CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH- COURT NO. I

CUSTOMS APPEAL NO. 50651 OF 2025

(Arising out of Order-in-Original No. 30/2024-25/D.R.Pr. Commr/ACC Import dated 08.01.2025 passed by the Principal Commissioner of Customs, Air Cargo Complex (Import), New Customs House, New Delhi)

M/s G-Mobile Devices Pvt. Ltd. **.....Appellant**
B-301, Third Floor, Tower-B, Advant IT Park,
Plot No. 7, Sectio-142, Noida,
Gautam Buddha Nagar - 201301 (Uttar Pradesh)

Versus

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

APPEARANCE:

Shri Tarun Gulati, Senior Advocate, Shri Rupesh Gupta, Shri Tarun Jain and Ms. Kritika Tuli, Advocates for the Appellant

Shri Ranjan Prakash and 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: 31.10.2025
DATE OF DECISION: 29.04.2026

FINAL ORDER NO. 50815/2026

JUSTICE DILIP GUPTA:

This appeal has been filed by M/s G-Mobile Devices Pvt. Ltd.[1] to assail the order dated 08.01.2025 passed by the Principal Commissioner of Customs, Air Cargo Complex, (Import)[2]. This order denies the benefit of Notification No. 57/2017 dated 30.06.2017[3] that was availed by the appellant on import of Bluetooth Wireless Earphones/

1. **the appellant**
2. **the Principal Commissioner**
3. **the Notification**

Headphones/Earbuds/ Neckbands and, accordingly, differential customs duty has been confirmed under section 28(4) of the Customs Act, 1962[4] with interest under section 28AA and penalty under section 114A of the Customs Act. The goods have also been confiscated under section 111(m) of the Customs Act.

2. The appellant had classified the goods under Customs Tariff Item[5] 8517 62 90 of the Customs Tariff Act, 1975[6] as Wireless Headphones/ Earphones and availed the benefit of the Notification by paying concessional 10% of basic customs duty under serial no. 20 of the Notification. The department, however, believed that the goods imported by the appellant would be classifiable under CTI 8518 30 00 which would entail 15% basic customs duty.

3. Accordingly, a show cause notice dated 10.01.2024 was issued to appellant under section 28(4) of the Customs Act for the period from February, 2020 to January, 2022. After referring to the two competing tariff items and the Notification, the show cause notice mentions:

> "**11.2** M/s. G-Mobile Devices Pvt Ltd while justifying the mis-classification of the Bluetooth Wireless Earphones/ headphones/earbuds /neckbands under CTI 85176290, relied on the Circular No. 36/2013- Customs dated 05.09.2013. M/s G-Mobile Devices Pvt Ltd in their reply dated 15.02.2023 (Annexure-8) stated that according to the above circular, all goods which satisfy the conditions of Bluetooth Wireless Headsets for mobile phones given in the circular No. 36/2013-Customs dated 05.09.2013 and have the same characteristics and specifications are covered under it and therefore, appropriately classifiable under CTH 851762. On the basis of their characteristics and specifications and clarification issued by CBIC vide circular No. 36/2013-

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4. the Customs Act
5. CTI
6. the Customs Tariff Act

Cus dated 05.09.2013, the subject goods merit classification under CTH 85176290.

However, M/s. G-Mobile Devices Pvt Ltd failed to produce any documentary evidence that the impugned goods are designed with "communication function for mobile telephony" as the principal function; that the impugned goods i.e., Bluetooth Wireless Headphones/Earphones are manufactured or designed primarily for use with mobile phone/cell phone.

11.3 On the contrary, it is established during the investigation that the main function of the impugned goods i.e. Bluetooth Wireless Earphones/headphones/earbuds/neckbands is similar to the traditional earphones/headphones which are classifiable under CTH 851830 i.e. to listen through the earphones/headphones (where they transform the electrical signals to low intensity sound signals) and to speak through the microphones (where they transform the sound signals to electrical signals, which may then be further amplified, transmitted or recorded). **While performing this core function of an earphone/headphone fitted with a microphone, the impugned goods differ from traditional earphones in terms of their technological enhancements and sophistication / ease of use viz.**

A. audio enhancing and quality aspects of listening:

B. transmission of music/voice through noise reduction while listening/speaking.

C. latest technology to charging the earphones.

D. compatibility/pairing mechanism with multiple devices which brought the impugned goods their own identity.

It may be noted that as years have gone by, the pairing/compatibility of various Bluetooth wireless earphones/headphones has expanded and not limited to pairing with mobile phones/cell phones.

