CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH- COURT NO. I

Customs Appeal No. 52421 of 2019

(Arising out of Order-in-Original No. 01/2019-20/V.S/COMMR (IMPORT) dated 24.06.2019 passed by the Commissioner of Customs (Import), New Delhi)

M/s GE Vernova T & D India Limited **....Appellant**
No.-19/1, G.S.T. Road,
Pallvaram, Chennai- 600 043

Versus

The Commissioner of Customs, **....Respondent**
Office of the Principal Commissioner of Customs
Air Cargo Complex (Import),
New Customs House,
Near IGI Airport, New Delhi-110037

WITH

Customs Appeal No. 52730 of 2019

(Arising out of Order-in-Original No. 01/2019-20/V.S/COMMR (IMPORT) dated 24.06.2019 passed by the Commissioner of Customs (Import), New Delhi)

Mr. Irudayara Anthony Joseph Balan **....Appellant**
Customs Operations Analyst
M/s GE Vernova T & D India Limited
No.-19/1, G.S.T. Road,
Pallvaram, Chennai- 600 043

Versus

The Commissioner of Customs, **....Respondent**
Office of the Principal Commissioner of Customs
Air Cargo Complex (Import),
New Customs House,
Near IGI Airport, New Delhi-110037

WITH

Customs Appeal No. 52732 of 2019

(Arising out of Order-in-Original No. 01/2019-20/V.S/COMMR (IMPORT) dated 24.06.2019 passed by the Commissioner of Customs (Import), New Delhi)

Mr. Nomula Srinivas **....Appellant**
General Manager And Head of Finance
M/s GE Vernova T & D India Limited
No.-19/1, G.S.T. Road,
Pallvaram, Chennai- 600 043

Versus

The Commissioner of Customs, **....Respondent**
Office of the Principal Commissioner of Customs
Air Cargo Complex (Import),
New Customs House,

Near IGI Airport, New Delhi-110037

AND

Customs Appeal No. 52733 of 2019

(Arising out of Order-in-Original No. 01/2019-20/V.S/COMMR (IMPORT) dated 24.06.2019 passed by the Commissioner of Customs (Import), New Delhi)

Shri Puthupada Nair Veetil Sunish ....Appellant
Manager-Application
M/s GE Vernova T & D India Limited
No.-19/1, G.S.T. Road,
Pallvaram, Chennai- 600 043

Versus

The Commissioner of Customs, ...Respondent
Office of the Principal Commissioner
of Customs
Air Cargo Complex (Import),
New Customs House,
Near IGI Airport, New Delhi-110037

APPEARANCE:

Shri Amar Dave, Senior Advocate, Shri Udit Jain, Shri Saurabh Dugar and Ms. Adhya M., Advocates for the Appellant
Shri Nikhil Mohan Goyal, Authorised Representative of the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING: 14.01.2026
DATE OF DECISION: 18.05. 2026

FINAL ORDER NO's. 50907-50910/2026

JUSTICE DILIP GUPTA

Customs Appeal No. 52421 of 2019 has been filed by M/s GE Vernova T&D India Limited[1] to assail that portion of the order dated 24.06.2019 passed by the Commissioner that has confirmed the differential duty demand of Rs. 2,39,65,764/- under section 28(4) of the Customs Act, 1962[2] with interest under section 28AA of the Customs Act and penalties under sections 114A and 114AA of the Customs Act.

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1 the appellant
2 the Customs Act

2. **Customs Appeal No. 52370 of 2019, Customs Appeal No. 52732 of 2019** and **Customs Appeal No. 52733 of 2019** have been filed by Mr. Irudayara Anthony Joseph Balan (Customs Operation Analyst), Mr. Nomula Srinivas (Manager-Application) and Shri Puthupada Nair Veetil Sunish (General Manager and Head of Finance) of the appellant against that portions of the order dated 24.06.2019 passed by the Commissioner that impose penalties upon them under sections 112 and 114AA of the Customs Act.

