

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75400 of 2021

(Arising out of Order-in-Appeal No. KOL/CUS(Port)/AKR/111-112/2021 dated 29.01.2021 passed by the Commissioner of Customs (Appeals) 3rd Floor, Custom House, 15/1, Strand Road, Kolkata-700001)

M/s. Skylark Electronics Pvt. Ltd., : **Appellant**
2, Temple Road, Kolkata-700072

VERSUS

Commissioner of Customs, : **Respondent**
3rd Floor, Custom House, 15/1, Strand Road,
Kolkata-700001

AND

Customs Appeal No. 75401 of 2021

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Shri Sailesh Badiani, Director of : **Appellant**
M/s. Skylark Electronics Pvt. Ltd.,
2, Temple Road, Kolkata-700072

VERSUS

Commissioner of Customs, : **Respondent**
3rd Floor, Custom House, 15/1, Strand Road,
Kolkata-700001

APPEARANCE:

Shri Nilotpal Chowdhury, Advocate for the Appellants

Shri S. Debnath, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOs. 77809-77810/2025

DATE OF HEARING / DECISION: 28.11.2025

Order: [PER SHRI R. MURALIDHAR]

M/s. Skylark Electronics Private Limited and Shri
Sailesh Badiani, Director of the company have filed

separate appeals against the Order-in-Appeal No. KOL/CUS(Port)/AKR/111-112/2021 dated 29.01.2021 passed by the Commissioner of Customs (Appeals) 3rd Floor, Custom House, 15/1, Strand Road, Kolkata-700001.

1.1. The issue involved being common, both these appeals are taken up together for disposal by way of a common order.

1.2. The brief facts of the case are that on the basis of specific information received from the Directorate of revenue Intelligence, Chennai Zonal Unit that audio/music systems with in-built USB/SD/FM/MP3 features were being imported into India in the guise of Multimedia Speaker/ Computer speaker by misclassifying them under Customs tariff Heading (CTH) 851822/851829 instead of under CTH 8519/8527 leading to evasion of Customs Duties in the form of Additional Duty of Customs (CVD) on Retail Sale Price (RSP) basis.

1.3. One such importer, M/s. Skylark Electronics Pvt. Ltd. was found to be involved into import of such goods and it was observed that during the period of 2012-13 (18.05.2012) to 2013-14 (09.12.2013), they imported and cleared 39 Bills of Entry including 3(three) live Bills of Entry bearing No. 2035076 dated 04.05.2013.

1.4. Multimedia Speakers were a set of speakers consisting of one Sub-woofer and 2-5 satellite speakers containing amplifier which amplifies the sound and the satellite speakers were meant for surround effect. On physical verification, it was further observed that such audio/music systems

were capable of reproducing sound and adequately reproduce a wide range of frequencies; they mostly employed more than one driver, were accompanied by sophisticated remote control with user friendly interactive interface; contained Printed Circuit Boards (PCBs) capable of retrieving and reproducing audio files of MP3/WPMA formats stored on USB memory devices incorporated with in-built amplifier and various terminals that allow for connectivity to external audio sources such as CD players, DVD players, etc.

1.5. M/s. Skylark Electronics Pvt. Ltd. also did not declare the correct RSP/MRP in their impugned Bills of Entry with the intention to evade payment of proper duty on the good, wherein the values were applied for CVD calculation in case of contemporaneous Bills of Entry. The non-declared, suppressed/reduced MRP/RSP is therefore liable to be set aside, as have been applied for determining the RSP/MRP of those models imported in those financial years for which importer did not submit the Price List to DRI (As determined in the Annexures to the corresponding Show Cause Notice).

1.6. It was alleged that M/s. Skylark Electronics Pvt. Ltd. also did not declare the correct RSP/MRP in their impugned Bills of Entry with the intention to evade payment of proper duty on the good, wherein the values were applied for CVD calculation in case of contemporaneous Bills of Entry. The non-declared, suppressed/reduced MRP/RSP is therefore liable to be set aside, as have been applied for determining the RSP/MRP of those models imported in those financial years for which importer did not submit the

Price List to DRI (As determined in the Annexures to the corresponding Show Cause Notice).

1.7. Thereafter, the case was adjudicated by the Additional Commissioner of Customs (Port), Custom House, Kolkata vide Order-in-Original No. KOL/CUS/ADC/ADJN (PORT)/06/2018 dated 09.01.2018 wherein the adjudicating authority ordered for re-assessment / re-determination of CVD on the goods imported under Customs Tariff Heading No. 85279100. Accordingly, he Ordered for confiscation of the goods covered under Bills of Entry bearing No. 2035076 dated 04.05.2013, 2810938 dated 25.07.2013 & 2778608 dated 23.07.2013 having assessable value of Rs 21,75,932 / under Section 111(m) and Section 111(d) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 11 of Foreign Trade (Regulations) Rules, 1993. However, in lieu of confiscation, gave the option to redeem the goods on payment of Redemption fine of Rs. 5,00,000/-(Rupees Five Lakh only) under Section 125 of the Customs Act 1962.

1.8. The adjudicating authority also imposed penalties, inter alia, on M/s. Skylark Electronics Pvt. Ltd. as well as their Director, namely, Shri Sailesh Badiani (the appellants herein) under the provisions fo Section 114A, 114AA and 112(a) of the Customs Act, 1962.

1.9. The above order dated 09.01.2018 was challenged by the appellants before the Ld. Commissioner (Appeals), who vide the order impugned herein has rejected their appeals.

1.10. Aggrieved, the appellants are before the Tribunal.

2. During the course of hearing, the Ld. Counsel appearing on behalf of the appellants has submitted that the issue of classification of the Multimedia Speakers is no longer *res integra*, as the classification of the said goods under the CTH 8518 has been upheld by various Tribunals and the said decisions have been affirmed by the Hon'ble High Courts. He cited the decision of this Tribunal in the case of *M/s. Jupiter Green Energy Pvt. Ltd. v. Commissioner of Customs (Port), Kolkata [Final Order No. 76550 of 2025 dated 11.06.2025 in Customs Appeal No. 76843 of 2018 - CESTAT, Kolkata]*, wherein this Tribunal has upheld the classification of Multimedia Speakers under the CTH 8518. Accordingly, he has prayed for setting aside the impugned order and allow their appeals, with consequential relief.

3. The Ld. Authorized Representative representing the Revenue reiterated the findings in the impugned order.

4. Heard both sides, perused the appeal papers and the documentary evidence placed before us.

5. Having considered the submissions made by both the sides, we find that the issue of classification of the impugned goods viz., Multimedia speakers, is no longer *res integra*, as the classification of the said goods under the CTH 8518 has been upheld by various Tribunals and the said decisions have been affirmed by the Hon'ble High Courts. In support of this view, we refer to the decision of this Tribunal in

the case of *M/s. Jupiter Green Energy Pvt. Ltd. v. Commissioner of Customs (Port), Kolkata [Final Order No. 76550 of 2025 dated 11.06.2025 in Customs Appeal No. 76843 of 2018 – CESTAT, Kolkata]*, wherein in it has been held as under: -

"11. With regard to the first issue, we find that an identical issue had come up before this Tribunal in the appellant's own cases. In *M/s. Jupiter International Limited vs Commissioner of Customs (Port), Kolkata [2025 (2) TMI 430 - CESTAT Kolkata]*, under similar facts and circumstances, it has been observed as under: -

"The appellant, *Jupiter International Ltd* imported a consignment of Two models of Multimedia Speakers having additional function such as Blue tooth/SD/MMC/USB/FM/AUX with remote wireless Microphone and some electronic spare parts of speakers. They have filed a Bill of Entry No. 7866965 dated 01.09.2018 self assessing the Multimedia Speakers under heading no.85182200. They imported another consignment of various models of Multimedia Speakers comprising of three categories of speakers i.e. (i) Multimedia Speakers with additional function of Bluetooth and FM radio, (ii) Multimedia Speakers with additional function of USB and (ii) samples of Multimedia Speakers without any additional function.....

...

8. We find that this issue was before the Bangalore Tribunal in the case of *Logic India Trading Co-v-C.C-2016(337) ELT 65(Tri-Bang)*. The Tribunal has held as under:

...

