



ALO Law Office- IDT Tax / Arbitration / Litigation

Date: 28.06.2025

CESTAT Bangalore- No DGCA Clearance Needed for Toy-Grade UAVs

The Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Bangalore, vide Final Order No. 20876/2025 dated 25.06.2025, allowed the appeal filed by *M/s. Creative Education*, setting aside the confiscation and penalty imposed on the import of quadcopter drones classified under Chapter Heading (CH) 9503 as toys.

Background of the Case

M/s. Creative Education had imported RC quadcopter drones with cameras, and the consignment was classified under CH 9503 00 30 as plastic recreational articles. The Customs authorities, however, invoked Public Notice dated 07.10.2014 issued by DGCA and Notification No. 16/2015-20 dated 27.07.2016, to treat the goods as restricted items under CH 8806, requiring DGCA clearance. As a result, the goods were confiscated under Section 111(d) of the Customs Act, 1962, and a penalty of ₹3,00,000 was levied under Section 112(a).

Arguments and Legal Grounds

- The goods were not classifiable under CH 88, but under CH 95 as toys—a classification accepted by the department itself.
- The DGCA's Public Notice of 2014 only restricts civil applications (commercial/recreational) under CH 8806 and not toys or scale models classified under CH 9503.

- Similar products had been imported through Mumbai and Bangalore ICD without any restrictions or penalties, establishing a practice of clearance under CH 9503.
- The DGCA in its letter dated 14.09.2018 specifically excluded model aircrafts (toys) from regulatory control under Civil Aviation Requirements (CAR).

Tribunal's Observations

- Classification accepted under CH 9503 precludes application of the import policy conditions tied to CH 8806.
- The Public Notice and DGFT Notification apply to UAVs falling under CH 8806, not to recreational models.
- The DGCA's clarification excluded model aircrafts from the scope of its CAR, thereby eliminating the need for a DGCA NOC in this case.
- The Department failed to justify deviation from past clearances at other ports, despite the goods being identical.

Final Verdict

The CESTAT set aside the confiscation order and the penalty, allowing the appeal in favour of the importer with consequential relief. The Tribunal emphasized that classification governs the applicability of restrictions, and the accepted classification under CH 9503 removes any requirement for DGCA clearance.

Implications of the Ruling

This judgment provides critical relief for importers of hobby drones and RC quadcopters, affirming that not all aerial devices require DGCA clearance. The ruling reinforces the need for consistent application of classification rules and regulatory notifications, especially when past import transactions of identical goods have been permitted without objection.

For importers and legal practitioners alike, this order highlights the importance of:

- Consistent classification practices under the Customs Tariff;
- Relying on DGCA and DGFT clarifications to contest unwarranted restrictions;
- Challenging arbitrary confiscations through appellate remedies based on policy interpretation and precedents.

This Article has been written by Shri Ravi Shekhar Jha, Advocate Delhi High Court based on his interpretation of the law. He can be reached at his email id intelconsul@gmail.com or on his Mobile +91-9999005379.

Source: CESTAT Bangalore

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

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 21853 of 2018

(Arising out of Order-in-Appeal No. 332/2018 dated 01.10.2018
passed by the Commissioner of Customs (Appeals), Bengaluru.)

M/s. Creative Education

Represented By its Sole Prop.
Shri Avinash Agrawal,
No. 84, Lavelle Road,
Bengaluru – 560 001.

.....**Appellant(s)**

VERSUS

**Commissioner of Central Tax,
Bangalore Customs**

C.R. Buildings,
Queens Road,
Bangalore – 560 001.

.....**Respondent(s)**

APPEARANCE:

Mr. S.V. Giridhar, Advocate for the Appellant.

Mr. Neeraj Kumar, Superintendent (Authorised Representative) for the
Respondent.

CORAM:

**HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)**

Final Order No. 20876 / 2025

DATE OF HEARING: 20.01.2025

DATE OF DECISION:25.06.2025

PER : R. BHAGYA DEVI

This appeal is filed against Order-in-Appeal No.332/2018
dated 01.10.2018 passed by the Commissioner of Customs
(Appeals), Bengaluru.

2. Briefly the facts of the case are that the appellant imported
Unmanned Aerial Vehicle (UAV) /Unmanned Aircraft System
(UAS)/ Drones during the relevant period. The department based
on examination report observed that the products classifiable

under Chapter Heading 88 of the Customs Tariff as per the Public Notice dated 07.10.2014 and these are to be treated as prohibited items in the absence of clearance from Directorate General of Civil Aviation. Accordingly, the goods were confiscated under section 111(d) of the Customs Act, 1962 and penalty of Rs.3,00,000/- was imposed under Section 112(a) for contravention of the said provisions.