However, the importer appears to indicate that mere existence of Bluetooth connectivity in the

earphones/headphones is sufficient for classification under CTH 851762 whereas the Circular was much more specific in nature, in terms of both - the kind of Bluetooth wireless headsets and also the principal function that it ought to perform in order to be classified under CTH 851762.

11.4 Further, as per product brochures/catalogues, impugned goods i.e. Bluetooth Wireless Earphones/headphones are compatible (i.e. can be paired) with multiple bluetooth enabled devices like Laptops, computers, tablets, mobile phones, TV etc. **Thus, apart from mobile phones, the impugned goods are made compatible with many other devices. Further, nowhere in their brochure, it is mentioned that the impugned goods i.e., Bluetooth Wireless Headphones/Earphones are principally promoted, sold, marketed, manufactured or designed for mobile telephony communication and therefore, it appears clear that the communication function for mobile telephony doesn't characterize the principal function of these Bluetooth wireless earphones/headphones so as to be classified under 851762.**"

(emphasis supplied)

4. The appellant filed a reply to the show cause notice and denied the allegations made therein and contended that the imported goods were correctly classified under CTI 8517 62 90 by the appellant and it was entitled to the benefit of the Notification.

5. The Principal Commissioner, however, did not accept the contention of the appellant and held that the goods were classifiable under CTI 8518 30 00.

6. Regarding the functions of the imported goods, the Principal Commissioner held:

"**22.Functions of the goods:**

22.1. One of the most crucial aspects in determining the appropriate classification of the imported goods is the function of the item. To address this, we must evaluate the functionality of the item in its entirety. The Show Cause Notice (SCN) underscores that, functionally, the earphones/headphones under consideration are primarily designed to enhance the user's experience in listening to music, gaming, and handling calls on mobile phones. The primary function of these wireless headsets/earbuds is the playback of audio from devices such as televisions, laptops, tablets, or car audio systems. The additional features, such as the microphone and call-handling capabilities, only become active when the device is paired with a mobile phone. Moreover, the product brochures prominently feature the superior sound-quality as the key characteristic of these devices, enabling users to distinguish individual audio elements and providing an enhanced listening experience, particularly for music and other media on TVs or laptops. Mobile telephony, by contrast, does not inherently demand such advanced features, as mobile devices are already equipped with speakers and microphones sufficient for basic voice communication."

(emphasis supplied)

7. Regarding the primary function of the imported goods, the Principal Commissioner observed:

"**23. Primary function:**

23.1. The key question that now arises is whether the imported item has a distinct primary function and other enumerated function are supportive to the primary function or whether it is a device with multiple functions, each of them having equal significance. As established earlier. the imported goods perform various tasks, such as audio playback, voice transmission, and receiving calls, when connected to different Bluetooth-enabled

devices. However, the classification of imported goods hinges on whether any single function predominates over the others.

23.2. The noticee emphasised that the primary function of the imported goods is mobile telephony. However, M/s. G-Mobile failed to produce any documentary evidence in support of the claim:

1) that they manufactured/designed/imported the impugned goods primarily for mobile telephony.
2) that "communication function for mobile telephony" is the principal function of the impugned goods;
3) that they are selling and promoting the impugned goods primarily for use with mobile phone/cell phone.

23.3 From the technical literature (brochures) furnished by the importer and also available on internet, it appeared that the Bluetooth Wireless Headphones / Earphones / Earbuds / Neckbands imported by them are wire-less Headphones / Earphones, compatible with multiple Bluetooth enabled devices such as mobile phones, Smart TVs, laptops, tablets, Car Audio Systems, etc. Thus, it is evident that the importer has described the imported items as "Bluetooth wireless Headsets / Headphone/ Earphone / Earbud / Neckband." These Ear Phones/Earbuds/Neckbands are electro acoustic receivers used to produce low-intensity sound signals. Like loudspeakers, they transform an electrical effect into a sound effect; the only difference being in the powers of signal involved in the process of conversion. Whereas, the microphone, which is combined with the earphones/ headphones, is used to transform the sound effect into an electrical effect. This addition of microphone enables them to be used in telecom. **The said earphones/headphones are designed to give enhanced music listening experience, gaming experience and for receiving / answering calls. Thus, the impugned goods are broadly earphones Earbuds/Neckbands fitted with Microphones and connected wirelessly by Bluetooth. Principal function of these wireless headsets / Earbuds is to play the voice or sound associated with the contents being played on the**

any devices such as TV, Laptop, Tablet, Car Audio System etc. Only when used in conjunction with mobile phones, the additional features such as microphone, calling facilities etc becomes operational. Even the brochures indicate about the quality of sound as the prime-feature of these devices which is used in every situation such as for listening to music or contents on TV/Laptop and connecting for calls to differentiate each musical note and have a more elaborate listening experience assumes importance. **Mobile telephony does not necessarily require such advanced gadget with these advanced and refined features of acoustics for listening as it carries mobile voice of the caller/ receiver though its own speakers and microphone through which communication can take place.**