9. We find that the same issue was dealt by this Bench in the case of *B.C. (Port), Kolkata -v- M/s Santosh Radio Products (order no. F/O 76070/2018 dated 04.05.2018-(Tribunal-Kol)]*, wherein it has been held as under:

...

10. After going through the factual matrix, we find that the case laws cited above are squarely applicable. Hence, applying the cited case laws, we set aside the impugned order and allow the appeal."

11.1. Further, in the appellant's own case in M/s. Jupiter International Limited vs Commissioner of Customs (Port), Kolkata vide Final Order Nos. 75404-75405 of 2025 dated 05.02.2025 in Customs Appeal Nos. 75580 & 75581 of 2020 (CESTAT, Kolkata), this Tribunal has held as under:

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"1. The appellant has imported Multimedia Speakers/Computer Speakers on 11.01.2018 classifying the said goods under CTH 85182200. The department proposed classification of the product under CTH 8519/8527 attracting CVD on retail sale price basis. The Adjudicating authority vide O-I-O dated 13.02.2018 determined the classification of the imported goods under 85279100. Being aggrieved the appellant filed their appeal before Commissioner (Appeals), which come to be dismissed. Hence, the appellant is before the Tribunal.

2. We find that the aforesaid, question of classification of the said products has been examined in extenso and the rival entries discussed threadbare. The subject issue is no more res integra. There are a catena of decisions holding the classification of the impugned goods under heading under CTH-8518. In the case of Logic India Trading Company US Commissioner of Customs, Cochin (2016(337)ELT 65(Tr-Bang.), as maintained by the Hon'ble Apex Court, reported in 2016(342)ELT A-34(SC), while dealing with similar set of facts, the courts have held the classification of the said goods under CTH 8518. Relevant paras of the said decision are referred to hereunder below:

....

6. *The detailed analysis of the classification of all such Audio-Visual Receivers was also undertaken independently by this Tribunal in the case of ONKYO SIGHT & SOUND INDIA PVT.LTD. vs Commissioner of Customs, Chennai (2019(368) ELT 683(Tri- Chen.), wherein too the Southern Regional Bench of the Tribunal did not agree with the department's stance for classification of the said products under CTH 8527 and had retained the CTH 8518 claiming the goods as Audio Frequency Amplifier along with Home Theatre Systems as multiple loudspeakers mounted in the same enclosure.*

7. *In view of said matter having been examined ad nauseam as referred supra, we find no merit in the order of the lower authority which is therefore set aside.*

8. *The appeal filed by the appellant is hereby allowed with consequential relief, if any, as per law."*

11.2. *Thus, we find that the issue is no longer res integra as the same has already been dealt with by this Tribunal in the above cited cases. Therefore, following the above judicial precedents, we hold that the appellant has rightly classified the multimedia speakers with added ancillary features of USB/SD card/ MMC Playback and/ or FM radio under CTH 8518. Accordingly, the demands confirmed against the appellant by reclassifying the said goods under CTH 8527/CTH 8519 are not sustainable and therefore, we set aside the same."*

5.1. We find that a similar issue was once again analysed by this Tribunal in the case of *Santosh Radio Products vs. Commissioner of Customs (Port) [Final Order No. 77648-77649 / 2025 dated 30.10.2025]* wherein, by relying on the decision in *Jupiter Green Energy Pvt. Ltd. (supra)*, the Tribunal has set aside the re-classification of similar goods under CTH 85279100 by the Revenue.

5.2. By following the ratio of the decision cited above, we hold that the appellant-company has rightly classified the Multimedia Speakers in question, imported by them, under Chapter Heading 8518, where MRP based price is not applicable. Thus, we do not find any merit in the reclassification of the goods under the CTH 85279100 by the Revenue and accordingly, the same is set aside. The consequent demands, along with interest and penalties, as confirmed against the appellants, are also therefore set aside.

6. In the result, we set aside the impugned order and allow the appeals filed by the appellants. The appellants shall be eligible for consequential relief, if any, as per law.

(Operative part of Order was pronounced in Open court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)