CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Customs Appeal No. 40685 of 2024

(Arising out of Order-in-Original No. 106992/2024 dated 20.05.2024 passed by the Commissioner of Customs, No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Sony India Pvt. Ltd. **...Appellant**
A-18, Mohan Co-Operative Industrial Estate,
Mathura Road,
New Delhi – 110 044.

Versus

Commissioner of Customs **...Respondent**
Chennai II Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

APPEARANCE:

For the Appellant : Mr. V. Lakshmi Kumaran, Senior Advocate
For the Respondent : Mr. Anoop Singh, Authorised Representative

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 41073 / 2026

DATE OF HEARING : 15.04.2026
DATE OF DECISION : 09.10.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal is directed against Order-in-Original No. 106992/2024 dated 20.05.2024 passed by the Commissioner of Customs, Chennai-II Commissionerate (hereinafter referred to as "the impugned order"), whereby the benefit of exemption under Serial No. 17 of Customs Notification No. 24/2005 dated 01.03.2005, as amended, was

denied in respect of "Professional Display Units/Visual Display Units" imported by M/s. Sony India Pvt. Ltd. (hereinafter referred to as "the appellant"). The appellant imported various models of the said goods through Mumbai, Nhava Sheva and Kattupalli Ports, classifying the same under CTH 85285200 and availing the benefit of the aforesaid exemption notification.

2.1 The dispute arises from the Department's contention that the subject goods were not eligible for the exemption under Serial No. 17 of Notification No. 24/2005-Cus., dated 01.03.2005, on the ground that the goods were capable of being used independently, without an automatic data processing machine, and were not solely or principally used as part of an automatic data processing system falling under Heading 8471. The appellant, on the other hand, claimed the benefit of the exemption in respect of the imported goods in terms of the notification.

2.2 Pursuant to the investigation conducted by the Directorate of Revenue Intelligence (DRI), a Show Cause Notice dated 29.11.2023 was issued proposing denial of the exemption and recovery of differential duty amounting to Rs. 13,92,26,817/-, along with applicable interest and penalties. Upon adjudication, the learned Commissioner, vide the

impugned order, confirmed the proposals contained in the Show Cause Notice. Aggrieved by the said order, the appellant has preferred the present appeal before this forum.

3. The Ld. Advocate Shri V. Lakshmikumaran appeared on behalf of the appellant and made the following submissions: -

3.1 Classification under CTH 8471 was specifically raised before the adjudicating authority- It was submitted that the impugned order is incorrect to the extent that the issue of classification of the subject goods under CTH 8471 was not considered. The appellant had specifically raised the issue of classification in its reply to the Show Cause Notice. It was submitted that the adjudicating authority was therefore required to consider the said submission and record a finding thereon, as held in various judicial decisions. Reliance was placed on the decisions in *Rama Machinery Corporation [1991 (11) TMI 55 (SC)], Lili Foam Industries (P) Ltd v. Collector of Central Excise, 1990 (46) ELT 462 (Tri),, Micromax Informatics [2024 (10) TMI 989], Kobelco Construction Equipment India Pvt Ltd. Versus Commissioner of Customs, Chennai2025 (11) TMI 1736 - CESTAT CHENNAI*. It was submitted that the Ld. Adjudicating Authority was required to consider the appellant's specific contention regarding classification under CTH 8471 and record a finding on the

same, which has not been properly done in the impugned order.

3.2 Classification of the impugned goods under CTH 8471- It was further submitted that the impugned goods are correctly classifiable under CTH 8471. In support of the said contention, reliance was placed on a number of judicial decisions, including *Cloudwalker Streaming Technologies [2023 (3) TMI 1636 - SC Order], Brio Interactive Technologies [2026 (4) TMI 169 - SC Order], Hitevision Tech India2026 (1) TMI 1240 - CESTAT CHENNAI, BenQ [2026 (3) TMI 3 (SC)], VS Global Infocom [2026 (3) TMI 51],* and *Ingram Micro India [2022 (2) TMI 308].* It was submitted that the impugned goods are more than mere monitors and constitute sophisticated display devices capable of functioning as independent devices and of running applications and programmes without being connected to a CPU. Accordingly, it was contended that the goods are appropriately classifiable under CTH 8471 4190.It was further submitted that the fact that the impugned goods are capable of functioning independently does not, by itself, disentitle them from classification under Heading 8471. The appellant submitted that the subject goods are also used in automatic data processing systems and are solely or principally used with such systems, as contemplated under the relevant tariff

provisions and exemption notification. It was contended that the adjudicating authority has not adequately explained or demonstrated how the impugned goods fail to satisfy the requirement of being solely or principally used in automatic data processing systems. The finding in the impugned order, according to the appellant, is therefore not supported by adequate reasoning or evidence.