3. The issues involved in these appeals are whether the goods namely **(a)** Midos (MVAJ, MVAA, MVAX); **(b)** Relays for Tap Changer control and transformer monitoring; **(c)** K-range Relays (KAVR, KAVS), and **(d)** MICOM (P14, P24, P40) imported by the appellants during the period 05.03.2013 to 04.12.2017 are:

> **1.** relays classifiable under Customs Tariff Item[3] 8536 49 00 (- Relays -- Others) **or** in the nature of Feeder Management Intelligent Electronic Devices[4] classifiable under CTI 8536 90 90 (-Other apparatus --- Other) owing to their multi-functionality; and
>
> **2.** eligible for the exemption available to relays of contact rating upto 7 amperes under Serial No. 376 (No.8 of List 21) of Notification No. 12/2012 dated 17.03.2012[5].

4. The relevant portion of the said Exemption Notification is reproduced below:

S.N.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Additional duty rate	Condition No.
376.	84,85 or 90	The goods specified in List 21	Nil	-	-

3 CTI
4 FMIEDs
5 Exemption Notification

5. Serial No. (8) of List 21 is:

(8) Relays of contact rating upto 7 amperes

6. A summary of the demands, penalty and interest contained in the order dated 24.06.2019 are as follows:

S.N.	Particulars	Amount (in Rs.)
I	**Company**	
(a)	Differential duty u/s 28(4) of the Customs Act	2,39,65,764
(b)	Interest u/s 28AA	As applicable
(c)	Penalty u/s 114A	2,36,65,764+interest
(d)	Penalty u/s 114AA	5,00,00,000
II	**Individuals(3)**	
(e)	Penalty u/s 114AA [1,00,00,000 each]	3,00,00,000
(f)	Penalty u/s 112 [20,00,000 each]	60,00,000

7. According to the appellant out of the total differential duty of Rs. 2,39,65,764/-, an amount of Rs. 1,78,79,947/- pertains to MICOM relays of contact rating more than 7 amperes, and this amount is not contested insofar as the claim of exemption is concerned but so far the classification of MICOM relays is concerned, the appellant claims that the primary function of such a relay is to ensure the protection of the transmission system, and, therefore, MICOM relays are classifiable under CTI 8536 49 00.

8. The appellant also claims that the balance duty of Rs. 60,85,817 relates to remaining three relays whose contact rating is less than 7 amperes. The finding on the issue of exemption as well as classification are contested by the appellant.

9. A summary of the duty demand for different relays is mentioned below:

Amperage	Relay Type	Duty (Rs.)	Remarks
Relays >7 amperes	MICOM relays	1,78,79,947	Paid, and uncontested insofar as the exemption claim is concerned
(a) Relays <7 amperes	Relays for Tap Changer control & transformer monitoring	60,85,817	Contested
	Midos relays		
	K-range Relays		
	Total differential duty	**2,39,65,764**	

10. The appellant further claims that upon realization of an inadvertent error towards exemption claimed for import of MICOM relays having contact rating over 7 amperes, the appellant, post an internal review, immediately paid an amount of Rs. 4,49,85,564/- (duty + applicable interest) prior to issuance of the show cause notice. The appellant further claims that the inadvertent error was primarily due to an oversight in internal communication regarding the upgrade/change of technology in MICOM relays, which resulted in a change in contact rating to above 7 amperes and restructuring of the Company during the subject period, i.e., Alstom Group was acquired by GE Group worldwide.

11. The appellant has described the technical details of the products in the following manner:

> "Relay is a device used for control, protection and supervision of an electrical system from overcurrent and voltage. These are used by the appellant in transformers manufactured/used by them in plants. Given the advancement in digital technology and software techniques, certain additional features are part of new-age relays, which merely assist in the effective performance of the relays, viz., displaying the change in voltage on a monitor, recording of various input and output features, initiating audible alarms, etc. Key features of relays which are less than 7 amperes and under consideration in this appeal are noted below:
>
> **(a) Midos relays (MVAJ, MVAA, MVAX):** These relays facilitate protection applications mainly by way of tripping, with no additional digital features and can be described as the oldest technology relays.
>
> **(b) Relays for Tap Changer control and transformer monitoring:** These relays compare the actual current value to the pre-fixed value and determine a variable for tap change of the transformer in case of deviation. The features of measurement, control, monitoring and regulation tasks are merely ancillary to its primary function of protecting transformers from overcurrent.