23.4. To discuss the primary function, the SCN has relied up on the brochures and as discussed earlier, as per the brochure and website of the noticee, the impugned goods are wireless Bluetooth earphones/headphones that can be paired with any Bluetooth-enabled devices, such as mobile phones, tablets, laptops, smart TVs, and car audio systems. In other words, the imported goods are compatible with various devices that do not have mobile telephony as their primary function. **Furthermore, nowhere in the brochure is it indicated that the goods are principally designed, promoted, sold, marketed, or manufactured for mobile telephony communication. The imported goods perform many functions and, on those functions, there is no dispute. They are also functionally different from monoaural headsets, as covered in CBIC circular 36/2013, reproduced with picture at para 9 of this order. However, it is necessary to determine whether the goods have any primary function or not.** The classification of the goods in question can be done based on 'primary function'.

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23.14. In conclusion, the imported goods are composite devices with multiple functions. However, the primary function remains audio

playback from Bluetooth-connected devices. These devices can play only audio data and not any other data. Further, they can receive audio data in a specific data format only. Thus, the primary function remains the audio play back device. While these goods possess additional features, such as voice transmission and mobile telephony, these functions are secondary and do not supersede the principal function of audio playback. It is pertinent to hold that, while connecting to mobile telephony it can play the received audio from earphone and send the audio to mobile. But in no case it can dial any number. Consequently, it is the audio playback capability that defines the primary nature of the imported item, with the other functions being supplementary and not sufficient to alter or outweigh this core purpose. This is also supported by the facts that the impugned goods can be paired with other electronic devices, having no connection with mobile telephony / communication, such as Computer / Laptops / Tablets etc, as admitted by Noticee also. Moreover, the heading 8518 reads as "Microphones and Stands therefore: Loudspeakers, whether or not mounted in their enclosures: Headphones and Earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers: audio-frequency electric amplifiers: electric sound amplifier sets", specifically covers headphone fitted with Microphones. **Thus, whether with wires or wireless, they merit classification under CTH 8518 being specifically included. Hence, as per the General Rules of Interpretation, these devices seems to be rightly classifiable under Customs tariff subheading 851830 all along which clearly provides the description of Headphones and Earphones, whether or not combined with microphone.** Further, prior to Feb 2022 also, this was not classifiable under CTH 85176290 on account of it being specifically included in 851830. After May 2022, it is specifically included in 85183020, on account of the CTH 851830 being expanded further into subheadings."

(emphasis supplied)

8. The Principal Commissioner denied the benefit of Circular No. 36/2013 dated 05.09.2013 for the following reasons:

> "**26.2. I am of the view that Circular No. 36/2013 is applicable only to items specifically designed for use in mobile telephony.** The Show Cause Notice (SCN) emphasizes that Circular No. 36/2013-Customs, dated 05.09.2013, applies to Bluetooth wireless headsets classifiable under CTH 851762, provided they are designed solely or principally for use with telephones for cellular networks (i.e., mobile phones) and where mobile telephony is the principal function. For classification under CTH 851762, the headset must be primarily an apparatus for mobile telephony and cannot be classified merely based on its Bluetooth connectivity.
>
> **26.3. The imported headphones/earbuds in the present case are primarily designed to produce low-intensity sound signals and are capable of functioning with a range of devices, such as TVs, laptops, and mobile phones. Only when connected to mobile phones do additional features, such as calling functions, become operational. When used with other systems like TVs or laptops, these devices serve solely as sound-producing equipment.**
>
> **26.4** Unlike the mono-aural headsets referenced in the Circular, the imported products are not principally designed for mobile telephony and thus travel beyond the scope of Circular No. 36/2013 as discussed at paras above. **As these headphones/earbuds are compatible with multiple systems, their primary function is audio reproduction and renders them classifiable under tariff heading 8518, which covers devices that produce sound. Consequently, they are more appropriately classified under tariff heading 8518, based on their primary function as audio devices.**"
>
> **(emphasis supplied)**

9. The Principal Commissioner also held that the extended period of limitation was correctly invoked in the facts and circumstances of the case.

