CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 86271 of 2025

[Arising out of Order-in-Original No. 283/2024-25/CC/NS-V/CAC/JNCH dated 31.01.2025 passed by the Commissioner of Customs, Nhava Sheva-V, Nhava Sheva]

Imagine Marketing Ltd. **.... Appellants**
Unit No.204 & 205, 2nd Floor,
D-Wing & E-Wing, Corporate Avenue,
Andheri-Ghatkopar Link Road,
Andheri (W), Mumbai 400 093.

Versus

Commissioner of Customs, NS-V, Nhava Sheva **....Respondent**
JNCH, Nhava Sheva,
Uran, Raigad, Maharashtra 400 707

WITH

Customs Appeal No. 86275 of 2025

[Arising out of Order-in-Original CAO No. CC-HB/38/2024-25 Adj. (I) ACC dated 15.02.2025 passed by the Commissioner of Customs (Import) ACC Mumbai]

Imagine Marketing Ltd. **.... Appellants**
Unit No.204 & 205, 2nd Floor,
D-Wing & E-Wing, Corporate Avenue,
Andheri-Ghatkopar Link Road,
Andheri (W), Mumbai 400 093.

Versus

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

APPEARANCE:

Shri T. Vishwanathan a/w Shri Akhilesh Kangsia and Ms. Madhura Khandekar, Advocates for the Appellants
Shri Mahesh Patil, Authorized Representative for the Respondents

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85931-85932/2026

Date of Hearing: 20.07.2026
Date of Decision: 20.07.2026

Per: S.K. MOHANTY

Heard both sides and examined the case records.

2. The issue of classification of "Wireless Bluetooth Earphones/Earbuds/ Headphones/Headsets" is the subject matter of present dispute. The appellants had classified the said goods under Tariff Item 8517 6290 and claimed the benefit of duty exemption provided under Notification No. 57/2017-Cus. dated 30.06.2017. However, the Department had changed the classification of the said goods under Tariff Item No. 8518 3000/ 8518 3011 and denied the benefit of duty exemption claimed by the appellants. The appellants have assailed the impugned order mainly on the ground that the show-cause proceedings are barred by limitation of time. In this context, it is stated that classification claimed by the appellants was decided by Co-ordinate Bench at Chennai in the case of *Redington Ltd. Vs. The Principal Commissioner of Customs, Chennai – 2026 (5) TMI 1611 – CESTAT CHENNAI* and the contra view was taken by the Delhi Bench, in the case of *G-Mobile Devices Pvt. Ltd. Vs. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi – 2026 (4) TMI 1850 – CESTAT NEW DELHI*, holding that the classification claimed by the Department should be considered for the product in dispute. It was further stated that vide order dated 07.07.2026, the Chennai Bench of the Tribunal has referred the matter to the Hon'ble President of the Tribunal for constitution of the Larger Bench for resolving the classification dispute. Thus, it was clear that in such circumstances, the charges of willful mis-statement, suppression of facts etc., cannot be leveled against the appellants, justifying issuance of the show-cause notice beyond the normal period provided under Section 28 of the Customs Act, 1962.

3. On examination of the case records, we find that the dispute involved in these appeals only confined to the correct classification of the goods. There were divergent views with regard to proper classification and for such purpose, there were conflicting views expressed by the different Benches of the Tribunal. The Chennai Bench of this Tribunal in the case of Redington Ltd. (supra) has held that the classification of the product in question, should be under Tariff Item 8417 6290, whereas the Co-ordinate Bench at Delhi had accepted the classification held by the Department under Tariff Item 8518 3000/ 8518 3011. However, Delhi Bench though had accepted the classification claimed by the Department, but dropped the confirmed demand, holding that the extended period of limitation cannot be invoked, justifying proposed recovery action beyond the normal period provided in the statute.

4. In the present case, the period of dispute in respect of Appeal No. C/86271/202025 is from 07.02.2018 to 03.02.2020 and in respect of Appeal No. C/86275/2025, the period is from 09.03.2019 to 30.03.2022. In both the cases, show-cause notices were issued on 03.02.2023 and 22.07.2024 respectively. The provisions for invocation of extended period are contained in Section 28 of the Customs Act, 1962. In sub-section (1) of Section 28 *ibid*, it has been mandated that wherever the duties of customs have not levied or not paid or short levied or short paid, the proper officer shall within two years of the relevant date serve notice on the person chargeable with the duty. However, an exception has been carved out with regard to the period for issuance of show cause notice in sub-section (4) of Section 28 *ibid,* providing that where any duty has not been levied or not paid or short levied or short paid, owing to the reason of collusion, or any willful mis-statement, suppression of facts etc., then in such an eventuality, instead of the normal period of two years, the show-cause notice can be issued within a period of five years from the relevant date. On reading of both the sub-sections contained under Section 28 ibid, it would transpire that issuance of the show-cause notice within the normal period of two years is the 'rule' and invoking the extended period is an 'exception', for which the onus entirely lies with the Department to prove that there is involvement of the ingredients itemized in sub-section (4) viz., collusion, willful mis-statement, suppression of facts etc., with an intent to evade payment of customs duty.

5. It is an admitted fact on record that proper classification of the said goods was not free from doubt, which would be evident from the fact that there were divergent views expressed by the different Benches of the Tribunal. Further, the Delhi Bench of the Tribunal in the case of *G-Mobile Devices Pvt. Ltd.* (supra) has accepted the classification as claimed by the Department, but dropped the demand on the ground of limitation, holding as under: -

> *"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. xxxx xxxx xxxx

43. xxxx xxxx xxxx

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.”

6. Further, we also find that the Co-ordinate Bench of the Tribunal at Chennai in the order dated 07.07.2026, has directed the Registry to place the appeal records before the Hon’ble President for constitution of a Larger Bench to decide the classification issue involved in the present appeal.

7. Under the facts and circumstances of the present case, we are of the view that the bonafides’ of the appellants are proved that owing to different interpretation placed by the judicial forum on classification of subject goods, they had claimed the classification under tariff item 8517 6290 and the resultant benefit provided under the notification dated 30.06.2017. Therefore, it is our considered view, that there is no element of collusion or any willful mis-statement or suppression of facts inasmuch as the issue in hand entirely involves interpretation of the Customs Tariff with regard to classification of the subject goods, and as such issuance of the show cause notice should be confined to the normal period and the extended period of limitation cannot be invoked for recovery of the adjudged demands beyond the normal period prescribed under sub-section (1) of Section 28 *ibid*.

8. In view of the above discussions, the impugned order, insofar it has confirmed the duty demands on the appellants by invoking the extended period of limitation is set aside and the appeals are allowed in favour of the appellants on the said ground, without discussing the merits of the case. Redemption fine and penalties imposed in the impugned orders are also set aside. However, the issue of classification is kept open, which should be dealt with by the Larger Bench as per referral order dated 07.07.2026 of the Chennai Bench of the Tribunal.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha