CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Customs Appeal No. 51006 of 2020

[Arising out of Order-in-Original No. 14/2020/U. G/Principal Commissioner dated 27.05.2020 passed by the Principal Commissioner of Customs, Air Cargo Customs (Import), New Customs House, Near IGI Airport, New Delhi-110037]

M/s. lava international limited
Plot No. A-47, Sector-58,
Noida Uttar Pradesh 201301 **...Appellant**

VERSUS

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

APPEARANCE:
Shri. B.L Narasimhan, Ms. Ashwani Bhatia and Shri. Prince, Advocates for the Appellant
Shri Nikhil Mohan Goyal and Shri Ranjan Prakash, Authorized Representative for the Department

CORAM:
HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MRS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

DATE OF HEARING: 16.03.2026
DATE OF DECISION: **05.06.2026**

FINAL ORDER NO. 51034/2026

DR. RACHNA GUPTA

M/s lava international Limited, the appellant herein, being the manufacturer of mobile phones was importing various goods through their custom House agent (CHA) Insynergy Supply chain Solution including "camera module for cellular mobile phone" classifying the same under chapter tariff heading (CTH) no 85258020 by availing the benefit of exemption in terms of serial no 6 (a) of notification number 57/2017-Cus dated 30/06/2017. Thus, was paying basic customs duty (BCD) at the rate 'NIL' as was apparent from the clearance dated 02/02/2018. The said notification got amended vide notification number 37/2018-Cus dated 02/04/2018 to the effect that the camera module was specifically made in eigible for any benefit of exemption.

2. It was also observed that while importing the said item i.e " camera module for mobile phones" the appellant was also claiming exemption from paying Social Welfare Charge (SWS) in view of notification number 11/2018-Cus dated 02/02/2018, entry at serial number 30, thereof. Department observed that said notification is specifically about the "digital still image video camera of CTH 85258020 " department formed an opinion that " camera module for mobile phones" imported by the appellant is not eligible even for the benefit of SWS exemption. Hence it was alleged that appellant have wrongly claimed the benefit of exemption resulting into non-payment or short payment of customs duty (BCD+ SWS) while importing 'camera modules for mobile phones' during the period from 02.02.2018 to 31.03.2019.

3. On being pointed out the appellant deposited an amount of rupee 6,11,866/- (BCD @ 10% plus impact on IGST). However, the differential duty of SWS was not included in the said amount. Accordingly show cause number 11 of 2019 dated 15/11/2019 was issued proposing to deny benefit of notification no. 11/2018 for Social Welfare Charge (SWS) for the entire period of demand and of notification no. 57/2017, as amended vide notification no. 37/2017 for Basic Customs Duty (BCD) for the period port said amendment on 02.04.2018 for the impugned goods on the ground that the impugned goods are not 'Digital Still Image Video Camera'. The Customs Duty of Rs. 2,14,55,011/- was proposed to be recovered from the appellant in terms of section 28 (1) of Customs Act 1962 along with the interest under section 28 (AA) of the said act. Penalty under section 112 (b) (ii) of the Customs Act, 1962 was also proposed. The imported goods 'camera module for mobile phones', were proposed to be confiscated in terms of section 111 (m) of the act. The original adjudicating authority, vide the impugned order, has the denied the 'Camera Module for Mobile Phones', as imported by the appellant, to be called as the 'Digital Still Image Video Camera'. Accordingly, the claim of appellant seeking exemption under the said notifications is rejected and the proposal of the SCN has been confirmed vis-à-vis the demand of

custom duty (BCD) and of social welfare charge (SWS). The amount of already paid duty of Rs. 6,11,866/- is ordered to be appropriated against the aforesaid demand. The imported goods which got already cleared by the appellant, though. held liable for confiscation but no order of imposing any redemption fine was passed. Penalty of equal amount of duty was imposed under section 112 in (b) (ii) of the Customs Act However, penalties under section 117 of the act on the appellant as well as on its CHA were done away. Being aggrieved of the said adjudication, the present appeal has been filed before this tribunal.

4. We have heard Mr. B.L Narasimhan, Ms. Ashwani Bhatia and Mr. Prince, Advocates for the appellant and Mr. N.M. Goyal, Authorized Representative for the Department.