> **(c) K-Range Relays (KAVR, KAVS):** These relays are auto-reclose relays, which provide for automatic closure of a circuit breaker following a fault on an overhead line. The features of measurement, event records, test features, etc. are merely ancillary to its primary function of protecting over-current.
>
> **(d) MICOM Relays** are relays for protection, control, and monitoring, providing protection by way of short-circuiting protection, stator protection, sensitive watt metric circuit-breaker failure protection, and voltage protection. The features of alarm, data recording, and post-fault analysis, etc. are ancillary to its primary function of protecting transformers from overcurrent."

12. A show cause notice dated 05.03.2018 was issued to the appellant under section 28(4) of the Customs Act disputing the exemption claimed by the appellant on all the four types of relays for the reason that the contact rating was above 07 amperes. The show cause notice also alleged that all the four goods were classifiable under CTI 8536 90 90 and not under CTI 8536 49 00 as claimed by the appellant. The show cause notice also proposed penalties upon the appellant and the individuals.

13. The appellant filed a detailed reply to the show cause notice and contested the allegations made therein.

14. The Commissioner, however, passed the impugned order dated 24.06.2019 and confirmed the proposals made in the show cause notice for the following reasons:

(a) In terms of technical documents relating to (a) MICOM relays and (b) relays for Tap Changer control and transformer monitoring (as it has additional features)- subject relays owing to their multi-functionality are not relays.

(b) The appellant has manipulated the description of goods by misdeclaration of subject goods as relays of contact rating below 7 amperes, instead of FMIEDs.

(c) Since the employees were working with the Company for over 10 years, oversight/miscommunication of technological advancement was not inadvertent but intentional.

15. Shri Amar Dave, learned senior counsel for the appellant assisted by Shri Udit Jain, Shri Saurabh Dugar and Ms. Adhya M. made the following submissions:

(i) The impugned order fails to specifically analyze each of the products in question, and in the absence of such consideration coupled with a lack of reasoning, the same cannot be sustained. It has mainly relied on brochures of MICOM relays (where duty has been paid before issuance of the show cause notice) and incorporates a brief observation for Relay for tap changer controls (one of the three contested relays) to conclude that all the subject goods are classifiable under CTI 8536 90 90 as FMIEDS. There are no findings on Midos (MVAJ, MVAA, MVAX) and K-Range relays (KAVR, KAVS);

(ii) The inadvertent error of claiming exemption for MICOM relays above 7 amperes has been made the sole reason to assume that all other relays have an amperage above 7 amperes, ignoring evidence to support amperage below 7 amperes. No independent discussion emanates in the impugned order even on this aspect, and in fact, the conclusions are contrary to the evidence placed on record;

(iii) It is evident from the documents placed on record that they clearly identify the subject goods as relays. Further, for the other three reply types - Midos (MVAJ, MVAA, MVAX), Relay for Tap Changer control and transformer monitoring, and K-Range relay (KAVR, KAVS), it was clearly stated that they have contact ratings of less than 7 amperes. There is no evidence in the impugned order to state otherwise;

(iv) The subject goods are "relays" classifiable under the specific entry CTI 8536 49 00 in terms of their primary function, which is undisputedly to control, protect and supervise an electrical system from overcurrent and overvoltage in transformers. Additional features resulting from technological advancements are ancillary and do not alter the core function of the subject goods for which they are bought in the market. It is a settled position that the principal/primary function ought to be considered for determining the classification;

(v) Except for considering mainly one product (MICOM relays) documents and without assigning reasons as to how the same could result in taking a product out of a specific entry to a generic entry when the core function remains admittedly the same, the impugned order does not specifically examine the other evidence qua the other relays;

(vi) Even in trade parlance, customers (including Government-owned PSUs), of the subject goods specifically placed orders for "relays" by mentioning specifications and standards of the subject goods. If an electrical feeder panel (a larger system in which relays are typically installed as manufactured by the appellant) is required, a separate order is placed for the same, describing the whole system and not only a relay;

(vii) Relays merit to be classified under their specific entry under CTI 8536 49 00 and are not be relegated to a residuary entry under CTI 8536 90 90;

(viii) Subject goods (other than MICOM) are relays with a contact rating below 7 amperes and hence qualify for exemption;

(ix) Exorbitant penalties could not have been imposed as: (a) the matter involves legal interpretation of classification disputes; (b) majority of demand stands voluntarily paid before issuance of

show cause notice (c) penalty imposed is disproportionate to the demand involved; and

(x) The extended period of limitation could not have been invoked in the facts and circumstances of the case.