2. The learned counsel submitted that appellant had imported 4 Channel, 4-rotor RC helicopter with camera of different models vide Bill of Entry No.3713281 dated 23.10.2017. He submitted that the authority classified the goods under CH 95 which is not under dispute but the fact that the goods are prohibited and required Directorate General of Civil Aviation (DGCA) clearance is contested on the ground that the very same goods were earlier imported in the same port without any dispute and the same goods were also imported from other ports. It is submitted that the restriction as per the Public Notice dated 07.10.2014 is only for a member of the General Public from launch of the new UAS/UAV and there is no restriction on sale and purchase or import or use of the said goods, which is clearly mentioned under press release dated 15.12.2017 by the DGCA. It is further submitted that the restriction is on the imports in respect of goods under CH 88 and not under CH 95 and hence having accepted the classification under CH 95 the restriction placed for goods under Chapter 88 cannot be extended to the goods imported under Chapter 95.

3. The learned Authorised Representative (AR) on behalf of the Revenue reiterated the findings of the authorities below to submit that the goods are prohibited and hence, confiscation and imposition of penalty is sustainable.

4. Heard both sides. The goods imported as per the examination report are 'RC Quadcopter/RC Drone/Unmanned Aircraft System/ Unmanned Aerial Vehicle/Remotely Piloted

Aircraft and the only issue to be decided is whether these products are restricted/prohibited as per the existing laws. The Commissioner (Appeals) relying on the public notice dated 07.10.2014 issued by DGCA holds that the goods are restricted and also based on the Notification 16/2015-20 dated 27.7.2016 observed that prior clearance is required from the DGCA and also relies on the decision of Hon'ble High Court of Kerala in the case of Jagdev Damodaram vs. Deputy Commissioner of Customs, Cochin: 2017 (352) ELT 5 (Ker.), wherein it was held that the Drones are restricted/prohibited and accordingly, upheld the decision of the original authority by confirming confiscation goods and imposition of the penalty. The appellant had placed on record similar products being imported from Mumbai during January 2018 to May 2018 without any restriction and also placed on record Bills of Entry cleared from ICD Whitefield Bangalore for similar imports classifying them under CH 95 without any restriction, these facts are not in dispute.

4.1 The Notification No.16/2015-2020 dated 27.07.2016 reads as follows:

To be published in the Gazette of India Extraordinary Part-II, Section - 3, Sub-Section (ii)
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

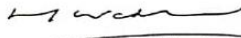
Notification No. 16 /2015-2020
New Delhi, Dated: 27 July, 2016

Subject: Import policy of Unmanned Aircraft System (UAS)/Unmanned Aerial Vehicle (UAVs)/Remotely Piloted Aircraft (RPAs)/drones.

S.O. (E): In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby introduces policy condition No.3 under Chapter 88 of ITC (HS), 2012 – Schedule – 1 (Import Policy), as under:

3. Import of Unmanned Aircraft System (UAS)/Unmanned Aerial Vehicle (UAVs)/Remotely Piloted Aircraft (RPAs)/drones is '**Restricted**' requiring prior clearance of the Directorate General of Civil Aviation (DGCA) and import licence from DGFT.

2. **Effect of this Notification** Import of Unmanned Aircraft System (UAS)/Unmanned Aerial Vehicle (UAVs)/Remotely Piloted Aircraft (RPAs)/drones is '**Restricted**'; it would require prior clearance of Directorate General of Civil Aviation (DGCA) and import licence from DGFT.


(Anup Wadhawan)
Director General of Foreign Trade

[Issued from F.No.01/93/180/95/AM-10/PC-2 (B)/Vol.IV]

4.2 The Public Notice dated 7th October 2014 is reproduced below:



GOVERNMENT OF INDIA
OFFICE OF THE DIRECTOR GENERAL OF CIVIL AVIATION
OPPOSITE SAFDARJUNG AIRPORT, NEW DELHI – 110 003

PUBLIC NOTICE

File No. 05-13/2014-AED
Dated: 7th October, 2014

Subject: Use of Unmanned Aerial Vehicle (UAV)/ Unmanned Aircraft Systems (UAS) for Civil Applications

Of late, lots of interests are being shown for civil use (both commercial and recreational) of UAS in the country. International Civil Aviation Organization (ICAO) is yet to publish Standards And Recommended Practices (SARPs), as far as certification and operation of civil use of UAS is concerned.

UAS has potential for large number of civil applications. However, its use besides being a safety issue, also poses security threat. The Airspace over cities in India has high density of manned aircraft traffic. Due to lack of regulation, operating procedures/ standards and uncertainty of the technology, UAS poses threat for air collisions and accidents.

