that the goods in question should be classifiable under CTH 9027 80 90, as against the classification made by the department under CTH 9018 90 99. We find that the issue arising out of the present dispute with regard to classification of the subject goods is no more res integra in view of the order passed by this Bench of the Tribunal in the case of Bayer Pharmaceuticals (P.) Ltd. Vs. Commissioner of Cus., Mumbai – 2016 (331) E.L.T. 317 (Tri-Mumbai). In the said order, by relying upon the HSN Explanatory Note appended to the competing headings, the Tribunal has held that the imported goods viz. glucometers are classifiable under*

heading 90.27 and are eligible for exemption under Notification No. 24/2005-Cus., dated 01.03.2005. The relevant paragraph in the said order are extracted herein below:

> *"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, uren 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."*

5. We also find that the order of the Tribunal passed in the case of Bayer Pharmaceuticals (P.) Ltd. (supra) was approved by the Hon'ble Bombay High Court in the case of Ascensia Diabetes Care India Pvt. Ltd. (supra). The Hon'ble High Court has held that the Notification No.50/2017-Cus., dated 30.06.2017 at Sl. No. 576, prescribing the concessional rate of duty of 5% shall be applicable in case of goods falling under CTH 9018; and the same would not be applicable, where the goods are classified under CTH

9027. In the present case, since the appellant had claimed the classification of subject goods under CTH 9027, the benefit provided under Notification No.24/2005-Cus., 01.03.2005 should alone be applicable. In the impugned order, the learned Commissioner (Appeals) has allowed the appeal in favour of the appellant, by placing reliance on the above orders delivered by the judicial forums (referred above). Therefore, we do not find any infirmity in the said order passed by the learned Commissioner (Appeals).'

4. In view of the above, we do not find any merits in the impugned order, in so far as it has changed the classification of the subject goods as claimed by the appellant and resultantly confirmed the adjudged demands on them. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellant.

(Dictated and Pronounced in Open Court)

(S.K. MOHANTY)
Member (Judicial)

(M.M. PARTHIBAN)
Member (Technical)

**/as*