16. Shri Nikhil Mohan Goyal, learned authorized representative appearing for the department, however, supported the impugned order and made the following submissions:

(i) The appellant willfully mis-declared FMIEDs as "Relays with contact rating less than 7 amperes" under CTI 8536 49 00, while the actual goods were classifiable under CTI 8536 90 90, as they consisted of multiple relays with contact ratings exceeding 7 amperes and were multifunctional intelligent devices;

(ii) These devices were capable of measurement, monitoring, protection, communication, data logging and control which are far beyond the functions of a simple relay. Their contact components were clearly above 7 amperes, disqualifying them from claiming exemption under the Exemption Notification;

(iii) There was enough material on record to substantiate that the products imported were not relays and that they were of higher ampere ratings;

(iv) The company officials actively participated in the mis-classification process and willfully suppressed material facts attracting penalties under section 112, 114A and 114AA of the Customs Act;

(v) Even if the relays are rated below 7 amperes, the overall devices do not qualify as relays but as multifunctional intelligent device and, therefore, will not be entitled for exemption; and

(vi) The appellant admitted to the wrongful claim and voluntarily paid Rs. 4,49,85,564/- towards customs duty and interest. This individual acknowledging the misdeclaration and duty evasion;

17. The submissions advanced by the senior learned counsel for the appellant and the learned authorized representative appearing for the department have been considered.

18. Two issues arise for consideration. The first is whether the goods imported by the appellant during the period from 05.03.2013 to 04.12.2017 are relays classifiable under CTI 8536 49 00 or are in the nature of FMIEsS classifiable under CTI 8536 90 90 and the second is whether the products imported are eligible for exemption available to relays of contact rating upto 7 amperes under the Exemption Notification.

19. The appellant does not dispute that out of the total differential duty of Rs. 2,39,65,764/ an amount of Rs. 17,98,79,947/- pertains to MICOM relays of contact rating more than 7 amperes which were not entitled to exemption under the Exemption Notification. The appellant, however, disputes the classification of MICOM and contends that they are classifiable as relays under CTI 8536 49 00. According to the appellant, the balance amount of customs duty of Rs. 60,85,817/- relates to relays of contact rating of less than 7 amperes. The impugned order holds that the contact rating for these three products was also above 7 amperes. No independent finding has been recorded regarding the contact rating of these products to be above 7 amperes and it appears that the contact rating of MICOM has been adopted for these three products also.

20. It is seen from the brochure placed on record by the appellant for these three products that they not only identify the goods imported by the appellant as relays but also show that the products imported by the appellant, except MICOM, have contact rating of less than 7

amperes. The details contained in the technical brochures are as follows:

Relay Type	**Contact Rating**
Midos relays (MVAJ, MVAA, MVAX)	5 amperes
Relays for Tap Changer control and transformer monitoring	5 amperes
K-range Relays (KAVR, KAVS)	5 amperes

21. No evidence has been brought on record by the department to substantiate that the contact ratings of these three products imported by the appellant is more than 7 amperes.

22. The Commissioner, therefore, committed an error in holding that these three products imported by the appellant also have contact rating of less than 7 amperes.

23. The second issue that arises for consideration is regarding the classification of the four products imported by the appellant.

24. The contention of the learned senior counsel for the appellant is that the impugned order fails to analyze each product and has mainly relied on the brochures of MICOM relays and incorporates a brief observation for relay for tap changer controls to conclude that all these subject goods are classifiable under CTI 8536 90 90 as FMIDs. Learned senior counsel for the appellant submitted that all the four products are relays under CTI 8536 49 00 in terms of their principle functions and trade parlance. To support this contention, learned counsel placed reliance on Note 3 to Section XVI which provides that the classification of a composite machine having two or more machines fitted together and performing complementary function is based upon the machine which performs the primary function. Learned senior counsel submitted that the sole basis for taking out the product from specific entry relating “Relays” and placing it in the residual general category is that the product has the capacity to offer additional functions, but the

order fails to take into consideration the principal/primary function test and even for this, the Commissioner has considered the documents relating to MICOM relays only.

