# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

## NEW DELHI

PRINCIPAL BENCH- COURT NO. I

**Customs Appeal No. 54933 of 2023**

(Arising out of Order-in-Original No. 62/2022-23 SIMMI JAIN/PR.COMMISSIONER/ dated 22.02.2023 passed by the Principal Commissioner of Customs, (Air Cargo Complex Import), New Customs House, New Delhi.)

**M/s Spice Jet** **....Appellant**
319, Udyog Vihar, Phase-IV
Gurgaon-122016, Haryana, India

Versus

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

**APPEARANCE:**

Ms. Kruti Parashar and Ms. Anjali Singh, Advocates for the Appellant
Shri Ranjan Prakash and Shri Shiv Shankar, Authorised Representatives of the Department

**AND**
**Customs Appeal No. 55512 of 2023**

(Arising out of Order-in-Original No. 62/2022-23/SIMMI JAIN/PR.COMMISSIONER dated 22.02.2023 passed by the Principal Commissioner of Customs, (Air Cargo Complex Import), New Customs House, New Delhi.)

**M/s H. C. Khanna & Company** **....Appellant**
303-304, 3rd Floor, Plot No. 8,
Krishna Tower, Sector-12,
Dwarka, New Delhi-110075

Versus

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

**APPEARANCE:**

Mr. B.L. Garg, Advocate for the Appellant
Shri Ranjan Prakash and Shri Shiv Shankar, Authorised Representatives of the Department

**CORAM:**

**HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT**
**HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)**

**DATE OF HEARING/ DECISION: 24.06.2026**

**FINAL ORDER NO's. 51099-51100/2026**

**DR. RACHNA GUPTA**

Present order disposes off two appeals arising out of common Order-in-Original bearing no. 62/2022-2023 dated 22.02.2023.

2. The facts in brief which culminated into the said order are that M/s Spice Jet Ltd[1] filed the Bill of Entry No. 5235025 dated 16.02.2018 through their authorized Customs Broker M/s H C Khanna & Company for getting clearance of the goods declared as Integrated Drive Generator herein called IDG under CTH 8501200 the benefit of serial no. 544 of Notification No. 50/2017-Cus dated 30.06.2017 was availed which exempts entire Basic Customs Duty[2]. IGST @ 18% was paid under Serial No. 373 of Schedule III of IGST Notification No. 1/2017-integrated tax (rate) dated 28.06.2017. The appellant had also cleared goods declared as starter generator under CTH 8501 62 00 availing the benefit of aforesaid both the notifications. During the post audit clearance, it appeared to the department that the goods are correctly covered under CTH 8511. The appellant was alleged to have misclassified the tariff entry. It was alleged that the said mis-declaration has resulted into short levy of duty of Rs. 1,35,76,752/- with respect to Integrated Drive Generator (IDG). With respect to starter generators, the appellant was alleged to have short paid the duty of Rs. 96,09,622/-.

3. These observations resulted into issuance of Show Cause Notice No. 20/Commr./TBA-1/2020 dated 11.11.2020 vide which aforesaid

**1 the appellant**
**2 BCD**

both the amounts of duty were proposed to be recovered from the appellant in terms of section 28(4) of the Customs Act, 1962 alongwith the interest as applicable under section 28AA of the Act. Penalty under section 114A of Customs Act, 1962 was also proposed to be imposed on the appellant. In addition, the penalty on the Custom House Agent M/s H C Khanna & Company was proposed to be imposed under section 117 of the Customs Act, 1962 alleging contravention of the provisions of Customs Act. The said proposal has been confirmed vide the impugned Order-in-Original dated 22.02.2023. Being aggrieved, the importer M/s Spice Jet as well as their CHA M/s H C Khanna have filed the separate appeals before this Tribunal challenging the said order.

4. We have heard Ms. Kruti Parashar assisted by Ms. Anjali Singh, learned counsel for the appellant-importer. It is submitted that the issue of classification as involved in the present appeal has already been decided by this Tribunal in the similar set of facts and circumstances vide the Final Order No. 50857-50859/2026 dated 11.05.2026 in the case titled as **Interglobe Aviation Ltd.** vs. **Principal Commissioner of Customs, New Delhi[3].** It has already been held that the parts of aircraft imported by the appellant i.e. IDC and the starter generator are classifiable under CTH 8501. The CTH claimed by the department (CTH 8511) is denied to be the correct classification of the impugned imported goods. The said decision has been acknowledged by learned DR appearing for the department. It has been acknowledged that no appeal has been filed against the said order. It is clear that the outcome has been accepted by the department.

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**3 Customs Appeal No. 55094 of 2023 decided on 11.05.2026**

5. Learned counsel appearing for CHA has also relied upon the said decision. It is further submitted that once there is no mis-declaration as was alleged by the department, the question of alleged mala fide intent on part of CHA has no meaning. Otherwise also, the Customs House Agent is not responsible for deciding the classification of the goods. With these submissions the order under challenge is prayed to be set aside by both the appellants and both the learned DR has prayed for disposal of appeal accordingly.