3.3 The Ld. Counsel further submitted that, in any event, there was no misdeclaration on the part of the appellant with respect to the value or any other material particulars declared in the Bills of Entry. The classification and exemption claimed by the appellant were based on their *bona fide* understanding of the applicable tariff provisions and exemption notification. It was accordingly submitted that the ingredients necessary for invocation of the extended period and imposition of penal consequences were not established.

3.4 The Ld. Counsel also made submissions with regard to the demand of interest and the imposition of redemption fine and penalties and submitted that, in the facts and circumstances of the present case, the same were not warranted.

3.5 The Ld. Counsel prayed for setting aside the impugned order and allowing the appeal. It was submitted that the impugned goods be held classifiable under CTH 8471 4190 and the consequential demand of differential duty be set aside. Without prejudice, it was submitted that, if the goods are held classifiable under CTH 8528 5200, the benefit of exemption under Serial No. 17 of Customs Notification No. 24/2005 be extended to the appellant. Consequentially, it was prayed that the demand of interest, redemption fine and penalties be set aside.

4.1 The Ld. Authorized Representative Shri Anoop Singh, for the Revenue, reiterated the findings in the impugned order and submitted that the adjudicating authority had passed a detailed, reasoned order after examining the technical specifications and functional features of the impugned goods.

4.2 It was submitted that the goods have multiple input ports/interfaces and are capable of being connected to mobile phones, DVD players, video game consoles and other devices. The appellant itself had advertised the goods for such diverse applications. Mere capability of connection with computers or laptops, therefore, does not establish that the

goods are **solely or principally used with automatic data processing machines falling under Heading 8471.**

4.3 The Ld. Authorized Representative further submitted that the classification under CTH 8471 was not properly established before the Assessing Officer/ Adjudicating Authority and cannot be decided for the first time at the appellate stage without examination of the relevant factual and technical material. The adjudicating authority is the primary fact-finding authority, whereas the Tribunal is the final fact-finding authority.

4.4 It was submitted that the impugned goods are multifunctional professional display devices and their use with ADP machines is only one of several applications. Consequently, the essential requirement of being "solely or principally" used with ADP machines under Heading 8471 is not satisfied.

4.5 He submitted that exemption notifications are to be construed strictly and the claimant must establish fulfilment of the prescribed description/ conditions. Accordingly, the benefit of the exemption notification was rightly denied.

5. We have heard both sides and perused the case records and the judicial precedents relied upon by the parties. The following issues arise for determination: -

i. Whether the impugned order is a non-speaking order inasmuch as the issue of classification under CTH 8471 was not examined on merits on the ground that its examination is beyond the scope of the Show Cause Notice?

ii. Whether the demand, imposition of penalty and redemption find as proposed in the Show Cause Notice is correct in law?

6. When the matter came up for hearing, the Ld. Advocate for the appellant emphasized on the fact that despite citing decisions that allow the appellant to contest the classification when the Show Cause Notice is issued proposing reassessment for any reasons in the impugned order, the Adjudicating Authority had refrained from examining the classification under CTH 8471 contended by the appellant in its reply. It is submitted that he was prepared to argue the matter on the entitlement of correctness of the classification of the imported goods under CTH 8471. Alternatively, and without prejudice, if the VDUs are held to be classifiable under CTI 8528 5200, the VDUs are eligible to the benefit under Sl.No. 17 of Notification No. 24/2005-Cus. dated 01.03.2005.

7. The Ld. Authorized Representative strenuously opposed the said proposition, contending that various aspects are necessarily to be looked into in terms of Bills of Entry declaration, product catalogue, *etc.,* and classification as proposed ought to be examined afresh by the Adjudicating Authority and therefore, the matter needs to be remanded. The Ld. Counsel for the appellant was agreeable to the said proposition. Hence, we take up the issue for consideration as to whether the Adjudicating Authority was correct in refraining from examining the classification under CTH 8471 as was contended by the appellant.