5. Learned counsel for the appellant submitted that during 2/2/ 2018 to 3/3/2019 the appellant was importing 'Camera Modules' by availing the benefit of exemption from basic customs duty in terms of notification 57/2017 dated 30/06/17, entry number 6 (a) (ii) and also of SWS in terms of notification number 11/18 dated 2/02/18 entry at serial number 30 thereof. He submitted that the exemption notification with respect to BCD (57/2017) was amended by notification number 37/2018 dated-02/04/2018 vide

which three parts of mobile phone including camera module as mentioned in notification no. 57/ 2017 were omitted there by denying the BCD exemption to three of those products. Learned counsel impressed upon that pursuant to said amendment i.e after 2/04/2018, the appellant started paying BCD @ 10% and paid BCD of Rupees 6,11,866/- with interest amounting to Rupees 1,10,136/-

6. Ld. counsel further submitted that amendment in exemption notification no. 57/2017 thereby recalling the said exemption has wrongly been read for notification no. 11/2018 exemption where from payment of SWS while importing the products in question, has never been withdrawn. It is mentioned that for benefit of notification no. 11 of 2018, (i) the goods must fall under CTH 85258020 and of the Tariff Act (ii) goods must confirm to the description of "Digital Still Image Video Camera" Ld. Counsel further elaborated that the impugned goods/ Camera Modules for Mobile Phones, undisputedly, are classifiable under CTH 85258020. The adjudicating authority has also accepted the same in the impugned order. With the respect of the second condition, as mentioned above, he submitted that several judiciable precedents have opined that the ''Digital Still Image Video Camera '' is a camera that is capable of recording still images as well as videos, in

digital format. Decisions of the Tribunal Mumbai bench in the following cases have been relied upon: -

a) Sony Electronics, Inc v. United States dated 23.12.2013 [United States Court of International Trade]
b) Creative Newtech Ltd. (Formerly known as M/s. Creative Peripherals & Distribution Ltd.) v. Commissioner of Customs (Import), Mumbai Air Cargo Import, (2023) 5 Centax 2 (Tri. - Bom)
c) Panam Corporation v. Commr. Of Customs (ACC & Import), Mumbai, 2020 (374) E.L.T. 743 (Tri. Mumbai)

Decision of United States Court of International Trade dated 23/12/2013 in case of Sony Electronics, Inc. V/s United States has also been relied upon. It is impressed upon that once the impugned product is nothing but ''Digital Still Image Video Camera '' there is no reason to deny the benefit of notification 11 of 2018 about exemption from payment of SWS that too for the reason that amendment in another notification has withdrawn the exemption from payment of BCD, has imposed duty @10%. He mentioned that exclusion of camera modules introduced in Sl. No. 502 of Notification no. 50/2017 vide Notification no. 40/2018, has not been made by the Government in NN 11/2018 which exempts payment of SWS. This clears the intention of the government to extend the benefit of SWS notification on import of the impugned goods. The aforesaid two notification are mentioned to be distinct - Notification no. 50/2017 exempts BCD and Notification no. 11/2018 exemption SWS and the exemption from SWS is not contingent upon the exemption from BCD.

7. Learned counsel also elaborated upon the technical specification of both the products and the similarities between two and submitted that the adjudicating authority below has incorrectly understood that the "Digital Still Image Video Camera" is independent and complete product in itself whereas the 'Camera Module cannot be used independently but has to be embodied in the mobile phones without any supporting evidence. Ld. Counsel emphasized that pointing out the said difference and the finding is merely presumptive without any authentic technical literature or any expect opinion. Decision of this Tribunal in **final order no. 51129-51130/2025 dated 05.08.2025 in Customs appeal no. 52463/2022 in the case titled as One 97 Communications Limited v/s Principal Commissioner of Customs** was relied upon where it was held that the personal knowledge of the Principal

Commissioner cannot form the basis of the order in absence of any opinion to this effect given by an expert.

8. While further elaborating, learned Counsel for the appellant has submitted that the explicit exclusion of Camera Modules from notification no. 57/2017 dated 30.06.2017 vide amending notification no. 37/2018 dated 02.04.2018 confirms that the 'Camera Module' was initially included within the scope of "Digital Still Image Video Camera". Decision of this Tribunal by final order no. 51708/2025 dated 13.11.2025 in Customs Appeal no. 51026/2020 in the case titled as **M/s Oppo Mobile India Private Limited V/s Principal Commissioner of Customs (Import)** was relied upon. Thus, confirmation of demand is mentioned to be the outcome of misinterpretation on the part of adjudicating authority below, same is therefore, prayed to be set-aside. Since, there is no apparent or proven malafide on part of the appellant question of imposition of penalty does not at all arises. The goods also were wrongly ordered confiscation. With these submissions the order under challenge is prayed to be set aside and the appeal is prayed to be allowed.