6. Having heard both the parties, we observe that the only issue for consideration in the present appeal is about classification of the goods imported by the appellant i.e. whether the Integrated Drive Generator and Starter Generator are classifiable under CTH 8501 as declared by the appellant or they are classifiable under CTH 8511 as alleged by the department.

7. To appreciate the contentions, it would be appropriate to first refer to the relevant Tariff Heading and Items and these are as follows:

| **Tariff Item** | | **Description of goods** | **Unit** | **Rate of Duty+#** | |
|---|---|---|---|---|---|
| | | | | Standard | Preferential Areas |
| **(1)** | | **(2)** | **(3)** | **(4)** | **(5)** |
| **8501** | | **Electric motor and generators (excluding generating sets)** | | | |
| 8501 10 | - | Motors of an output not exceeding 37.5 W: | | | |
| | --- | DC motor: | | | |
| 8501 10 11 | ---- | Micro motor . . . . . . . . . . . . . . . . . . . . . . . . | U | 10% | - |
| 8501 1012 | ---- | Stepper motor . . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 10 13 | ---- | Wiper motor . . . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 10 19 | ---- | Other . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 10 20 | --- | AC motor . . . . . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 20 00 | - | Universal AC or DC motors of an output exceeding 37.5 W . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| | - | Other DC motors; DC generators: | | | |
| 8501 31 | -- | Of an output not exceeding 750 W: | | | |

| | | | | | |
|---|---|---|---|---|---|
| | --- | DC motors: | | | |
| 8501 31 11 | ---- | Micro motor . . . . . . . . . . . . . . . . . . . . . . | U | 10% | - |
| 8501 31 12 | ---- | Stepper motor . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 31 13 | ---- | Wiper motor . . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 31 19 | ---- | Other . . . . . . . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 31 20 | --- | DC generators . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 32 | -- | Of an output exceeding 750W but not exceeding 75 kW: | | | |
| 8501 32 10 | | DC motor . . . . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| 8501 32 20 | --- | DC generators . . . . . . . . . . . . . . . . . . . . . | u | 10% | - |
| **xxxx** | | **xxxxxxx** | **xx** | **xxx** | **xxxx** |
| **8511** | | **Electrical ignition or starting equipment of a kind used for spark. Ignition or compression-ignition internalcombustion engines (for ex-ample, ignition magnetor, magneto-dynamos, ignition coils, sparking plugs and glow plugs, starter motors); generators (for example, dynamos, alternators) and cut-outs of a kind used in conjunction with such engines** | | | |
| 8511 10 00 | - | Sparking plugs . . . . . . . . . . . . . . . . . . . . . | u | 15% | - |
| 8511 20 | - | Ignition magnetos; magneto-dynamos; magnetic flywheels: | | | |
| 8511 20 10 | --- | Electronic ignition magnetos . . . . . . . . . . . . . | u | 15% | - |
| 8511 20 90 | --- | Other . . . . . . . . . . . . . . . . . . . . . . . . . . . | u | 15% | - |
| 8511 30 | - | Distributors; ignition coils: | | | |
| 8511 30 10 | --- | Distributors . . . . . . . . . . . . . . . . . . . . . . . | u | 15% | - |
| 8511 30 20 | --- | Ignition coils . . . . . . . . . . . . . . . . . . . . . . | u | 15% | - |
| 8511 40 00 | - | Starter motors and dual purpose starter-generators . . . . . . . . . . . . . . . . . . . . . . . . | u | 15% | - |
| 8511 50 00 | - | Other generators . . . . . . . . . . . . . . . . . . . . | u | 15% | - |
| 8511 80 00 | - | Other equipment . . . . . . . . . . . . . . . . . . . . | u | 15% | - |
| 8511 90 00 | - | Parts . . . . . . . . . . . . . . . . . . . . . . . . . . . | Kg. | 15% | - |

8. CTH 8501 covers electric motors and generators (excluding generating sets) all electric generators, whereas CTH 8511 covers only those generators which are used in conjunctions with spark-ignition or compression ignition IC engines.

9. The HSN Explanatory Notes to CTH 8501 in paragraph (II) provides that machines that produce electrical power from various energy sources (mechanical, solar, etc.) are classified here, provided

they are not more specifically covered by any other heading of the nomenclature. It further provides that the generators covered under CTH 8501 are of two types namely DC generators (dynamos) and AC generators (alternators).

10. The HSN Explanatory Notes to CTH 8501 also provides that the said heading does not cover the electrical generator with prime movers or generators (dynamos and alternators) used in conjunction with IC engines covered under CTH 8511 or for electrical lighting or signaling equipments of a kind used for cycles or motor vehicles covered under CTH 8512.