8. The Ld. Counsel for the appellant referred to the decision in the case of *Lili Foam Industries (P) Ltd v. Collector of Central Excise [1990 (46) ELT 462 (Tri.)],* which was also cited before the Adjudicating Authority, we find that the co-ordinate Bench of the Tribunal has held as under: -

> *"24. We have already held that the value of the top skin, bottom skin, side skin and the shreddings are to be increased. The Learned Departmental Representative, during the course of the arguments, submitted that the proceedings in the instant case do not call for a finding on the rate of duty applicable on the side skin, bottom skin, top skin and the shreddings. He argued that the appellants had paid duty according to the approved classification list and the present proceedings cannot be used by them to question the correctness of the rate of duty applied. However, we find that the appellants had raised the issue of classification before the Collector and the Collector dealt with the same.* ***Also, even though an assessee may not contest the correct rate of duty on a commodity cleared by him earlier, whenever the Department seeks to reopen the assessment and demands differential duty for whatever reasons, it is***

> ***open to the assessee to contest the demand of the higher differential duty with an argument that the rate of duty originally applied was wrong. Even if the allegations against them in the proceedings are found to be correct the quantum of differential duty to be paid by them can be questioned. The Tribunal simply cannot shut out such an argument of the appellant on the ground that he has not raised the dispute regarding the rate of duty until the proceedings are initiated against him. After all the Department seeks to rely on Section 11A of the Central Excises and Salt Act for demanding differential duty.*** *The demand of differential duty can arise only when the Department correctly determines the duty payable by an assessee and the duty actually paid by him earlier. The correct quantum of duty payable by an assessee, in cases where the goods are subjected to ad valorem rate of duty, depends on the value of the goods and also the rate of duty.* ***Therefore, determination of the correct rate of duty for the goods on which differential duty is demanded is the first step before quantifying the demand****. We accordingly over-rule the objection raised by the learned Departmental Representative that the appellant should not be permitted to raise the dispute regarding the determination of rate of duty."*

9. Reliance was then placed on the decision in the case of *Shri Rama Machinery Corporation (P) Ltd. Vs. Collector of Customs [1991 (11) TMI 55-Supreme Court]* wherein it was held as under: -

> *"4. The assessee has preferred the present appeal. The main contention urged is that the appellant should have been permitted to raise the additional ground that the goods in question should have been classified under Item 68 and not under Item 26AA. We think there is substance in this contention. It was originally contended that the appellant was not chargeable to excise duty at all. It was, therefore, entitled to put forward an alternative contention before the Tribunal that, even if dutiable, it was dutiable under Item 68 and not under 26AA."*

10. Reliance was also placed on the decision in the case of *Micromax Informatics Limited Vs. Commissioner of Customs, New Delhi [2024 (10) TMI 989-CESTAT NEW*

DELHI], wherein the submissions of the appellant and the Ld. Special Counsel are as under: -

> *"**6**. The present application has been filed by the appellant for addition of a ground in the Memorandum of Appeal by raising an alternative classification of the goods under CTI 9013 80 10.*
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> ***7**. It has been pointed out that Customs Tariff Heading [CTH] 9013 covers liquid crystal display (LCD), which is not covered by under any other heading, and so the disputed goods would LCD manufactured by sandwiching the liquid crystal layer between sheets of glass. These are cut to special shapes so that they can be used as display modules of TVs. It has, therefore, been submitted that the LCD Panels imported by the appellant are liquid crystal devices and are also known as liquid crystal device panels in common trade parlance. They would, therefore, be correctly classifiable under CTI 9013 80 10 attracting nil rate of duty.*
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> ***8**. Shri B.L. Narasimhan, learned counsel for the appellant assisted by Shri Shubham Jaiswal, submitted that the classification of goods is a question of law and can be raised any stage. In support of this connection learned counsel placed reliance upon the judgment of the Supreme Court in Shri Rama Machinery Corporation (P) Ltd. vs. Collector of Customs [1992 (57) E.L.T. 369 (S.C.)]. Learned counsel also placed reliance upon the decision of the Tribunal in Diamond Cements Ltd. vs. Collector of Customs [1990 (50) E.L.T. 190 (Tribunal)] and Collector of Central Excise, Kanpur vs. West Glass Works, Firozabad [1984 (17) E.L.T. 368 ((Tribunal)].*
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> ***9**. Shri Mihir Ranjan, learned special counsel appearing for the department, however, submitted that the application should be rejected. Learned special counsel contended that a new plea at the appellate stage should not be permitted unless it is deemed necessary for proper adjudication of the case. According to the learned special counsel, the appellant had self-assessed the Bills of Entry under CTI 8529 90 90, but at the appellate stage they are seeking classification under CTI 9013 80 00, which would amount to re-assessment of the self-assessment done. Learned special counsel pointed that this has been done without getting the original assessment order modified or getting the Bills of Entry amended under section 149 of the Customs Act or modified under section 154 of the Customs Act.*
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> ***10**. The submissions advanced by the learned counsel for the application and the learned special counsel appearing for the department have been considered.*