9. While rebutting these submissions Ld. AR, at the outset, has reiterated the findings of the impugned Order-In-Original. Learned

AR submitted that the imported goods/ 'Camera Module for Mobile Phones' needs to work in conjunction with the other components of the mobile phone though this product is capable of capturing images and videos and is also able to processing and storing them but the said function cannot be performed independently by the impugned imported goods whereas the "Digital Still Image Video Camera" is the product which in addition to camera lens as that of camera modules / imported goods, also comprises of the following:-

a. internal storage device for recording and storing of the images and videos;

b. May include Analogue/ digital converter (ADC);

c. May include Output terminal to send images and / or video to units of automatic data processing machines, printers, televisions or other viewing machines;

d. Optical viewfinder or a liquid crystal display (LCD), or both.

Thus, 'camera module' is different from "Digital Still Image Video Camera" in the sense the former does not comprise of features such as internal storage, output terminal, optical view finder and liquid crystal display (LCD). Also, in its imported condition, the camera module does not have the storage hence irrespective of similarity of function after the imported product gets fitted in the assembly of the mobile phone, the adjudicating authority has rightly considered both the products as two distinct products.

10. Ld. AR also emphasis that the distinction is otherwise apparent from the legislative intent through amendments as is explicitly supported by the amendment notification no. 37/2018 to the notification no. 50/2017 specifically excluding camera module of cellular mobile phones from the entry for "Digital Still Image Video Camera". Hence, there is no infirmity in the finding of adjudicating authority that the amendment makes the legislative intent indicating that the exemption for "Digital Still Image Video Camera" is confined to that specific item and does not cover 'camera modules'. Department's case is mentioned to be legally and factually established, and supported by admissible documentary evidence. With these submissions order under challenge is prayed to be upheld and appeal is prayed to be dismissed.

11. Having heard both the parties perusing the entire record is observed and held as follows: -

the appellant has imported the 'Camera Modules For Mobile Phones' and has claimed exemption from payment of Social Welfare

Surcharge (SWS) in terms of entry no.30 of notification no. 11/2018-Cus dated 02.02.2018. The appellant had also claimed exemption from payment of basis Customs Duty (BCD) w.r.t impugned Bills of Entry, in terms of notification no 57/2017-Cus dated 30.06.2017. However, subsequently this notification got amended vide notification no 37/2018-Cus dated 02.04.2018 vide which exemption from BCD on 3 out of 5 products mentioned in notification no 57/2017, that is with respect to Printed Circuit Board Assembly (PCBA), Camera Module and Connectors of cellular mobile phones, was withdrawn and 10 per cent BCD was imposed on these three parts of mobile phones.

12. We observe that the demand of BCD post said amendment is not disputed by the appellant. The period of dispute is 02.02.2018 to 30.03.2019. Hence the demand of BCD from 02.04.2018 to 30.03.2019 is not disputed by the appellant. However, the appellant is disputing the liability to pay SWS for the entire impugned period on the ground that exclusion of 'Camera Modules' from BCD exemption notification will not amount to exclusion of 'Camera Module' from the Notification No.11/2018 dated 02.02.2018 which exempts payment of Social Welfare Surcharge.

In view of these above facts the sole controversy to be adjudicated is:

whether appellant is eligible to claim exemption from payments of Social Welfare Surcharge (SWS) under entry no. 30 of Notification No. 11/2018-Cus dated 02.02.2018. While importing 'Camera Modules for Mobile Phone' during period in dispute.

Foremost we have perused the said Notification, and we note that it exempts various goods of the description as specified in column 2 of the table therein from the whole of social welfare surcharge leviable there on. Entry 30 thereof records "Digital Still Image Video Camera" falling under tariff item 85258020, as the goods specified in the said column no.2. From the perusal of the said entry it becomes clear that in order to claim exemption from SWS two conditions are required to be satisfied.

(i) The goods must be classifiable under CTI 8525 80 20 of the Tariff Act; and

(ii) The goods must answer the description of a "Digital Still Image Video Camera".

In the present case, classification is not disputed. The same has been accepted in the Order-in-Original also and no ambiguity exists in relation thereto. Accordingly, first condition of the notification stands fulfilled.

With respect to second condition, we observe that although the term "Digital Still Image Video Camera" is not defined under the Customs Act, 1962, nor under the Rules framed thereunder, nor even in the Notification No. 11/2018-Cus. But the mere absence of a statutory definition does not ipso facto render the expression ambiguous. Though United States Court of International Trade about the term "Digital Still Image Video Cameras in Sony Electronics, Inc v. United States dated 23.12.2013, as relied upon by the appellant, has held as follows:

'’the term "still image video camera" was first introduced to the tariff schedule in 1996 and the term "digital" was added the following year. A review of Customs' ruling letters regarding these provisions clearly demonstrates that Customs regularly classified digital cameras capable of capturing both still and moving images under 8525.80.40 and its predecessor subheadings in the years prior to the importation of plantiff's merchandise.