The civil operation of UAS will require approval from the Air Navigation Service provider, defence, Ministry of Home Affairs, and other concerned security agencies, besides the DGCA.

DGCA is in the process of formulating the regulations (and globally harmonize those) for certification & operation for use of UAS in the Indian Civil Airspace. Till such regulations are issued, no non government agency, organization, or an individual will launch a UAS in Indian Civil Airspace for any purpose whatsoever.

The above is for strict compliance.

Director General of Civil Aviation

4.3 The Chapter Heading 88 reads as:

Chapter 88 Aircraft, spacecraft, and parts thereof

8806 Unmanned Aircraft,

8806 10 00 Designed for the carriage of passengers Other for remote-controlled flight only:

8806 21 00 With maximum take-off weight not more than 250 g

8806 22 00 With maximum take-off weight more than 250 g but not more than 7 kg

8806 23 00 With maximum take-off weight more than 7 kg but not more than 25 kg

8806 24 00 With maximum take-off weight more than 25 kg but not more than 150 kg

8806 29 00 Other

9503 00 - Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds:

9503 00 10 --- Of wood

9503 00 20 --- Of metal

9503 00 30 --- Of plastics

9503 00 90 --- Other

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24

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On activation, the helicopter will automatically orient itself in respect to the remote. This helps when the helicopter is too far to recognise the head (front) from the tail (back). Headless Mode makes the helicopter move towards or away from the remote irrespective of its own orientation.
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Durable Material Fabrication
"Headless Flight Mode"

Full Function R/C

Camera (Attached)

SD Card + USB Card Reader Included

ONBOARD CAMERA

OUTDOOR ~ INDOOR


BATTERY CHARGER
4
AEROBATIC
AUTO
OUTDOOR FLIGHT
Indoor Flight
LEDs
Power
Electric Charge
USB CHARGER

SPECIFICATIONS ARE SUBJECT TO CHANGE WITHOUT PRIOR NOTICE



5. From the Bill of Entry placed on record on which differential duty of Rs.8,91,535/- is demanded, the impugned products are classified under Chapter Heading 9503 0030 as recreational articles of plastics. The Public Notice dated 07.10.2014 reproduced above is with regard to use of Unmanned Aerial Vehicle (UAV)/ Unmanned Aircraft Systems (UAS) for civil applications meant for both commercial and recreational use

which are classifiable under Chapter Heading 8806 as rightly claimed by the appellant. Since, the Department has not disputed the classification of the impugned products as toys classifiable under CTH 9503, which is meant for persons of age 14 and above. Moreover, similar articles being imported at various other ports and being allowed without restriction, which is not being disputed; we do not find any reason to consider these articles of Chapter Heading 88 require any permission/license from the DGCA. It is also a fact that the Notification 16/2015-2020 dated 27.07.2016 introduced policy condition No.3 under chapter 88 of ITC, hence the goods classified under Chapter 9503 cannot be restricted as per the above policy condition. It is also to be noted that DGCA vide letter dated 14th September 2018 reproduced below stated that the Model Aircrafts are excluded from the proviso of DGCA Civil Aviation requirements.

<p>GOVERNMENT OF INDIA CIVIL AVIATION DEPARTMENT Office of the DIRECTOR GENERAL OF CIVIL AVIATION Tel: 31 21611504, 21622495, 21622499 FAX: 091-011- 21623211 Aircraft Engineering Directorate E-mail: ekta.dgca@nic.in</p>		<p>भारत सरकार वायव्य विभाग महाविदेशिक वायव्य विभाग का कार्यालय सफरनाम एयरपोर्ट के सामने नई दिल्ली - ११० ००३</p>
	<p>Reference Date: 05/13/2014 AEO Vol VII 14th September-2018</p>	

M/s Wings India
'Growel House' Akurli Road, Kundivili (E),
Mumbai -400 101

(Kind Attn: Shri George Jacob)

Sub: Request for the clarification in CAR Section 3 Series X Part 1, Issue 1 dated 27th august, 2018 -reg

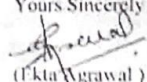
Sir,

This has reference to M/s Wings India letter dated 30th August 2018 on the subject. The matter has been examined by this office.

It is to state that model aircrafts are excluded from the proviso of DGCA Civil Aviation Requirements (CAR) Section 3, Series X, Part 1 on the "Operation of Civil Remotely Piloted Aircraft System (RPAS)" which was issued on 27th August 2018 and is effective from 1st December 2018.

This is for your information.

This issues with approval of competent authority.

Yours Sincerely

(Ekta Agrawal)
Assistant Director (AE)
for Director General of Civil Aviation

6. In view of the above, the impugned order is set aside and the appeal is allowed with consequential relief if any, as per law.

(Order pronounced in Open Court on 25.06.2025.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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