11. *Learned counsel for the appellant has placed reliance upon the judgment of the Supreme Court in Rama Machinery Corporation to contend that the alternative plea about classification can be raised. The Supreme Court made the following observations:*

> *"3. The controversy before us relates only to the additional duty payable under Section 3 of the Customs Tariff Act, 1975. The assessee appellant had claimed that no excise duty was payable in respect of the material imported by it on the ground that it was scrap. It appears that the goods have been classified under Item 73.16(1) of the Customs Tariff Act and this has not been specifically challenged by the appellant. However, the appellant's contention was accepted by the Collector of Customs who held that "since the material imported constituted used and second-hand scrap (even though they be rails) they cannot be deemed to be manufactured for levy of central excise duty". The Department preferred an appeal from the order of the Collector. By the time the Tribunal came to decide the appeal it had the benefit of this Court's judgment in the case of Khandelwal Metal & Engineering Works v. Union of India - 1985 (Supp.) 1 S.C.R 750. In view of this decision, the Tribunal came to the conclusion that even if the product represented scrap it was liable to excise duty. Faced with this situation the appellant sought to raise a point before the Tribunal that in case it was scrap, it would fall under Section 68 of the Central Excise Tariff Act and not under Item 26AA. It raised this argument because there is a difference in the duty leviable under the two items. The Tribunal, however, refused permission to the assessee to raise this ground and, having come to the conclusion that the goods though scrap are dutiable under the Central Excise Act, allowed the department's appeal.*
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> *4. The assessee has preferred the present appeal. The main contention urged is that the appellant should have been permitted to raise the additional ground that the goods in question should have been classified under Item 68 and not under Item 26AA. We think there is substance in this contention. It was originally contended that the appellant was not chargeable to excise duty at all. It was, therefore, entitled to put forward an alternative contention before the Tribunal that, even if dutiable, it was dutiable under Item 68 and not under 26AA.*
>
> *5. Learned counsel for Union of India submits that the assessee had not disputed the classification of the goods under Tariff Item No. 73 for the purposes of customs duty. We do not see how this can preclude the appellant from raising the present contention. We,*

therefore, set aside the order of the Tribunal and remand the matter so far as this aspect is concerned. The appeal is restored to the file of the Tribunal for considering the contention that the goods are dutiable for the purpose of excise duty under Tariff Item 68 and not under Item 26AA. The Tribunal will decide the issue on merits. It will be open to the respondent to urge before the Tribunal, if so advised, that the classification for purposes of customs duty should also be taken into account in deciding the classification for the purposes of excise duty. The appeal is disposed of accordingly. There will be no order as to costs."

(emphasis supplied)

***12**. It is clear from the aforesaid judgment of the Supreme Court that though Rama Machinery Corporation had claimed one classification before the adjudicating authority but had claimed an alternative classification before the Tribunal. This was not permitted by the Tribunal. This view of the Tribunal was not accepted by the Supreme Court and it was held the Tribunal should have permitted the appellant to raise this alternative classification.*

***13**. In Diamond Cements, which examining whether the appellant could be permitted to raise an alternative plea about classification, the Tribunal observed that permission could be granted. The observations are as follows:*

"5. We have heard both the sides and have gone through the facts and circumstances of the case. The appellant proposes to raise this additional ground of appeal seeking the classification of the goods under heading 8503 of the Customs Tariff and under Heading 8483.10 and not under Heading 8483.30. Hon'ble Andhra Pradesh High Court in the case of Commissioner of Income Tax, A.P. v. Gangappa Cables Ltd. reported in 116 ITR 778 had held that fresh plea can be taken before the Tribunal for the first time on the basis of the material already available on record. Relevant extract from the said judgment is reproduced below:-

"The Appellate Tribunal disposing of an appeal under the I.T. Act has got the power to allow the assessee to put forward a new claim, notwithstanding the fact that such a claim was not raised by him before the ITO or the AAC, provided there is sufficient material on record to allow such a claim.