All in all, the principal value of the Bancroft Declaration is to establish that by camera module and "Digital Still Image Video Camera" are classified under same CTH 85258020. The decisions of 1997 Congress would not have added the term "digital" if it understood the phrase "still image video camera" to be a ***term of***

art meaning a camera that uses electronic means to capture still images. *Because Congress did add the word "digital,* ***however, it is clear that it intended the phrase "still image video cameras" to be interpreted according to the meaning of its individual words.***

Accordingly, the structure of the HTSUS further establishes that HTSUS 8525.80.40 encompasses those digital cameras capable of capturing both still images and moving images..."

13. However, we observe that the camera module is also classified under CTH 85177090 as part of mobile phone and also CTH under 85299090 in the residual entry. It is also covered under 85258090 vis-à-vis television camera, digital cameras and video camera recorders. This fact is also apparent from Notification Number 37 Of 2018 dated 2.04.2018 which has amended the notification number 57 of 2017 dated 30.06.2017 with respect to the basic custom duty. This particular perusal is sufficient for us to hold that the impugned imported goods are not merely classified under 85258020 but are classified under various other tariff entries, the imported good/ Camera Module being part of mobile though act as a 'Digital Still Image Video Camera' but after it gets filled into the assembly of mobile.

The functionality of the two products in question is similar but not at the stage of import. Hon'ble Supreme Court **in Civil Appeal no. 5531 of 2025 tilted as Commissioner of Customs (Import) V/s M/s Welkin Food, vide judgement dated 06.01.2025** held that the goods which at the time of import are aluminum structures, can not be given exemption benefit available to agriculture machinery for the fact that post importation these structures will be fitted with mushroom growing structures, an agriculture machinery.

As mentioned by Ld. DR that 'Digital Camera' according to which digital camera is one which in addition to the camera lenses, inter alia, comprises of the following; -

a) Internal storage device for recording & storing of the images & Videos.

b) It may include Analogue Digital Converter (ADC)

c) It may include output terminal to send images and or video to units of automatic data processing machines, printers, televisions & other viewing machines.

d) Optical view finder or a liquid crystal display (LCD) or both. Though the 'Camera Module' imported by appellant can capture both Still Images and Video but it is undisputed fact that 'Camera Module' can function like ''Digital Still Image Video Camera" only after it is assembled with other parts into the mobile phone. Admittedly the 'Camera Module' in its imported condition does not comprise of features as mentioned above such as internal storage output terminal, view finder or LCD. Hence, irrespective the Camera Module' and ''Digital Still Image Video Camera" are classified under same CTH 85258020, but both are two different products though camera module can also capture digital still image & video but not independently unlike 'Digital Still Video Camera'. Indian court's decision relied upon by the appellants are also found not applicable to the given set of circumstances. In *Creative New Tech Limited (Supra)* the imported goods were ''Go Pro digital cameras'' and their accessories and in Panama Corporation (Supra) the imported goods were the 'Digital Video Camera' i.e. the camera as such at the time of import. In the present case the imported good is 'Camera Module' which cannot act as 'Digital Still Video Camera' unless and until it gets assembled into the smartphone/ mobile phone. Thus, at the time of import good in the present case is merely a part of mobile phone.

We have also perused notification 57 of 2017 dated 30th June 2017. The said notification exempts the goods of description as specified in column 3 of the table in the said Notification falling within the heading as specified in the corresponding entry in column 2 of said table, when imported into India, from so much of duty of customs leviable there on under the first schedule of tariff as is in excess of the amount calculated at the standard rate as specified in the corresponding entry in column 4 of the said table subject to any of the conditions, in column 5 of the said table:-

S. No	**Chapter or Heading or Sub- Heading or Tariff Item**	**Description of Goods**	**Standard Rate**	**Condition No.**
(1)	(2)	(3)	(4)	(5)
1	xxxx	xxxx	xxxx	xxxx
2	xxxx	xxxx	xxxx	xxxx
3	xxxx	xxxx	xxxx	xxxx
4	xxxx	xxxx	xxxx	xxxx
5	xxxx	xxxx	xxxx	xxxx
6	Any chapter	The following goods for use in manufacture of cellular mobile phones, namely: - a. printed circuit board assembly (PCBA) Camera Module Connections Display Assembly Touch panel/cover glass assembly Vibrator Motor/ Ringer b. inputs or parts for use in manufacture of items mentioned at (a) above c. Inputs or sub-parts for use in manufacture of parts mentioned at (b) above	Nil Nil Nil	1 1 1