11. The contention of the learned counsel for the appellant is that the goods are electrical generators used in conjunction with turboprop/turbofan engines of an aircraft. The integrated drive generator is an AC generator that provides electrical power to the entire aircraft system, which includes power supply to GCU, EGIU, aircraft lighting system and air conditioning system. The starter generator is a DC generator which is a combination of a 'starter' and a 'generator' designed to start the aircraft engine and once the engine reaches the self-sustaining speed, the starter generator switches its role to that of a generator namely providing DC power to various aircraft components.

12. Hence the goods are more appropriately classifiable under CTH 8501 as declared by the appellants. This contention is already accepted as correct by the Tribunal in the case of **Interglobe Aviation** (Supra) wherein it is held that the goods, (IDC & Starlie generators) are classifiable under CTH 8501 as it covers all electrical AC and DC generators. Integrated drive generator (IDC) is an AC generator having an output of 90KVA, whereas a starter generator is a

DC generator having out of 30V capable of providing a power of 12KW. The eight digit classification of integrated drive generator would, therefore, be CTI 8501 62 00 and of starter generator would be CTI 8501 32 20.

13. This view also finds support from the another decision of the Tribunal in **Lili Foam Industries (P) Ltd.** vs. **Collector of Central Excise[4],** wherein, it has also been held that IC engine are engines where the combustion process takes place inside the engines. They are broadly classified into two types, namely reciprocating engines and gas turbine engines. In reciprocating engines, the function of intake, compression, combustion and exhaust all take place in the same combustion chamber. In gas turbine engines the function of intake, compression, combustion and exhaust take place separately. Gas turbine engines are of two types namely turboprop engines and turbofan engines.

14. It is, therefore, clear that in the working of a turboprop/turbofan engine, there are separate sections devoted to each function such as intake, compression, combustion and exhaust and all the functions are performed simultaneously. This working of turboprop/turbofan engines is entirely different from that of the reciprocating, spark-ignition IC engines and compression ignition IC engines.

15. The fact that a separate tariff heading is created for all gas turbines under CTH 8411 establishes that gas turbines engines are different from spark-ignition and compression ignition combustion engines which are covered under CTH 8407 and CTH 8408, respectively. Since the goods have been imported by the appellant for use in conjunction with gas turbine engines which are covered under

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**4. 1990 (46) E.L.T. 462 (Tri.)**

CTH 8411, they cannot be classified under CTH 8511, as it covers only those generators which are used in conjunction with spark-ignition and compression ignition IC engines.

16. We do not find any reason to differ from those findings nor department has produced any evidence contrary thereto hence we hold that the goods were rightly classified by the appellant under CTH 8501, the Customs duty has wrongly been confirmed. The order under challenge to that extent is therefore liable to be set aside.

17. While coming to the plea of the Customs Broker, it is observed that penalty on CHA has been imposed holding that the Bills of entry were filed by him with different classifications at different times. However, the settled proposition of law is that CHA has not to decide the classification of the imported/exported goods. This Tribunal Chennai Bench in the case of **Chakiat Agencies** vs. **Commissioner of Customs (Exports), Chennai reported as 2023 (4) Centax 391, (Tri. Mad)** has held that CHA is not expected to examine and ensure nature of goods in consignment. Once there is no evidence to establish that CHA was indulged in any overt act or played any role in any manner to assist his client while wrongly classifying the goods, imposition of penalty on CHA is liable to be set aside. Hon'ble High Court Delhi in the case of **Kunal Travellers (Cargo)** vs. **CCE (ING), IGI Airport, New Delhi reported as 2017 (354) ELT 447 Delhi** has held that the Custom House Agents are merely the processing agent of documents for clearance of goods through Custom House. They are not the inspectors to weigh genuineness of transaction and there is no obligation upon them to look into the information received from the exporter or the importer.

18. In the present case, there is no denial that the appellant CHA was filing the Bills of entry where the classification also was different at some point of time but since the classification and the change thereof has held to be the absolute responsibility of the importer/exporter also in terms of section 46(4) and 46(4A) of the Customs Act, 1962, the question of imposition of penalty on CHA does not at all arise in absence of any evidence of any kind of involvement or connivance on the part of CHA. In the present case, the classification declared by the appellant has already been held as correct as is coming apparent from discussion above. Hence the allegations of intentional mis-classification by the CHA becomes absolutely redundant. The order imposing penalty on said CHA that too in terms of section 117 of the Customs Act is not at all sustainable. The impugned order, to that extent also, is liable to be set aside.

19. In view of the entire above discussion, the impugned order-in-original dated 22.02.2023 is hereby set aside as a consequence thereto. Both the appeals are hereby allowed.

(Operative part pronounced in the Open Court)

**(RACHNA GUPTA)**
**OFFICIATING PRESIDENT**

**(HEMAMBIKA R. PRIYA)**
**MEMBER (TECHNICAL)**

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