

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

Customs Appeal No. 86911 of 2023

(Arising out of Order-in-Appeal No. 536 (SEZ/2023 (JNCH)/Appeals dated 24.05.2023 passed by the Commissioner of Customs (Appeals), Mumbai II)

**Commissioner of Customs(Export),
Nhava Sheva**

JNCH, Nhava Sheva, Tal.Uran

.....Appellant

VERSUS

Life Scan Medical Devices India Pvt. Ltd.Respondent

A-10003 Kanak Wall Street, Chakala & Mulgaon
Andheri – Kurla Road, Andheri (East), Mumbai

APPEARANCE:

Shri Dinesh Nanal, Dy. Commissioner (AR) for the appellant
Shri Akhilesh Kangsia, Advocate with Ms Shruti Khanna,
Advocate for the respondent

CORAM:

**HON'BLE SHRI AJAY SHARMA, MEMBER (JUDICIAL)
HON'BLE SHRI M M PARTHIBAN, MEMBER (TECHNICAL)**

FINAL ORDER No: 85764/2026

DATE OF HEARING : 03.06.2026

DATE OF DECISION : 23.06.2026

Per: AJAY SHARMA

This appeal has been filed by Revenue against the impugned Order-in-Appeal dated 24.5.2023 passed by the Commissioner of Customs (Appeals), JNCH, Nhava Sheva, Mumbai-II, whereby the Order-in-Assessment dated 28.2.2022

in respect of Bills of Entry in issue was set aside and the appeal of the assessee-respondent herein was allowed.

2. The respondent, a SEZ importer, imported goods viz. '*One Touch Select Simple Blood Glucose Monitoring System*' and '*One Touch Select Plus Simple Blood Glucose Monitoring System*' classifying them under Customs Tariff Item (CTI) 90278090 as '*Instrument or Apparatus for chemical analysis; Other Instruments and Apparatus; Others*' and filed the Bills of Entry for the clearance @ NIL Basic Customs Duty (BCD) in accordance with the Customs Tariff.

3. According to Revenue, it is correctly classifiable under CTI 90189099 as '*Instruments and appliances used in medical surgical, dental or veterinary sciences, including scientigraphis apparatus, Other electromedical apparatus and sight-testing instruments; Other instruments and appliances; Diagnostic instruments and apparatus; Other*' which attracts BCD @ 10% though by virtue of Sr.No.576 of Notification No. 50/2017-Cus dated 30.6.2017, the effective rate of BCD, on '*Blood Glucose Monitoring System (Glucometer) and test strips*' classifiable under Chapter 90 or other Chapter, is 5%.

4. The goods were assessed provisionally and the SEZ importer was allowed to clear the goods provisionally under CTI 90278090 pending investigation by Special Valuation Branch (SVB) into the declared value, with duty paid under protest by

the importer. After the conclusion of SVB proceedings, declared value of the goods was proposed to be accepted.

5. The provisional assessment was finalised vide Order-in-Assessment dated 28.2.2022 classifying the goods under CTI 90189099 @ 5% BCD and demanding the differential duty alongwith applicable interest from the SEZ importer. The duty paid under protest being adjusted against the duty liability so determined. Aggrieved, the importer filed Appeal before the Commissioner (Appeals) which came to be allowed vide impugned order dated 24.5.2023.

6. The Revenue raised various grounds challenging the impugned order viz. erroneous application of Rule 3(a) of the *General Rules for the Interpretation of the Customs Tariff*, as CTH 9018 constitutes the more specific heading for the goods in issue; mis-interpretation of HSN Explanatory Notes to Heading 90.18; Disregard for Legislative Intent reflected in Notification No. 50/2017-Customs and the erroneous reliance on Wikipedia and the judicial precedents. According to learned Authorised Representative the classification under CTI 90189099 correctly reflects the medical diagnostic nature and the primary function of the goods.

7. Per contra learned counsel appearing for the importer/respondent submits that the learned Commissioner, while allowing the appeal of the importer, has correctly followed the decision of the Hon'ble High Court of Judicature at Bombay

in *M/s. Ascentia Diabetes Care India Pvt. Ltd. vs. Union of India*; 2022(11) TMI 871-Bombay High Court where the Hon'ble High Court, while relying upon the decision of this Tribunal in *Bayer Pharmaceuticals Pvt. Ltd. vs. CC, Mumbai*; 2015 (11)TMI 943-CESTAT Mumbai concerning identical goods, namely Glucometers, has held that such goods merit classification under CTH 9027.

8. Learned counsel pointed out that one of the grounds urged by Revenue for fling the instant appeal was that the department intended to challenge the Hon'ble Bombay High Court's decision before the Hon'ble Supreme Court. He however pointed out that the Special Leave Petition so filed by the department has since been dismissed by the Hon'ble Supreme Court vide order dated 6.10.2023 in *SLP (C) Diary No. 34780/2023 reported in 2023(11) TMI 23- SC Order*.