25. Chapter 85 deals with electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.

26. Customs Tariff Heading 8536 deals with Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, furses surge suppressors, plugs, sockets, lamp-holders and other connectors, junction boxes), for a voltage not exceeding 1,000 volts; connector for optical fibres, optical fibres, optical fibre bundles or cables.

27. It has eight single dashes covering "fuses", "automatic circuit brakers", "other apparatus for protecting electric circuits", "relays", "other switches", "lamp-holders, plugs and sockets", "connectors for optical fibres, optical fiber bundles or cables" and "other apparatus".

28. According to the appellant as all the four items imported by the appellant are relays, they will be classifiable under CTI 8536 49 00.

29. According to the department, the four products imported by the appellant are covered by the single dash "other apparatus" and would appropriately fall under CTI 8536 90 90 as "other".

30. The Commissioner has noted that the goods are neither mentioned or indicated as relays in the invoices or the brochures and the products declared by the appellant in the Bills of Entry are actually Feeder Management Intelligent Electronic Devices called FMIEDs. To support this view, the Commissioner has placed reliance upon the statement made under section 108 of the Customs Act, which

statement could not have been relied upon as the procedure contemplated under section 138B of the Customs Act was not followed.

31. As noticed above, relay is a device used for control, protection and supervision of any electrical system from overcurrent and voltage. They have been used by the appellant in transformers manufactured by the appellant and in the plants. Due to advancement in digital technology and software techniques, certain additional features are part of the new age relays. They only assist in the effective performance of the relays as they display the change in voltage on a monitor, record various input and output features and initiate audible alarms. In fact, the MIDOS relays facilitate protection applications mainly by way of tripping. Relays for tap changer control and transformer monitoring compare the actual current value to the pre-fixed value and determine variable for tap change of the transformer in case of deviation. The K-range relays are auto-reclose relays which provide for automatic closure of a circuit breaker following a fault on an overhead line. MICOM relays are used for protection, control and monitoring. They provide protection by way of short circuiting.

32. The primary function of the products imported by the appellant is, therefore, to control, protect and supervise an electric system from over current and over voltage in transformers. The additional features resulting in the form of technological advancements are ancillary and cannot alter the core function of the goods for which purpose they are purchased.

33. In this connection, it would be pertinent to refer to Note 3 to Section XVI, and it is reproduced as follows:

> **"3. Unless the context otherwise requires, composite machines** consisting of two or more machines fitted together to form a whole and other

> machines designed for the purpose of performing two or more complementary or alternative functions **are to be classified as if consisting only of that component or as being that machine which performs the principal function."**
>
> **(emphasis supplied)**

34. Reference can also be made to the Circular dated 19.04.2007 issued by the Central Board of Excise and Customs issued for in clarification in respect of classification of higher technology feature mobile/cellular handset or telephones. The relevant portion of the Circular is reproduced below:

> **"6. Further, such cellular/mobile phones may contain certain facilities such as storage of contact information such as phone numbers (dialed/ received missed call), names and addresses, to-do lists, notes, appointments, E-mail address, facility for Short Message Service (SMS)/ Multimedia Messaging Service (MMS), calculator, alarm clock, calendar, games and other similar facilities as a standard feature.** These facilities assist the user to make calls to desired person, identify the caller, keep track of his calls, send/receive messages and enhanced use of communication using any of the above facility, **Hence, these features of cellular/ mobile phones do not change the principal function of such equipment i.e., 'telephony'.**
>
> **7.** Certain cellular/ mobile phones called as 'smart phones' may also have other additional features such as accessing the Internet, sending receiving E-mails, video recording/camera, word processing, radio or audio capabilities with color screens, QWERTY keyboard, touch screen. It may also run application software and synchronize with PCs, function as Global Positioning System (GPS) receiver. These devices work on operating systems (software) like Symbian OS. Microsoft Windows Mobile OS Linux OS which are similar to the software used in desktop PC/laptop. All these functionalities grouped as PDA or pocket PC or camera or GPS receiver, contained in cellular/ mobile phones, **though represent as composite machine, for the purpose of classification, it will be governed by the Customs Tariff Act and the General Rules for Interpretation (GRI) as explained in para 4 above.**