The assessee, for the first time, raised a plea in second appeal before the Appellate Tribunal that the expenditure incurred by the assessee before it went into commercial production was an

admissible deduction for the purpose of S.80J(1) of the I.T. Act. The revenue resisted the claim on the ground that the said claim having not been put forward by the assessee before the ITO or the AAC, it could not be raised in second appeal. The Tribunal held that the directors' report accompanied by balance sheet and profit and loss account and other statements were filed by the assessee before the ITO and practically all the details for allowing a claim under S.80J(1) of the Act were on record and hence it was open to the Tribunal to allow such a claim. On a reference:

Held, that the Tribunal was correct in allowing the claim of the assessee as there was material on record for allowing the same.

"We are also of the view that additional ground of appeal can always be taken at the appellate forum.

6. In view of the above discussion and the judgment of the Hon'ble Supreme Court in the case of Add. CIT v. Gurajargravures P. Ltd. (1978) 111 ITR 1 (SC), we allow the appellants' request for raising the additional ground of appeal and we order that additional ground No. (xxv) should be read as under:-

"The imported goods being parts suitable for the use solely or principally in the DG Set of 4000 KVA rating make NIIGATA, Japan are components and parts and cannot be classified as bearings/bushes and will fall under 8503 or 8483.10 being a specific item covering chem shafts and crank shafts. Hence under no event these items can be classified under Heading 8483.30."

7. In the result, the miscellaneous application for raising of the additional ground of appeal is allowed."

(emphasis supplied)

***14**. In view of the aforesaid decisions of the Supreme Court and the Tribunal, it is not possible to accept the contention advanced by the learned special counsel for the department that the application should be rejected.*

11. In view of the ratio of the aforesaid decisions, we are of the considered view that when the plea of alternate classification was raised before the Adjudicating Authority, it was incumbent upon the authority to have examined the said

classification. In our considered view, inherent in the power of adjudication is a statutory obligation to ensure that the duties are assessed correctly in accordance with law. The aforesaid decisions leave no room for any doubt that when a plea of alternate classification is raised before the adjudicating authority, the authority is duty bound to examine the submissions in respect of the same on merits.

12. We also find that both parties are in agreement that the issue has to be examined by the adjudicating authority afresh. As regards the findings in the Show Cause Notice with respect to the imposition of redemption fine and allegation of misdeclaration, we find merit in the appellant's contention that since the impugned goods are not available for confiscation, no redemption fine can be imposed. This position is supported by the settled law laid down by the Hon'ble Supreme Court in *Finesse Creation 2010 (5) TMI 804 - SC Order*. We also take note of the fact that the goods had already been cleared for home consumption and were not available for confiscation. Accordingly, the redemption fine imposed under the impugned order is liable to be set aside.

13. We find that there is no allegation, much less any evidence, of misdeclaration, suppression of facts, mala fide intent or any wilful conduct on the part of the appellant with a

view to evade payment of duty. The dispute essentially concerns the appropriate classification and the eligibility of the impugned goods for the benefit of the exemption notification and is, in our considered view interpretational in nature. We further find that a mere wrong claim of exemption, in the absence of any misdeclaration of the description, quantity or value of the imported goods, and without any evidence of deliberate or contumacious conduct, would not by itself warrant imposition of penalty under Section 112. The appellant, therefore, cannot be attributed with wilful suppression merely for having claimed the benefit of an exemption notification or claiming a classification as per their view. Consequently, the ingredients necessary for imposition of penalty under Section 112 of the Customs Act, 1962 are not established.

14. Therefore, in the absence of any misdeclaration, suppression, wilful intent or other contumacious conduct, the penalty imposed under Section 112 is set aside. Further, as the goods have already been released and are not available for confiscation, the redemption fine is also set aside.

15. We therefore remand the matter for the limited purpose of examining the alternate classification and benefit of any exemption Notification pleas as raised by the appellant

and to determine the attendant liabilities for the normal period applicable.

16. The Adjudicating Authority is directed to complete the adjudication within a period of 90 days from the date of receipt of the order. The appellant is at liberty to adduce evidence in support of its contentions and is directed to cooperate with the *denovo* proceedings.

17. Thus, the appeal is disposed of by remand in the above terms.

(Order pronounced in open court on 09.10.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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