10. Shri Tarun Gulati, learned senior counsel for the appellant assisted by Shri Rupesh Gupta, Shri Tarun Jain and Ms. Kritika Tuli made the following submissions:

(i) The issue of classification of Wireless Earphones under CTI 8517 62 90 has been examined and clarified by CBIC in the Circular dated 05.09.2013 in favour of the appellant. The reason assigned in the impugned order to deny classification claimed by the appellant is that the goods have not been marketed with the principal function of mobile telephony. This aspect is not relevant for classification as was observed by the Delhi High Court in **Amazon Wholesale India Private Limited** vs. **Customs Authority of Advance Ruling**[7]. It has been held that goods which have function of transmission for mobile telephony are classifiable under CTI 8517 62 90 as has been held by the Tribunal in **Minda D-Ten Private Limited** vs. **Commissioner of Customs (Import), New Customs House, New Delhi**[8] and **M/s. L.G. Electronics India Private Limited** vs. **Principal Commissioner of Customs, New Delhi**[9];

(ii) The imported goods are not liable to confiscation under section 111(m) of the Customs Act;

(iii) The appellant is not liable for any penalty under section 112(A) and section 114A of the Customs Act; and

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7. (2024) 135 GSTR 361 (Del)
8. 2021 SCC Online CESTAT 2522
9. Customs Appeal No. 50234 of 2021 [DB] Decided on 30.11.2023

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

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

(i) The Principal function of the goods imported by the appellant like Earphones/Headphones/Neckbands fitted with Microphones and connected wirelessly by Bluetooth is to play the voice of the content being played on the other devices such as TV, Laptop, Tablet and it is only when used in conjunction with mobile phones that the additional features such as microphone, calling facilities become operational. The impugned order, therefore, correctly classifies the goods under CTI 8518 30 00;

(ii) Even according to the brochure of the appellant, the imported goods are wireless Bluetooth Earphones/ Headphones which can be paired with multiple devices like Mobile Phones, Tablet and Laptops. The communication function for mobile telephony does not characterize the principal function for them to be classified under CTI 8517 62 90. Thus, the imported goods are compatible with many other devices which do not have mobile telephony function;

(iii) In trade parlance, the imported goods are mentioned simply as Wireless Bluetooth enabled Earphones / Headphones. Hence, as per General Rule of Interpretation, these devices are correctly classifiable under Customs Tariff Sub Heading 8518 30, which clearly provides the description of Headphones and Earphones

whether not combined with the microphone. The goods that have been imported by the appellant are Earphones combined with the Microphone. The Microphone is an instrument for converting sound effect into electrical effect, which may then be amplified, transmitted or recorded. Thus, based on the design and purpose, the imported goods are Earphones/Headphones which are designed to perform the aforesaid principal function and that communication function for mobile telephony is only one of the many functions and that too when its connected to a mobile. The imported goods are, therefore, correctly classifiable under CTI 8518 30 00. The budget changes in the Finance Act 2022 only aimed at sub dividing the already existed Sub-Heading 8518 30; and

(iv) The Circular dated 05.09.2013 does not refer to all types of Bluetooth devices but only to a Bluetooth Headset device solely or principally designed for mobile communication. In the present case, the principal function of the Headphones/Earbuds is production of low intensity sound similar and it is only when the Headphones are connected to a mobile phone that these additional features come into operation. When used in consumption with other systems such as TV and Laptops these only act as producers of sound.

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

13. To appreciate the contention that have been advanced, it will appropriate at this stage to reproduce the relevant competing entries:

Tariff Item	Description of goods	Unit	Rate of duty	
(1)	(2)	(3)	(4)	(5)
8517	**Telephone sets, including smartphones and other telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or receptions apparatus of heading 8443, 8525, 8527 or 8528**			
	- Telephone sets, including smartphones and other telephones for cellular networks or for other wireless networks:			
*****	***** *****			
	- Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network):			
8517 61 00	-- Base stations	u	[20%]	
8517 62	-- Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:			
8517 62 10	--- PLCC equipment	u	Free	
8517 62 20	--- Voice frequency telegraphy	u	Free	
8517 62 30	--- Modems (modulators-demodulators for xDSL based Wireline Telephony	u	Free	
8517 62 40	[* * *]			
8517 62 50	--- Digital loop carrier system (DLC)	u	Free	
8517 62 60	--- Synchronous digital hierarchy system (SDH)	u	Free	
8517 62 70	--- Multiplexes, statistical multiplexers for PDH based Wireline Telephony	u	Free	
8517 62 90	--- Other	u	20%	

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
8518	**Microphones and stands therefor; loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets**			
*****	***** *****			
8518 30 00	- Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers:		15%	

14. Serial No. 20 of the Notification, of which benefit has been claimed by the appellant, refers to CTI 8517 62 90 or CTI 8517 69 90. It is, therefore, clear that the appellant would be entitled to the benefit of the Notification only if the goods imported by the appellant fall under CTI 8517 62 90.

