## CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
## MUMBAI

REGIONAL BENCH - COURT NO. 2

**Customs Appeal No. 87909 of 2025**

[Arising out of Order-in-Original No. CC/NK/10/2024-25/ADJ.(GEN.)/ACC dated 22.07.2025 passed by the Commissioner of Customs (General), Air Cargo Complex, Mumbai.]

**Fresenius Kabi India Private Limited** **.... Appellants**
A-3, MIDC Ranjangaon Ganpati,
Pune Nagar Road, Taluka Shirur,
District Pune
Pune, Maharashtra – 412 220.

Versus

**Commissioner of Customs** **.... Respondent**
**Nhava Sheva Customs Commissionerate-V**
Jawaharlal Nehru Custom House (JNCH)
Nhava Sheva, Taluka Uran, District Raigad
Maharashtra – 400 707.

Appearance:

Shri Vinay Ansurkar along with Ms. Raika Chaudhari, Advocates for the Appellants

Shri C.S. Vinod, Authorized Representative for the Respondent

**FINAL ORDER NO. A/86176/2026**

Date of Hearing: 20.08.2026
Date of Decision: 22.09.2026

**Per: M.M. PARTHIBAN**

This appeal has been filed by M/s Fresenius Kabi India Private Limited, Pune (herein after, referred to as "the appellants", for short) assailing the Order-in-Original No.CC/NK/10/2024-25/ADJ.(GEN.)/ACC dated 22.7.2025 (herein after, referred to as "the impugned order") passed by the Commissioner of Customs (General), Air Cargo Complex, Mumbai.

2.1 Brief facts of the case, leading to this appeal, are summarized herein below:

2.2. The appellants herein are engaged in import of medical devices/ equipment and their parts, accessories, components of such instruments and appliances used in medical, surgical, dental or veterinary sciences. Some of the goods in regular import is of 'AMICUS Platelet Kit FC SN W/PAS Luer (U6R2301)' and similar items which are accessories of Cell Separator, an equipment used for blood component collection and for performing therapeutic procedures. During the period 01.08.2018 to 28.11.2022, upon importation of the said goods, the appellants had filed various Bills of Entry (B/E) for self-assessment of customs duties before the jurisdictional Customs authorities at the Port of Jawaharlal Nehru Customs House (JNCH), Nhava Sheva (NS), by declaring the goods as parts and components of medical, surgical and other equipment and classified these under various tariff items of Customs Tariff Heading (CTH) 9018 of the First Schedule to the Customs Tariff Act, 1975. In these imports, the appellants had paid the Integrated Goods and Services Tax (IGST) at the rate of 12% by availing concessional rate vide Serial No.218 of Schedule-II of Notification No.01/2017-IT (Rate) dated 28.06.2017. However, during post-clearance audit of the import transactions of the appellants, the department had interpreted that the IGST is payable on the imported goods at the rate of 18%, since the impugned goods fall under the entry Serial No.423 of the said notification dated 28.06.2017 and thus are liable to pay IGST at the rate of 18% in terms of Serial No.423 of the said notification dated 28.06.2017. After issue of pre-notice consultation letter dated 04.05.2023, the department issued Show Cause Notice (SCN) dated 24.07.2023 proposing for re-classification of goods under CTH 9033 and for recovery of differential duty under Section 28(4) of the Customs Act, 1962 along with interest, and for confiscation of the impugned goods for violations under Section 111(m), 111(o) ibid as well as for imposition of penalties on the appellants under Section 112(a)/114A ibid.

2.3 In adjudication of the said SCN as per Notification No.29/2024-Customs (N.T.) dated 24.04.2025, the Commissioner of Customs has passed the impugned order dated 22.07.2025 in confirming all proposals made in the SCN. Feeling aggrieved with the said impugned order of the Commissioner, the appellants have filed this appeal before the Tribunal.