> **Accordingly, in terms of Section Note 3 to Section Note XVI when the goods satisfy the following conditions these would be characterized as transmission apparatus in cellular/ wireless network rather than as an Automatic Date Processing (ADP) machine or camera or GPS receiver.**
>
> **xxx xxx xxx**
>
> **9.** In trade parlance too, it is noticed that the goods are sold as cellular or mobile phones with various additional facilities, the use of which is dependant on the cellular service provided. **Further consumers purchase such cellular phones mainly because of their ability to transmit data in all situation and locations, and at all times, not just in specified places that offer Wireless / Wi-Fi access. In short, it is found that goods are marketed and consumers purchase a smart phone or other similar cellular/ mobile phone, because of the phone function with additional facilities and not for their PDA or GSM capabilities alone; as such these additional facilities will not become operational without subscribing to a cellular phone service plan.** Hence, it is clarified that these instruments are to be categorized as mobile / cellular phones from the point of trade parlance."
>
> **(emphasis supplied)**

35. The aforesaid Circular emphasizes that certain cellular/mobile phones have additional features but in terms of Section Note 3 to Section XVI, they would only be characterized as transmission apparatus and not as automatic data processing machine or camera or GPS receivers.

36. The Supreme Court in **Xerox India Ltd.** vs. **Commissioner of Customs, Mumbai**[6] also examined the concept of principal function which adds to the essential character and the relevant observations are as follows:

> **"13.** It is not in dispute that the Multi-Functional Machines in question, Xerox Regal 5799 has about 85% of the its total parts and components along with manufacturing cost allocated to printing, as does 74% of the Xerox XD155df model. **This**

6 2010 (260) E.L.T. 161 (S.C.)

> **clearly shows that the printing function emerges as the principal function and gives the Multi-Functional Machines essential character.** Having such a nature, it also clearly meets the three-fold requirement of Chapter Note 5(B), as it is to be used principally in ADPM, it is connectable to the Central Processing Unit, and it is able to accept data in a form (codes or signals) which can be used by the system. Further, there would be no application of Chapter Note 5(E) as correctly pointed out by the learned counsel for the appellants, as the Multi-Functional Machines are presented independently. Moreover, since predominant components are relating to printing function, Chapter Note 5(D) also becomes relevant which includes printers under Heading 84.71. We are also satisfied with the contention of the appellants that based on the nature of the functions they perform, the Multi-Functional Machines would serve as input and output devices of an ADPM (computer) and thus serve as unit of an ADPM, which on a reading of Chapter Note 5(C), clearly classifies them as falling under Heading 84.71.60 of the Act."
>
> **(emphasis supplied)**

37. In **Logic India Trading Co.** vs. **Commissioner of Customs, Cochin**[7]**,** the Tribunal held as follows:

> "As is seen from the above, the products considered in the said circular are identical to the products being imported by the assessee. For arriving at the conclusion that the speaker with the USB playback would fall under Heading 8519 and the speakers with FM radio would fall under Heading 8527, the Board has referred to the General Rules for the Interpretation specifically to Rule 1 and to Section Note 3 to Section XVI. The said Note is to the effect that where composite machine consists of two or more machine, the classification would be decided depending upon the machine which performs the principal function. However, we find that the principal function of the

7 2016 (337) E.L.T. 65 (Tri. – Bang.)