15. The appellant imported two types of Headphones/ Headsets/ Earphones. The first was wireless and the other was wired. The appellant classified the Bluetooth/Headsets /Earphones/Earbuds under CTI 8517 62 90 and availed the benefit of the Notification and paid basic customs duty @ of 10%. The wired Headphones/ Headset/ Earphones were classified by the appellant under CTI 8518 30 00 and basic customs duty @ of 15% was paid.

16. For determining the classification of the goods imported by the appellant, it is necessary to examine the functions performed by the imported goods. It would be seen that the primary function of the wireless

Headsets/ Earbuds is the playback of audio from devices such as Televisions, Laptops and Tablets. The call handling capability becomes active when the device is paired with the mobile phone. The product brochures also talk of the superior sound quality as the key characteristic of these devices for providing an enhanced listening experience, particularly from music and other media on televisions or laptops. Mobile telephony would not demand such advance features as mobile phones are already equipped with speakers and microphones sufficient for basic voice communication. The primary function, therefore, remains as audio base playback from Bluetooth connected devices. The goods possess additional features such as voice transmission and mobile telephony but these functions can be considered as secondary. Thus, the communication function for mobile telephony does not characterize the principal function of these Bluetooth Wireless Earphones to be classified under CTI 8517 62 90. In trade parlance, also these goods are mentioned simply as wireless Bluetooth enabled Earphones/Headphones. As per the General Rules of Interpretation, these devices would be classifiable under Tariff Sub-Heading 851830, which clearly provides the description of Headphones and earphones, whether or not combined with a microphone. Thus, the goods imported would merit classification under Heading 8518.

17. Learned senior counsel appearing for the appellant has, however, placed reliance on Circular dated 05.09.2018 issued by the Board. This Circular would apply to Bluetooth Wireless Headset classifiable under Sub-Heading 8517 62 provided they are designed solely or principally for use of telephones for cellular networks where mobile telephony is the principal function. However, the imported Headphones/Earbuds which have been imported by the appellant are primarily designed to produce low intensity

sound signals and are capable of functioning with devices such as Televisions, Laptops and Mobile Phones. Thus, as the Headphones/ Earbuds are compatible with multiple systems, the primary function is audio reproduction which would render them classifiable under Tariff Heading 8518.

18. Learned senior counsel appearing for the appellant, however, placed reliance upon a judgment of the Delhi High Court **Amazon Wholesale India** as also the decisions of the Tribunal in **Minda D-Ten** and **L.G. Electronics**.

19. Shri Nikhil Mohan Goyal, learned authorized representative appearing for the department, however, very succinctly pointed out that these decisions will not come to the aid of the appellant as the products involved in those decisions and the product involved in the present appeal are entirely different. Learned authorized representative placed the aforesaid decisions and explained in detail why they will not apply to the products imported by the appellant.

20. In **Amazon Wholesale India**, learned authorized representative pointed out that the products involved were Echo 4th Gen, Echo Dot 4th Gen, Echo Show 5/8/10, Echo Studio, Echo Flex, Echo Auto, Echo Link/Link Amp while the products involved in the present appeal are Tecno Buds 1, Tecno H2, Oraimo OEB - Bluetooth Wireless Earphones, Headphones, Earbuds, Neckbands. Learned authorized representative also pointed out that Wi-Fi (primary) and Bluetooth were mandatorily connected to Amazon cloud/Alexa Voice Server (AVS) for all core functions. However, for the products involved in the present appeal only Bluetooth is required. It connects to a paired smartphone for audio streaming and Wi-Fi, cloud or internet is not required. Learned authorized

representative also pointed out that the essential character of the products involved in **Amazon Wholesale India** are reception, conversion and transmission of voice as was observed by the Delhi High Court. However, the essential character of the products involved in this appeal and sound reproduction - Acoustic transduction of an audio bitstream received from a paired phone into audible sound for the human ear. Learned authorized representative also pointed out that the devices involved in **Amazon Wholesale India** mandatorily required an internet connection to perform their functions, but the earphones involved in the present appeal do not require any internet connectivity. They require only Bluetooth pairing which is a local, short range wireless audio link.