3. Learned Counsel appearing for the appellants stated that the entire case of misclassification and resultant demand of IGST at a higher rate is arising from interpretation of the relevant entry under Notification No. 01/ 2017-IT (Rate) dated 28.06.2017 in which the impugned goods are to be covered. He further stated that the issue under dispute is no more *res integra,* as the department by referring to the above issued under dispute had clarified vide Circular No.113/32/2019-GST dated 11.10.2019 that the rate of IGST applicable on parts and accessories suitable for use solely or principally with a medical device and classifiable under 9018 is at 12%. In

support of the above plea, he relied upon the order of this Bench of the Tribunal in the case of *M/s Baxter (India) Private Limited Vs. Commissioner of Customs (NS-V)* vide Final Order No. A/85769/2026 dated 23.06.2026, which has also taken into account the decision of the Co-ordinate Bench of the Tribunal in the case of *Aloka Trivitron Medical Technologies Private Limited Vs. Commissioner of Customs, Imports, Chennai-II* - 2020 (374) E.L.T. 93 (Tri. - Chennai), which was also upheld by the Hon'ble Supreme Court as reported in (2024) 16 Centax 383 (S.C.).

4. Learned Authorised Representative (AR) reiterated the findings made by the Commissioner in the impugned order. Further, a specific query was asked by the Bench about the status of the Final order of this Bench of the Tribunal in the case of *Baxter (India) Private Limited* (supra) relied upon by the appellants in this case, whether the same has been accepted or any appeal preferred by the department, and was directed to submit such response within two weeks' time along with written submissions and synopsis in the matter. In the written synopsis filed by the learned AR, he has submitted a letter dated 01.09.2026 signed by Assistant Commissioner of Customs, CRAC, NS-V, JNCH representing the office of Mumbai Customs Zone-II, JNCH, Nhava Sheva, that the issue regarding the correct classification of medical device parts under CTH 9018 versus CTH 9033 has been duly re-examined in the light of the Tribunal's findings in the case of Baxter India Private Limited and the said order of the Tribunal dated 23.06.2026 has been formally accepted by the Competent Authority.

5. We have heard both the learned Advocate appearing for the appellants and the learned Authorized Representative of the Department and perused the case records and the synopsis given in the form of written submissions.

6. We find that the issue under dispute for consideration before us is as follows:

> (i) determination of proper classification of the impugned goods, either under CTH 9018 as claimed by the appellants, or, under CTH 9033 as held in the impugned order, for the purpose of determining appropriate IGST payable thereon;
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> (ii) whether the confiscation of impugned goods and consequent imposition of redemption fine and penalty on the appellants are sustainable or otherwise.

7. In an identical case involving the aforesaid issues of dispute in classification of impugned goods and determination of appropriate rate of

IGST applicable on such goods, in the case of *Baxter (India) Private Limited* (supra), the appeal was decided in favour of the appellants and the same has also been accepted by the department, as explained in paragraph 4 above. The relevant paragraphs providing the conclusion arrived in the relied upon case are as follows:

> *"7.2 On careful reading of the above tariff entries and by applying the General Interpretative Rules (GIR) particularly Rule 1, the position is made clear that Chapter Heading 9018 covers all types of instruments and appliances used in medical, surgical, dental or veterinary sciences along with its parts, under the respective entries of the relevant instrument or appliance itself; and the other non-specified instruments, appliances and other general parts under the residual entry of 'other', within its scope and ambit. Whereas the scope of tariff entry under CTH 9033 is the residual entry for covering those parts and accessories, which are not specified or included elsewhere in this chapter 90, under the residuary entry of that chapter. This is also evident from the guidance provided under Chapter Note No.2 to Chapter 90 for proper classification of parts and accessories falling under this Chapter. Therefore, it is evident that the impugned goods being parts and accessories suitable for use in the kidney dialysis apparatus are classifiable under CTH 9018 and not under CTH 9033.*
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> *7.3 We also find that the Ministry of Finance vide Circular dated 11.10.2019 had clarified the applicability of IGST/GST rates on various goods including the items under dispute in the present case. The relevant extract of the said circular is given below:*
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> xxx xxx xxx xxx
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> **9. Applicability of GST on the parts and accessories suitable for use solely or principally with a medical device:**
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> 9.1 Representations have been received seeking clarification on applicability of GST on the parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment.
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> 9.2 Briefly stated, medical equipment falling under HS 9018, 9019, 9021 and 9022 attract 12% GST. The imports of parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment, were being assessed at 12% GST by classifying it under heading 9018. However, objection has been raised by Comptroller and Auditor General of India (CAG) on the said practice, suggesting that since such goods were not specifically mentioned in the GST rate notification, they fall under tariff item 9033 00 00 [residual entry] and should be assessed at 18% IGST. In this background, representations have been received from trade and industry, seeking clarification in this matter
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> 9.3 The matter has been examined. As per chapter note 2(b) of the Chapter 90, parts and accessories of the instruments used mainly and principally for the medical instrument of chapter 90 shall be classified with the machine only. Chapter note 2(b) (of Chapter 90) reads as below: -
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> *"2 (b): other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instruments 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;"*

