CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

Customs Appeal No. 87752 of 2024

[Arising out of Order-in-Original No. CC-GSS/11/2024-25 Adj. (I) ACC dated 04.07.2024 passed by the Commissioner of Customs (Import), ACC, Mumbai.]

M/s. Sonova Hearing India Pvt Ltd. .....Appellant
503-506, Kanakia Zillion,
LBS Marg, Junction CST Road,
BKC Annexure, Kurla (West),
Mumbai, Maharashtra – 400 070

VERSUS

Commissioner of Customs –
Air Cargo Complex, Mumbai .....Respondent
Air Cargo Complex Sahar,
Andheri (E), Mumbai – 400 099

APPERANCE:

Shri J.C. Patel, Advocate with
Shri V.K. Singh, Consultant for the Appellant

Shri Mahesh Yashwant Patil, Additional Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 85558/2026

Date of Hearing: 10.03.2026
Date of Decision: 17.04.2026

PER: DR. SUVENDU KUMAR PATI

In this classification dispute concerning import of 'charging case without power supply' provision for 'hearing aid' imported by Appellant between October, 2018 and August, 2023 through 247 consignments was reassessed with Basic Customs Duty (BCD) @20% instead of 7.5% being assessed by Appellant, resulted in demand to the tune of ₹1,18,93,367/- alongwith applicable interest and equal penalty by invoking extended period together with redemption fine in substitution of confiscation to the tune of ₹1crore. Show-cause cum-demand notice

was issued on dated 19.10.2023 after clearance of all goods that got confirmed in the adjudication process, is assailed in this appeal.

2. Fact of the case would go to reveal that Appellant-Importer had imported Phonac, Unitron, Hansaton make charger cases for "hearing aids" as its accessories and parts during the relevant period and cleared those goods under Tariff Item 9021 9010 of the Customs Tariff Act as "parts and accessory of 'hearing aid' and had paid duty @7.5% BCD plus Cess and IGST in terms of Notification No. 50/2017-Cus. dated 30.06.2017 at Sr. No. 563A. Respondent-Commissioner disputed the classification post clearance of goods and covered the same under "Electrical Transformer, static converter (for example rectifiers) and inductors" under Tariff Item No. 85044030 attracting duty @20% BCD plus other charges and through an adjudication process confirmed the same.

3. During course of hearing of the appeal, learned Counsel for the Appellant Mr. J.C. Patel submitted that those charger cases were brought without power supply which were required to be connected with USB compatible power supply with wall plug adopters that would reduce the normal power supply 220 volt AC to 5 volt DC, required for such "hearing aids" to be charged and the charging case acts only as a medium between the wall plug adapter with USB cable and the "hearing aids" kept safely in the said case. He further submitted that the charging case itself does not convert power supply from AC to DC and the said case was just an accessory suitable for use solely or principally with the "hearing aids". Department classified the same as battery charger under Tariff Item 8504 40 30 which comes under Tariff Item 8504 40 namely "static converter" - an apparatus used to convert electric energy in order to adopt it for further use, as could be seen from the Chapter note on 'electrical static converter' which is marked with one dash (-) under which 'battery charger' is placed with three (---) dashes but as because AC to DC converter was not part of the imported item namely charger case and there was no battery available inside the charger case also to retain charge for future use in the "hearing aids", Appellant's classification can't be disturbed since it was incumbent upon the Revenue to establish the burden of classification

as settled through precedent decisions namely *UOI Vs. Garware Nylons Ltd. - 1996 (87) ELT 12, Nanya Imports & Exports Enterprises Vs. CC – 2006 (197) ELT 154, H.P.L. Chemicals Ltd. Vs. CCE – 2006 (197) ELT 324.*

3.1 Further submission on behalf of Appellant is made by learned Counsel on the issue of invocation of extended period which he highly disputed as several Bills of Entry were assessed by the Group Assessing Officer and Bills of Entry No. 9077768 dated 01.12.2018 as well as 9534037 dated 05.01.2019 were physically examined by the said officer who cleared those goods by confirming the classification suggested by the Appellant, that would lead to the conclusion that Respondent was well aware of the entire transaction, for which allegation regarding suppression is to be completely ruled out. With reference to *KPR Fertilizer Ltd. Vs. Commissioner of Customs, C Ex. and ST, Visakhapatnam-II, 2023 (384) ELT 2016* and *Sah Petroleum Ltd. Vs. Commissioner of Customs (Import), Nhava Sheva, 2017 (358) ELT 483*, he further argued that issue of classification of goods being interpretational in nature extended period of limitation is not invocable in case of classification dispute and claim for exemption is not a declaration for the purpose of treating the same as mis-declaration to invoke Section 111(m) as has been held in the case of *J.K. Industries Ltd. Vs. Commissioner of Customs, New Delhi* reported in *1996 (88) ELT 41 (Tribunal)* and when goods were not available for confiscation the same can’t be redeemed upon payment of redemption fine, for which confirmation of both confiscation order as well as redemption fine is also unsustainable in both law and facts. Last but not the least, in producing the sample of said charging case and placing reliance on the report of the Chartered Engineer, learned Counsel for the Appellant requested to disapprove the classification made by the Adjudicating Authority that resulted in consequential enhancement of duty.