21. The judgment of the Delhi High Court in **Amazon Wholesale India** gives four reasonings. These reasonings and the reason why they will not apply to the products involved in this appeal are as follows:

(i) Active internet/cloud communication is the principal function

The Echo devices involved in **Amazon Wholesale India** mandatorily require an internet connection; without it, they are functionally useless. The earphones involved in the present appeal do not require internet connection. They pair locally over Bluetooth with a phone.

(ii) Voice-to-data conversion and transmission to Amazon cloud (AVS).

The Echo devices of **Amazon Wholesale India** capture voice commands, convert them to RF signals, transmit them to AVS over the internet, receive processed results, and render them as output. This is a complete data

communication cycle. The earphones involved in this appeal do none of this. They receive an audio bitstream (not a command or query) and render it as sound. There is no uplink transmission, or cloud interaction, or data processing.

(iii) Smart home control and hub function.

The products involved in **Amazon Wholesale India** devices have Zigbee smart home hub capability, temperature sensors, and presence detection. These functions are entirely unrelated to audio. The earphones involved in this appeal do not have such features.

(iv) Note 3 to Section XVI applied because devices were composite / multifunction machines.

The combined Echo devices in **Amazon Wholesale India** like speaker + microphone + Wi-Fi + cloud AI + smart home hub are genuinely multiple and complementary functions requiring Note 3 to resolve the classification. The earphones involved in this appeal have one function, namely, acoustic sound reproduction. Note 3 will, therefore, not apply as there is no second function to resolve.

22. It is, therefore, clear that the judgment of the Delhi High Court in **Amazon Wholesale India** will have no application to the facts of the present appeal.

23. Learned authorized representative appearing for the department also submitted that the decision of the Tribunal in **Minda D-Ten** will not apply to the facts of the present case.

24. It is seen that the Tribunal **in Minda D-Ten** allowed the appeal on two specific grounds, none of which will apply to the present appeal. The two grounds are:

(i) The module performed reception, conversion & transmission of data as its sole function.

In the present appeal, the earphones defining function is sound output to the human ear. CTI 8518 30 00 specifically covers "Headphones, earphones and combined microphone and loudspeaker sets." It is a positive, specific entry that describes the goods by their very commercial and functional identity. The Bluetooth feature is incidental to this core function, just as a TV with built-in Wi-Fi remains classifiable under Heading 8528 (television receivers) and not under Heading 8517;

(ii) The Commissioner (Appeals) in Minda D-Ten found the module was NOT a "part," yet still applied Section Note 2(b) - a logical contradiction.

In the present appeal, the classification by the department under CTI 8518 30 00 does not require invocation of Section Note 2. The earphones are complete, finished consumer articles. They are not "parts" of anything. The Department has classified them under a specific heading that describes them as manufactured articles, not as components or parts.

25. Thus, this decision of the Tribunal in **Minda D-Ten** will also not come to the aid of the appellant.

26. Learned authorized representative appearing for the department also pointed out that the decision of the Tribunal in **L.G. Electronics** will not help the appellant as the products involved are entirely different.

27. The Tribunal in **L.G. Electronics** classified the G-Watch under CTI 8517 62 90 because it found the essential character of the device to be that of a data communication/computing apparatus.

28. The contention of the learned senior counsel for the appellant that their earphones also contain Bluetooth (a data transmission technology), cannot be accepted for the following reasons:

(i) Bluetooth is a means, not the function.

The Bluetooth of G-Watch was one of several data-communication features (alongside Wi-Fi, GPS, OS-driven apps, messaging, calling). The entire architecture of the device was built around data processing and communication. In contrast, the earphones in the present appeal use Bluetooth only as a wireless audio delivery channel. A wired earphone is unambiguously classified under CTI 8518 30 00. Adding a Bluetooth chip to eliminate the wire does not transform a sound-output device into a data-transmission apparatus.

(ii) The good in L.G. Electronics independently processed and transmitted data.

The Tribunal in **L.G. Electronics** specifically noted that the G-Watch could send/receive messages, make/receive calls, run apps, and connect to Wi-Fi networks, all autonomously. The earphones involved in this appeal do not have autonomous data processing capability. They receive an audio bitstream from a paired phone and convert it to

sound. This is passive audio reproduction and not data communication.

(iii) Heading 8518 is more specific than Heading 8517 for the goods of the appellant.

