

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 21495 of 2015

[Arising out of Order-in-Appeal No. 225/2015 dated 27/02/2015 passed
by the Commissioner of Customs, Bangalore-I (Appeals)]

Logic India Trading Company

Logic Tower, Rajiv Gandhi Bypass Jn.,
Thurakkal, Manjeri
Malapuram - 676 121
Kerala

Appellant(s)

VERSUS

**Commissioner of Central Excise,
Customs and Service Tax
Bangalore-I**

Post Box No. 5400, C.R Buildings,
Bangalore - 560 001
Karnataka

Respondent(s)

APPEARANCE:

Mr. Syed Peeran, Advocate for the Appellant

Mr. P. Gopakumar, Additional Commissioner (AR) for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, JUDICIAL MEMBER

HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 20223 / 2022

Date of Hearing: 05/05/2022

Date of Decision: 05/05/2022

Per : S.K. MOHANTY

Briefly stated, the facts of the case are that the appellant herein is engaged in import of electronic goods for sale to the customers in

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India. During the disputed period, the appellant had filed three Bills of Entries before the jurisdictional Customs Authorities for import of 'Multimedia Speakers' procured from M/s. Encore Electronics Ltd., China. The goods were self-assessed by the appellant for clearance under CTH 8518 2200 of the Customs Tariff Act, 1975 as "Multiple Loud Speakers mounted in the same enclosure". The Department rejected the above classification claimed by the appellant and by relying upon the Board Circular No. 27/2013 dated 01/08/2013, had re-classified the subject goods under CTH 8519 8100 for Speakers with USB playback and 8527 9100 for Speakers with FM Radio feature. The Department further assessed the CVD on the above goods by applying Notification No. 49/2008-C.T. (N.T.) dated 24/12/2008. Due to urgent business requirements, the appellant had cleared the goods upon payment of duty under protest and discharged the duty liability on the MRP based assessment. The appellant also preferred an appeal before the learned Commissioner of Customs (Appeals), Bangalore challenging the assessment of the Bills of Entry, which were disposed of vide Order-in-Appeal Nos.438-440/2013 dated 26/11/2013, by directing the adjudicating authority to pass a speaking order as per the provisions of Section 17(5) of the Customs Act, 1960, by observing the principles of natural justice and applying the statutory provisions for classifying the goods. In accordance with the above appellate order, the learned Deputy Commissioner of Customs passed the Order-in-Original 328/2014 dated 07/05/2014, in classifying the goods under CTH 8519 8990 for speakers with USB playback and 8527 9100 for speakers with FM Radio. Feeling aggrieved with the said adjudication order, the appellant had preferred appeal before the learned Commissioner (Appeals). The said appeal was disposed of vide the impugned Order-in-Appeal No. 225/2015 dated 27/02/2015 by rejecting the classification claimed by the appellant for the subject goods and confirmed the classification adopted by the Department.

Being dis-satisfied with the impugned order, the appellant has filed this appeal before the Tribunal.

2. Heard both sides and perused the records.

3. We find that the issue with regard to classification of the subject goods has already been settled by this Tribunal in appellant's own case, reported in **2016 -TIOL-1800-CESTAT-BANG.**, wherein the Tribunal was posed with the classification of "Multimedia Speakers" of three types as imported by the appellant, viz. Speakers without USB port or FM; Speakers with additional functions of USB playback and Speakers with FM Radio and USB playback. Upon analyzing the legal provisions, the rules provided under the General Rules of Interpretation, common parlance theory etc., the Tribunal has held that though the "Multimedia Speakers" under consideration have additional features, the main and principal function of the product is as a Speaker and therefore, the goods in question are classifiable under CTH 8518 2200. The relevant paragraphs in the said order are extracted herein below:

"4.7 As we have already observed that even the lower authorities are not disputing the fact that the goods in question are speakers with added function, as such the main role of the item in question remains amplifying the sound received by it either from outside source or from inbuilt feature. As such, going by the Interpretative Rules and Section Note 3 to Section XVI, the criteria for classifying the product is the principal and the main function it performs, which in the present case remains to be that of a speaker. We accordingly hold that the goods in question are properly classifiable under Chapter Heading 8518 22 00. We may also add that the

invoices raised by the seller of the goods stand examined by it and the description stand given as "Multimedia Speaker". This also reflects upon the fact that the goods in question, in common parlance are also traded as speakers. The appellants have also submitted an affidavit of the dealers, the invoices raised by them against the customers and the statement of Service Manager of the assessee. Examination of these documents shows that goods are primarily sold as speakers. Even the brochures placed on record indicate that the goods are being traded as speakers only and not as either FM radio or the sound reproduction system.

4.8 *We are also strengthened in our view by the decision of the Hon'ble Supreme Court in the case of Xerox India Ltd. v. Commissioner of Customs, Mumbai - 2010 (260) E.L.T. 161 (S.C.)=2010-TIOL-97-SC-CUS. Though the said decision did not deal with the items under consideration in the present appeal but the ratio of law laid down by the Hon'ble Supreme Court would be squarely applicable to the facts of the present case. It was held that the multifunctional printing machines having fax facility and screening facility would continue to fall under Heading 8471 of the Customs Tariff Act as 'digital printers' only inasmuch as the predominant function of the machine in question was printing."*

4. Further, we also find that the appeal preferred by the Department against the above decision of the Tribunal before the Hon'ble Supreme Court has been dismissed, as reported in **2016-TIOL-259-SC-CUS.**

5. In view of the above orders passed by the Tribunal and the Hon'ble Supreme Court, the issue of classification of "Multimedia Speakers" is no more res integra and as such, the impugned order

passed in changing the classification of the disputed goods cannot be sustained. Accordingly, the impugned order is set aside and the appeal is allowed in favour of the appellant.

(Operative portion of the order was pronounced
in the Open Court on **05/05/2022**)

(S.K. MOHANTY)
JUDICIAL MEMBER

(P. ANJANI KUMAR)
TECHNICAL MEMBER

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