4. *Per contra*, learned Authorised Representative for the Respondent-Department Mr. Mahesh Yashwant Patil argued in support of the reasoning and rationality of the order passed by the Commissioner of Customs and had taken us to the Catalogue of the

product in question, filed alongwith appeal paper book from page No. 96 Exhibit F onwards, and particularly drawn our attention to page 98 and 113 wherein "device" has been described as Phonak Charger case Combi (BTE 2) including power supply and USB cable. To him Catalogue of the manufacturer can best explain the product and going by Bills of Entry sample copy, description of goods imported was mini-charger case with EU plug (Page 174 of appeal paper book) that may indicate that entire system has been imported and not the charger case alone as spare part. He further submitted that website data of the company, that was annexed to appeal paper book at page 125, also indicates that imported goods was a battery and charger. Referring to the subsequent invoice raised in 2023 (Page 222), that is after the period of dispute, he submitted that Appellant had already classified the goods under Tariff Item 8504, for which it can be inferred that its earlier erroneous classification has been accepted by Appellant itself and therefore, no interference of the Tribunal is required in the order passed by the Commissioner of Customs.

5. We have gone through the appeal paper book, written submissions and other relevant literatures including relevant Tariff description on the issue. At the outset, it is to be stated that it is a settled principle of law that classification of the goods made by the Importer is to be discarded first, so as to reclassify the same under a different Tariff Item and to do so the burden of proof lies entirely on the Respondent-Department. In the instant case goods were 100% examined on some past imports and assessed by Group Assessing Officer who had accepted the classification noted in the Bills of Entry and there was no dispute raised by the Adjudicating Authority that imported goods were brought to be used solely or principally with "hearing aids". Further, Appellant has demonstratively established from the description given in the Bills of Entry as well as sample invoice copy attached to the appeal paper book (one of it is as page 223 of appeal memo) that adopter of 5 Volt/1 Amp. and charger were domestically procured and not imported alongwith the disputed goods. Going by that description given in the Tariff Item for static converter having Tariff Item 8504 40, the product should have the capacity to convert electric energy, which in the instant case is from AC to DC, in

addition to its capability to charge battery but as noted in the Chartered Engineer's certificate annexed to appeal paper book at page 239 to page 242, the charging case acts "only as a medium" between wall plug adopter with USB and the "hearing aids" that was meant for safe keeping of the "hearing aids". The Charter Engineer further noted that the charging case itself does not convert the power supply nor it contained rechargeable battery or power pack. Going by the Catalogue of the imported goods also, it is noticeable that power pack is an optional attachment to the charging case (Page 102) and the charging case combi is only a device intended to charge rechargeable "hearing aids". Therefore, going by the Charter Engineer certificate as well as the product literature namely Catalogue, it can very well be said that neither the device possesses any equipment that would convert electric energy from one form to another namely from AC to DC voltage, so as to put it under the category of static converter to cover the same under Tariff Item 8504 40, nor it acts as a battery charger to charge battery of the "hearing aids".

5.1 During course of hearing learned Counsel for the Appellant has also produced the disputed goods before us for physical examination which was opened in the presence of both the parties in our Chamber and found to have contained no battery. Therefore, even if for the sake of argument, it is to be considered as a battery charger that would charge the battery available in the "hearing aids", in disregard of the Chartered Engineer's opinion that it was just a medium between wall plug adopter and "hearing aids", still then on its very nature to keep the "hearing aids" inside the box for charging, it has to be classified as part and/or accessory of "hearing aids" and not a battery charger to static converter which is to be attached separately for such conversion.

6. At this point, it is also required to be placed on record that even though Catalogue of the imported goods namely charging case has shown that it has got the option of bringing charger as well as adopter plug as a combination of products that would not justify that imported goods was having all such components since Bills of Entry notes description of charger only and not the power converter, which was

proved to have been domestically procured and such conversion of power supply is unavailable in the charging case as found from the examination report of the Chartered Engineer. Therefore, we have got no hesitation to confirm that the classification of the imported goods was properly made by the Importer-Appellant under Tariff Item No. 9021 90 10 as part and accessory of the "hearing aids" while we reject the classification confirmed by the Adjudicating Authority, *vide* his above referred order, under Tariff Item 8504 4030. The contention of Appellant that is being noted above in respect of confiscation, redemption fine and penalty are found to have been appropriately made and the same is accepted as valid so as to dispelled the reasoning given in the Order-in-Original, including invocation of extended period that was found to be not in conformity to law, for the reason that goods were subjected to assessment and examination by the proper Officer and nothing was hided from the Department so was to evade payment of duty at a higher rate on the imported goods namely 'charging case' of 'hearing aid'. Hence the order.

THE ORDER

7. The appeal is allowed and the order passed by the Commissioner of Customs (Import), ACC, Mumbai *vide* Order-in-Original No. CC-GSS/11/2024-25 Adj. (I) ACC dated 04.07.2024 is hereby set aside with consequential relief, if any.

(Order pronounced in the open court on 17.04.2026)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Prasad