Even applying GRI 3(a) (most specific description), CTI 8518 30 00 specifically names "Headphones, earphones and combined microphone and loudspeaker sets." CTI 8517 62 90 is a broad residual entry covering "other" machines for reception/conversion/transmission of data. Under GRI 3(a), the more specific heading prevails. In **L.G. Electronics**, the Tribunal applied GRI 3(b) (essential character) because no heading specifically named a "smart watch". In the present appeal, Heading 8518 specifically names the products imported by the appellant.

29. It needs to be noted that the principles laid down in the judgment of the Supreme Court in **Commissioner of Customs (Import)** vs. **Welkin Foods**[10] will apply to the facts of the present appeal.

30. In this connection, reference can be made to paragraph 28 and the relevant portion of paragraph 36 of the judgment, which paragraphs are reproduced below:

> "**28. GRI 1 is the fundamental rule for effectively navigating the HSN.** The influence of GRI 1 is pervasive and forms the basis for customs classification of goods under the Act, 1975. GRI 1 states that: (i) headings of sections, chapters and subchapters are for reference only and (ii) for legal purposes, the classification shall be determined by the terms of headings and the relevant section or chapter notes. **Thus, GRI 1 essentially establishes the**

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10. (2026) 38 Centax 104 (S.C.)

> **primacy of the notes and terms of headings for determining the classification of a product.**
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> *****
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> **36. This Court has repeatedly reiterated that GRIs 1-4 must be applied sequentially.** [See Commissioner of Central Excise, Nagpur v. Simplex Mills Co. Ltd., reported in (2005) 3 SCC 51 and Secure Meters Limited v. Commissioner of Customs, New Delhi, reported in (2015) 14 SCC 239]. **GRI 1, which gives primacy to the headings and notes, is the non-negotiable starting point. GRI 2, which deals with incomplete, unassembled or composite goods or mixtures, often acts as an extension of GRI 1, by deeming the headings to include** incomplete/unassembled goods or mixtures or combinations of a material or substance. GRI 3 is only invoked when the application of GRI 1 and/or GRI 2 results in a good being prima facie classifiable under two or more competing headings. GRI 3 exists solely to resolve this tie. GRI 4, the rule of last resort, is mutually exclusive to GRI 3 and is only invoked if GRI 1 and 2 have failed to find even one possible heading for the good. *****"
>
> **(emphasis supplied)**

31. In the present case, the terms of CTH 8518 precisely and unambiguously cover the imported goods by name ('Headphones / Earphones'). The Supreme Court in **Welkin Foods**, held that once GRI 1 resolves the dispute, there is no occasion to proceed further. This resolves the classification without any need to proceed to GRI 3.

32. Paragraphs 118 and 126 of the judgment deals with "Eo Nomine" and the said paragraphs are reproduced below:

> "**118.** It is also clear that Chapter Heading 7610 is an eo-nomine provision and makes no reference to use in any manner whatsoever, either explicitly or inherently. Thus, Chapter Heading 7610 is purely an eo-nomine provision. **As laid down above, an eonomine provision is one that describes a**

> **commodity by its name. A use limitation cannot be imposed on an eo-nomine provision unless the name inherently suggests use. An eo-nomine provision would ordinarily include all forms of the name article. Consequently, Chapter Heading 7610 would cover all forms of aluminium structures, except for prefabricated buildings of heading 94.06, which have been excluded by the heading itself.**
>
> *****
>
> **126.** Chapter Heading 8436 is an eo nomine provision. It refers to goods by their name: 'agricultural machinery'. **The fact that an entry does not specify a particular article, but rather a category of articles, does not change it from an eo nomine provision to a 'use' provision. Tariff headings often name broad categories without losing their eo nomine character.**"
>
> **(emphasis supplied)**

33. CTH 8518 (Headphones and earphones) is a classic eo nomine provision. It names the article. Bluetooth Wireless Earphones are, objectively and physically, earphones. They produce sound in or near the ears of the user. The Bluetooth/Wireless connectivity is a technology by which audio signal reaches the device. It does not transform an earphone into a "data transmission machine" for classification purposes.

34. CTH 8517 **(Machines for reception/transmission of voice, images or other data)** is inherently a use/function-based heading. In terms of the judgment of the Supreme Court in **Welkin Foods**, for the appellant to classify the products under CTH 8517, they must satisfy two conditions:

(i) The goods must be 'machines' within the ordinary / common parlance meaning of that term; and

(ii) Their principal use must be "reception / conversion / transmission of voice, images or other data" (as opposed to audio reproduction).