> 9.4 Thus, as per chapter note 2(b), parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment should be classified with the ophthalmic equipment only and shall attract 12%.
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> 9.5 In view of the above, it is clarified that 12% IGST would be applicable on the parts and accessories suitable for use solely or principally with a medical device falling under heading 9018, 9019, 9021 or 9022 in terms of chapter note 2 (b).
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> 10. Difficulty, if any, may be brought to the notice of the Board immediately. Hindi version shall follow.

*7.4 On plain reading of the aforesaid clarification issued by the department, it clearly transpires that the impugned goods being parts and accessories of kidney dialysis apparatus i.e., Continuous Renal Replacement Therapy (CRRT) machine and Home choice Claria Machine for Automated Peritoneal Dialysis (APD), are classifiable along with such apparatus and are chargeable to 12% IGST under Serial No.218 of the Schedule – II of the Notification No.01/2017 (IT) dated 28.06.2017.*

*8.1 On examination of the factual matrix of the present case, we find the disputed issue involved in the present case before this Bench, is exactly the same as was held by the Co-ordinate Bench of the Tribunal in the case of Aloka Trivitron Medical Technologies Limited (supra). The relevant paragraph of the said order of the Tribunal is extracted and given below:*

> *"**5.** Having considered the submissions from both sides and on perusal of record, we note that when the goods are presented in SKD condition, Revenue does not have authority of law to separate different parts and components and classify them differently in view of Rule 2(a) of General Rules for Interpretation of the Customs Tariff. If Revenue wants to remove certain parts from the SKD package and classify differently, then Revenue has to establish that remaining parts, if assembled together have essential character of final product. Revenue has not brought forward any such evidence. Further, CBIC issued clarification which is reproduced in foregoing paragraph. The said clarification relies on Chapter Note 2(b) to Chapter 90 and the same is binding on departmental officers. We, therefore, hold that both the impugned orders are not sustainable. Therefore, we set aside both the impugned orders and allow both the appeals. Appellants shall have consequential relief as per law."*

*8.2 In an appeal preferred by the department against the aforesaid order of the Tribunal vide Civil Appeal Nos. 1545-1546 of 2021, the Hon'ble Supreme Court by its judgement dated 15.03.2024 has dismissed the civil appeal of the department and observing that they are not inclined to interfere with the above order of the Tribunal. Further, as the appellants have paid the IGST at the appropriate rate of 12% advalorem, there is no further payment of any additional IGST involved in the present case, in terms of the settled position of law, as per the Hon'ble Supreme Court's judgement dated 15.03.2024."*

8. In view of the settled legal position as aforesaid in the case of *Baxter (India) Private Limited* (supra) and *Aloka Trivitron Medical Technologies Private Limited* (supra), we find that the issue arising out of the present dispute is no more *res integra.* Accordingly, we do not find any merits in the impugned order passed by the learned Commissioner, in upholding confirmation of the adjudged demands on the appellant and consequently, we set aside the same.

9. In the result, the impugned order 31.05.2017 passed by the learned Commissioner (Appeals) is set aside and the appeal filed by the appellant is allowed in their favour.

(Order pronounced in open court on 22.09.2026)

**(AJAY SHARMA)**
**MEMBER (JUDICIAL)**

**(M.M. PARTHIBAN)**
**MEMBER (TECHNICAL)**

*Sinha*