9. Learned counsel further submits that identical issue about the classification of Glucometers again arose before this Tribunal in *Commr.of Customs (Export), Nhava Sheva vs. M/s. Abboott Healthcare Pvt. Ltd.*; 2025(6)TMI 1102-CESTAT Mumbai, wherein this Tribunal, noting its earlier decision in *Bayer Pharmaceuticals (supra)* and its approval by the Hon'ble Bombay High Court in *Ascensia Diabetes Care India Ltd. (supra)*, upheld classification under CTH 9027 and rejected the appeal filed by Revenue.

10. We have heard rival submissions and perused the case records including the synopsis and the case laws placed on record.

11. CTH 9018 covers '*Instruments and appliances used in medical, surgical, dental or veterinary sciences*' whereas CTH 9027 covers '*Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus)*'. The issue is which of these two headings more appropriately describes a Glucometer?

12. A Glucometer is a small portable device used to measure the concentration of glucose (sugar) in the blood. It is commonly used by individuals with Diabetes to monitor their blood sugar levels and also by people who are pre-diabetes or those taking specific medications/steroids that effect blood glucose. A small drop of blood, obtained by pricking a fingertip with a lancet, is placed on a disposable test strip. The said strip is inserted into the Glucometer, which analyzes the sample and displays the blood glucose reading, usually within a few seconds. The illustrations/examples given under CTH 9027 (*polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus*) are merely examples and not an exhaustive enumeration.

13. A Glucometer measures the concentration of glucose in a blood sample through a chemical reaction (*electrochemical or*

enzymatic) occurring on the test strip. The device then analyzes the reaction and converts into a blood glucose reading. Viewing scientifically, a Glucometer analyzes a biological sample (blood), detects glucose through a chemical/enzymatic reaction involving enzymes such as glucose oxidase or glucose dehydrogenase and quantifies the glucose concentration based on the reaction signal. Therefore, the device performs chemical analysis of blood glucose levels. The mere fact that an instrument is used in field of medicine does not, by itself, place it under CTH 9018 where a heading describing its analytical function is available.

14. What appears to have weighed with the department, as reflected in one of the grounds of appeal, is the understanding that a Glucometer '*cannot diagnose or provide any of the medical assistance without the help of professionals*' which premise we are unable to accept. The measurement of the blood-glucose level by a Glucometer is itself the diagnostic step as a reading outside the normal parameters, whether indicating hypoglycaemia or hyperglycaemia, is what enables the medical practitioner to commence appropriate treatment. The analytical function of the device is thus integral to, and not divorced from, its clinical use.

15. The identical issue arose before this Tribunal in the matter of *M/s. Bayer Pharmaceuticals (supra)*, wherein this Tribunal after examining the uses of a Glucometer and undertaking a detailed comparison of the rival headings [CTH 9018 & CTH

9027] alongwith corresponding HSN Explanatory Notes, held that the Glucometer/Glucose meter are classifiable under heading 90.27 and not under CTH 90.18, applying Rule 3 of the *General Rules for the Interpretation of the Customs Tariff*.

16. This decision was approved by the Hon'ble Bombay High Court in *M/s. Ascentia Diabetes Care India Pvt. Ltd. (supra)* wherein the Hon'ble High Court, while relying upon the decision of this Tribunal in *Bayer Pharmaceuticals (supra)* has held that Glucometers merit classification under CTH 9027 and the Special Leave Petition filed by the department against that decision was dismissed by the Hon'ble Supreme Court on 6.10.2023. Thereafter, recently this Tribunal in *M/s. Abboott Healthcare Pvt. Ltd (surpa)* has again reiterated its classification under CTH 9027 and the Department's Appeal against that order being *Civil Appeal No. 2429-30 of 2026 [Diary No. 2164 of 2026]* was dismissed by the Hon'ble Supreme Court vide order dated 23.2.2026.

17. In view of the foregoing, both on an independent examination of the scientific function of a Glucometer and the competing tariff entries, and in the light of the consistent line of decisions culminating in dismissal of department's appeals by the Hon'ble Supreme Court, we are of the view that the goods in issue namely Glucometers merit classification under CTH 9027 and the learned Commissioner (Appeals) was, therefore, justified in allowing the appeal of the respondent-importer.

18. Accordingly, there is no merit in the appeal filed by Revenue and the same is dismissed.

(Pronounced in open Court on 23.06.2026)

(AJAY SHARMA)
MEMBER (JUDICIAL)

(M. M. PARTHIBAN)
MEMBER (TECHNICAL)

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