35. The Supreme Court in **Welkin Foods** held for aluminium shelves, that "static, non-moving assemblies" cannot be classified as "machinery" as "it is a classification that defies common sense". Similar reasoning applies with even greater force to the products involved in the present appeal. A Bluetooth Earphone in common parlance is universally understood as a listening device/earphone and not as a "machine for transmission of data".

36. The order has also correctly found that the primary function of the imported goods is audio reproduction (sound output) and not transmission or reception of voice/data in a wireless network. The fact that the earphones contain a Bluetooth chip to receive audio wirelessly does not make them "machines for transmission of data" any more than a radio receiver's ability to receive electromagnetic waves makes it a "data transmission machine". This is precisely the principle of the eo nomine identity of a product not being overridden by secondary functional characteristics.

37. The Supreme Court in **Welkin Foods** also held that the taxable event for customs duty is the time of import and not the time of use. "Use" can be a factor in classification only if the tariff heading permits consideration of use, either explicitly or inherently. Only "intended use" discernible from objective characteristics/properties at the time of import can be considered and not actual use.

38. The case of the appellant essentially rests on end use. They claim that these earphones are used with mobile phones and would be under

Heading 8517. This cannot be accepted in view of the judgment of the Supreme Court in **Welkin Foods**. The classification must be based on the objective characteristics and properties of the goods at the time of import. The fact that these devices are used with mobile phones is the "actual use" that cannot determine classification. Even Heading 8518 admits earphones "whether or not combined with a microphone". It contemplates combined use with communication devices. These devices can also be used with laptops and computers.

39. The aforesaid discussion would lead to the inevitable conclusion that the goods imported by the appellant are classifiable under CTI 8518 30 00. The demand would, therefore, have to be confirmed with interest.

40. Learned senior counsel for the appellant also submitted that substantial portion of the demand is barred by limitation as the provisions of section 28(4) of the Customs Act would not be applicable. Learned senior counsel pointed out that the period involved in this appeal is from 01.02.2020 to 31.01.2022, whereas the show cause notice was issued to the appellant on 10.01.2024. Learned senior counsel also pointed out that the extended period of limitation can be invoked only when there is a clear intention to evade duty.

41. The issue is about classification of the goods. According to the appellant, the goods are classifiable under CTI 8517 62 90 of the Customs Tariff Act whereas according to the department, the goods would be classifiable under CTI 8518 30 00. The issue that arises for consideration is as to whether the extended period of limitation can be invoked in a case where the appellant believes that the goods are classifiable under one particular CTI, but the department believes that the goods are classifiable under some other CTI. The case of the appellant is that the presence of

Bluetooth connectivity in the earphones/headphones is sufficient to classify them under CTI 8517 62 90 and for this, the appellant placed reliance upon the Circular dated 05.09.2013. The appellant also placed reliance upon the judgment of the Delhi High Court in **Amazon Wholesale India** and the decisions of the Tribunal in **Minda D-Ten** and **L.G. Electronics**. It has been repeatedly held that to invoke the extended period of limitation under section 28(4) of the Customs Act suppression of facts is not enough as suppression has to be with an intent to evade payment of duty. Merely because of a wrong belief about classification of a product, it cannot be alleged that the extended period can be invoked as suppression of facts has to be with an intent to evade payment of duty. Thus, the extended period of limitation contemplated under section 28(4) of the Customs Act could not have been invoked in the facts and circumstances of the case.

42. However, as the entire demand is not covered by the extended period of limitation, the matter would have to be remitted to the adjudicating authority to determine which portion of demand falls within normal period of limitation contemplated under section 28(1) of the Customs Act and which period of demand falls under the extended period of limitation contemplated under section 28(4) of the Customs Act.

43. Thus, for all the reasons stated above, it has to be held that the goods imported by the appellant are classifiable under CTI 8518 30 00. However, the demand can be confirmed only for the normal period of limitation contemplated under section 28(1) of the Customs Act. The demand confirmed for the extended period of limitation would have to be set aside.

44. The reasons for imposing penalty under section 114A of the Customs Act are the same reasons under which the extended period of limitation can be invoked. As the extended period of limitation could not have been invoked, the imposition of penalty upon the appellant under section 114A of the Customs Act deserves to be set aside.

45. Customs Appeal is, accordingly, allowed in part. The demand confirmed for the normal period of limitation is upheld but the demand confirmed for the extended period of limitation is set aside. The adjudicating authority shall also determine the amount of interest payable under section 28AA of the Customs Act. The imposition of penalty under section 114A of the Customs Act is set aside.

(Order pronounced on **29.04.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

Shenaj, Shreya