This notification got amended by Notification Number 37 of 2018 dated 02.04.2018 adding entry no. 5A and amending the afore said entry number 6 as follows

S. No	**Chapter or Heading or Sub-Heading or Tariff Item**	**Description of Goods**	**Standard Rate**	**Condition No.**
(1)	(2)	(3)	(4)	(5)
1	85177090-Parts of mobile 85258020 cameras 85258090 85299090 residuals	Camera module for use in manufacture of cellular mobile phones	10%	1
2	Any chapter	(a) The following goods for use in manufacture of cellular mobile phones, namely: - 5[(i) x x x] 6[(i) x x x] 7[(i) x x x] Display Assembly Touch panel/cover glass assembly Vibrator Motor/ Ringer b. inputs or parts for use in manufacture of items mentioned at (a) above c. Inputs or sub-parts for use in manufacture of parts mentioned at (b) above	Nil Nil Nil	1 1 1

The above perusal also corroborates that the 'Camera Module' is a product which is part of mobile phones which can act as in 'Digital Still Image Video Camera' but only after it is assembled with other parts to be a mobile phone. Thus, but at the time of import the product it is not the Digital Camera but the part mobile phone.

The apparent conclusion is that the impugned goods are not same goods of notification 11. The term identical or same in statutory interpretation signifies literal & unambiguous identity. It requires exactness in all relevant aspects. Thus, when statute reference the same term across provisions then only is presumed consistent meaning unless indicated otherwise. It was held by Hon'ble Supreme Court in the case of **chairman, Indore Vikas Pradhikaran v. Pure Industrial Coke & Chemicals Ltd reported as 2007 SC 735. In Eureka Forbes Ltd. V/s Allahabad Bent reported as 2010(5) SC 39,** it was held that plain grammatical meaning without any additions be rigidly given to the term 'same or identical'. In contrast 'similar' indicates approximate or analogous identity i.e. likeness without exactness. It shares key characteristics but permits differences in details as was held in case of **Gujrat Steel Tubes Ltd V/s Gujrat Steel Tubes Mazdoor Sabha reported as 1979 SC496.** Hon'ble apex court in another decision titled as **Muhammad Yusuf @ Sajid V/s State of Kerela reported as 2022 SC 94** has held that there is a substantial difference between the words identical and similar A single broad traiff entry can encompass two different products provided the wording of the entry, General Rules of Interpretation and statutory chapters or sections notes are satisfied. However, two distinct products generally cannot have same classification if the tarift is strictly structured into specific subheading entries, as classification priorities material identity function & specificity.

14. The entire discussion above makes it clear that the second condition of the Notification No. 11/2018 dated 02.02.2018 is not fulfilled, the goods imported by appellant (camera module) are not exactly 'digital still image video camera' to which the exception from payment of SWS is available under said notification Number 11/2018. The notifications have to be read strictly. We draw our support from the decision of Honorable Supreme Court in the case of **Dilip Kumar & Co. reported as 2018 (a) SCC/SC**. where in it was held that the exemption notifications are to be interpreted strictly and the burden lies upon the assessee to establish that the goods satisfy all the conditions contained in the notification. Since the impugned good/camera module does not fulfilled the second condition of notification Number 11/2018 it cannot be held eligible to exemption of the said notification. The only plea of appellant to establish the same has been that exclusion of Camera Module in notification no. 37/2018 from benefit of BCD exemption means that camera module was earlier included in 'Digital Still Image Video Camera' is insufficient plea to discharge said burden. The appellant could not prove that the goods at the time of import itself were as

good as 'Digital Still Image Video Cameras '. Hence we hold that the benefit of notification number 11 of 2018 dated to 02.02.2018 is not available to the appellant. Hence the question framed above stands decided against the appellant.

The appellant is the mobile phone manufacturer and was importing 'Camera Module' to be used in the manufacture of mobile phone, but was availing the benefit of notification number 11 of 2018 the exemption whereof is available only to 'Digital Still Image Video Camera' of CTH 85258020. The appellant did not pay BCD even after coming into effect of Notification No. 37/2018 till it was pointed out by the department. The only possible outcome of such an act has been the evasion of customs duty. Hence, it is held that 28(4) of the Customs Act, 1962, the proviso thereof is invokable. The penalty is held to have rightly been imposed. The goods have rightly been confiscated. Resultantly the order under challenge the O-I-O dated 25.05.2020 is hereby upheld and the appeal is ordered to be dismissed.

[Order pronounced in the open court on 05.06.2026]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)