> 'Multimedia Speaker" is amplification of the sound and the USB port or FM radio is an additional feature introduced to such speakers. Looking at the speakers produced before us, and by appreciating the fact that the lower authorities have admittedly held the goods in question to be "Multimedia Speaker", though with additional facilities, it leads to inevitable conclusion that the main and principal function of the product is as speaker. **As such, according to us, even in accordance with Section Note 3 to Section XVI, the items in question have to be classified as speakers as admittedly that is the principal function of the product.** The interpretation adopted in the said circular is, in fact, contrary to the interpretation adopted by the Board in other circulars, though not dealing with the same items but expressing opinions on the items with advanced multifunctions."
>
> **(emphasis supplied)**

38. The only reason why the Commissioner has taken out the products imported from by the appellant from "Relays" and placed it in the residual general category is that the products imported by the appellant have the capacity to offer additional functions. This finding ignores the principal/primary function test referred to above as also the Circular issued by the department. The Circular and judgments have been distinguished by the Commissioner in paragraph 11.1.9 of the order in the following manner:

> **"11.1.9** Further, the noticee have relied upon court judgements to put forward settled position in law that a while classifying a multi-functional product, the component/machine providing the primary functions should be taken' into 'consideration, to strengthen their case. I find that either those judgements are not directly related with the circumstances of the instant case or are based on the ratio of Judgement of Hon'ble Supreme Court of India in the case of Sun Export Corporation,

Bombay Vs Collector of Customs, Bombay, (1997) 6SCC 564."

39. What is important to notice is that even in trade parlance the customers including the government public undertakings of the goods imported by the appellant specifically placed orders for "Relays" by mentioning specification and standards of the goods.

40. What follows from the aforesaid discussion is that the four products imported by the appellant are "relays" classifiable under CTI 8536 49 00 and except MICOM, the other three products would be entitled to exemption under the Exemption Notification. MICOM will not be entitled to claim benefit of the Exemption Notification as the contact rating is over 7 amperes.

41. It has now to be examined whether penalties under section 114A and 114AA of the Customs Act could have been imposed upon the appellant.

42. As noticed above out of the total amount of differential duty of Rs. 2,39,65,764/-, an amount of Rs. 1,78,79,947/- pertains to MICOM relays of contact rating more than 7 amperes. The appellant paid the duty amount and applicable interest prior to the issuance of the show cause notice. It has been found that the other three imported items have a contact rating of less than 7 amperes. This differential duty of Rs. 60,85,817/- was, therefore, not required to be paid by the appellant. The imposition of penalty under section 114A of the Customs Act, therefore, deserves to be set aside.

43. Penalty under section 114AA is imposed for use of false and incorrect material. It is only with respect to MICOM that the appellant had wrongly said that it had a contact rating of 7 amperes, but the appellant paid the entire differential duty prior to the issuance of the

show cause notice. Penalty under section 114AA of the Customs Act could not have been imposed upon the appellant.

44. Penalties under section 112 of the Customs Act have also been imposed upon the Customs Operations Analyst, Manager-Application and General Manager and Head of Finance of the appellant. It needs to be noted that the Commissioner has found that all the four products imported by the appellant had contact ratings of over 7 amperes. As noticed above, only one product namely MICOM had contact rating of over 7 amperes. It has been explained that the mistake had occurred because of an oversight of internal communication regarding the upgrade/change in MMICOM relays which resulted change in contact rating to above 7 amperes. This can be a plausible reason, but in any case even in respect of MICOM the appellant had paid the differential duty with interest prior to the issuance of the show cause notice. Penalties under sections 112 and 114AA of the Customs Act could not, therefore, have been imposed upon the three individuals.

45. It will, therefore, not be necessary to examine the contention raised by the learned counsel for the appellant that the extended period of limitation could not have been invoked in the facts and circumstances of the case.

46. What follows from the aforesaid discussion is:

(i) All the four products imported by the appellant are classifiable under CTI 8536 49 00;

(ii) All the products, except MICOM, are entitled to exemption under the Exemption Notification;

(iii) The confirmation of differential duty of Rs. 60,85,817/- for the products, except MICOM, with interest and penalty is set aside; and

(iv) The imposition of penalties under sections 112 and 114AA of the Customs Act on Irudayara Anthony Joseph Balan, Nomula Srinivas and Puthupada Nair Veetil Sunish are set aside.

47. The impugned order is, accordingly, modified and all the four appeals are allowed to the extent indicated above.

(Order pronounced in the Open Court on **18.05.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

Shenaj