सीमाशुल्क आयुक्त (आयात) का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT)
हवाई माल परिसर, सहार, अँधेरी (पूर्व), मुंबई -४०००९९
AIR CARGO COMPLEX, SAHAR ANDHERI (EAST) MUMBAI -99
फोन न .२६८२८९४७, फैक्स न .२६८२८१८७
PHONE NO. 2682 8947/8149, FAX NO. 26828187

F.No. GEN/ADJ/COMM/640/2025-Adjn **Date of Order: 01.04.2026**
Date of Issue: 01.04.2026

DIN NO. 20260479OA0000222472
Party's Name: M/s. Mobitech Creations Private Limited
(SCN No: 399/2025-26 dated 17.10.2025)

PASSED BY: Shri Manish Chandra,
Principal Commissioner of Customs (Import), Air Cargo Complex, Mumbai-III

CAO NO: CC-MC/01/2026-27 Adj (I) ACC

मूल आदेश /ORDER-IN-ORIGINAL

1. यह प्रति उस व्यक्ति के प्रयोग में लाये जाने के लिए निशुल्क दी जाएगी, जिसके लिए इसे जारी किया गया है।
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2. यदि कोई व्यक्ति इस आदेश से असन्तुष्ट हो तो वह मांगे गये शुल्क, जहां शुल्क या शुल्क और जुर्माना विवादित हों अथवा जुर्माना जहां सिर्फ जुर्माना विवादित हो, के 7.5 प्रतिशत भुगतान के बाद सीमाशुल्क अधिनियम 1962 की धारा 129A के तहत उक्त न्यायाधिकरण के सहायक रजिस्ट्रार को संबोधित करते हुए, सीमाशुल्क,उत्पादशुल्क,सेवा कर न्यायाधिकरण,मुंबई (सी ई एस टी ए टी),पश्चिम क्षेत्रीय शाखा, 34 पी डिमेलो मार्ग, मस्जिद (पूर्व), मुंबई ४००००९, के समक्ष अपील दाखिल कर सकता है।
Any person aggrieved by this order can file an appeal against this order to Customs, Excise, Service Tax Tribunal, Mumbai (CESTAT), Western Zonal Bench, 34, P.D'Mello Road, Masjid Bunder (East), Mumbai 400009, addressed to the Assistant Registrar of the said Tribunal under Section 129A of the Customs Act, 1962 on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

3. अपील जैसा कि सीमाशुल्क (अपील) नियम, 1982 के नियम 6 में बताया गया है, इन नियमों से संलग्न फॉर्म सी. ए. 3 में की जानी चाहिए। अपील चार प्रतियों में निम्नलिखित के साथ होनी चाहिए:-
The appeal is required to be filed as provided in Rule 6 of the Customs (Appeal) Rules, 1982 in form C.A. 3 appended to these rules. The Appeal should be in quadruplicate and shall be in quadruplicate and shall be accompanied by:-

(i) विरुद्ध अपील आदेशों की चार प्रतियां (कम से कम एक प्रति प्रमाणित होनी चाहिए)
Four copies of the order appealed against (at least one of which should be a certified copy)

(ii) न्यायाधिकरण शाखा के सहायक रजिस्ट्रार अथवा शाखा से नजदीक स्थित किसी राष्ट्रीय कृत बैक के पक्ष में उपयुक्त राशि का एक रेखांकित बैंक ड्राफ्ट
A crossed Bank Draft of an applicable amount as mentioned below in favour of the Assistant Registrar, CESTAT, Mumbai.

अ) रु. १,०००/-जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५ लाख या कम हो
Where the amount of duty and interest demanded and penalty imposed is five lakh rupees or less, one thousand rupees.

आ) रु. ५,०००/-जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहाग या जुर्माना रु ५ लाख से अधिक पर रु५० लाख से ज्यादा न हो
Where the amount of duty and interest demanded and penalty imposed is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees.

इ) रु १०,०००/- जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहाग या जुर्माना रु.५० लाख से अधिक हो
Where the amount of duty and interest demanded and penalty imposed is more than fifty lakh rupees, ten thousand rupees.

4. अपील, इस आदेश की संसूचना की तिथि से 3 माह के भीतर दाखिल की जा सकती है.
Appeal can be filed within 3 months from date of communication of this order.

5. विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क(अपील) नियम 1982, सीमाशुल्क, उत्पादशुल्क एवं सेवा करअपील अधिकरण(प्रक्रिया) नियम 1982 का संदर्भ लिया जाए।
For the provisions of Law and Form as referred above and other related matters. Customs Act, Customs (Appeals) Rules, 1982, Customs, Excise, Service Tax Tribunal (Procedure) Rules, 1982 may be referred.

1. BRIEF FACTS OF THE CASE

1.1 M/s. **Mobitech Creations Private Limited** (IEC No. 0516965689) (hereinafter referred to as *"the Importer"*) filed Bills of Entry, as detailed in Annexure-A to the Show Cause Notice, for the clearance of goods declared as *"Various True Wireless Bluetooth Stereo Headsets/Headphones/Earphones, etc."* (hereinafter referred to as *"the subject goods"* or *"the imported goods"*). The Importer classified the said goods under **Customs Tariff Item (CTI) 85176290** and discharged Basic Customs Duty (BCD) at the rate of 10% by availing the benefit under **Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017**. The Bills of Entry were filed through Customs Brokers, namely M/s. N.G. Pillai and M/s. S.K. Jain and Company (hereinafter referred to as *"the Customs Brokers"*).

1.2 During the Post-Clearance Audit conducted under Section 99A of the Customs Act, 1962, read with Section 157(k) of the Customs Act, 1962 and the Customs Audit Regulations, 2018, it was prima facie observed that the subject goods, imported under the Bills of Entry detailed in Annexure-A to the Show Cause Notice (SCN), were classified under CTI 85176290 and Basic Customs Duty (BCD) at the rate of 10% was paid by availing the benefit under Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017. It was further observed that IGST at the rate of 18% was discharged under Sr. No. 379 of Schedule III of Notification No. 01/2017–Integrated Tax (Rate) dated 28.06.2017. However, as per the Customs Tariff Act, 1975, the subject goods, namely "Various Models of True Wireless Bluetooth Stereo Headsets/Headphones/Earphones," were appropriately classifiable under CTI 85183000 prior to 01.05.2022, attracting BCD at the rate 15%. Subsequently, pursuant to the Finance Bill, 2022, a new tariff entry, CTI 85183011, was introduced with effect from 01.05.2022, under which the subject goods are correctly classifiable, attracting BCD at the rate 20%.

1.3 It appeared that the imported goods are rightly classifiable under CTI 85183000 as per the First Schedule of the Customs Tariff Act, 1975 and attract Basic Customs Duty (BCD) at the rate 15%, SWS at the rate 10% and IGST at the rate 18% and the benefit of the Sr. No. 20 of the Notification No.57/2017–Customs dated 30.06.2017 is not applicable for the goods.

The relevant part of the Notification No. 57/2017 – Customs dated 30.06.2017 as amended is as below:

Sr. No.	Chapter or Heading or Sub-heading or tariff item	Description of goods	Standard rate	Condition No.

20.	8517 62 90 or 8517 69 90	All goods other than the following goods, namely: - (a) Wrist wearable devices (commonly known as smart watches) and other smart wearable devices including smart rings, shoulder bands, neck bands or ankle bands:] (b) Optical transport equipment: (c) Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS); (d) Optical Transport Network (OTN) products; (e) IP Radios; (f) Soft switches and Voice over Internet Protocol (VoIP) equipment, namely. VoIP phones, media gateways, gateway controllers and session border con-trollers: (g) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiproto col Label Switching Transport Profile (MPLS-TP) products; (h), Multiple Input/Multiple Output (MIMO) products; (i) Long Term Evolution (LTE) products	10%	-

1.4 Further, as clarified under Board's Circular No. 36/2013-Customs dated 05.09.2013, only "single (monaural) Bluetooth wireless headsets for mobile phones/cell phones" are classifiable under Heading 8517 (sub-heading 8517 62). In the present case, the subject goods appeared to be binaural in nature and possess functionalities distinct from monaural headsets. Therefore, their classification under Heading 8517 appeared to be incorrect and inappropriate. Accordingly, the subject goods appeared to be classifiable under CTI 85183000 prior to 01.05.2022 (attracting BCD-15%) and under CTI 85183011 with effect from 01.05.2022 (attracting BCD-20%), resulting in short payment of applicable Customs duty.

1.5 CTI 85176290 of the First Schedule to the Customs Tariff Act 1975 reads as follows:

8517 TELEPHONE SETS, INCLUDING TELEPHONES FOR CELLULER NETWORK OR FOR OTHER WIRLESS NETWORKS: OTHER APPARATUS FOR THE TRANSMISSION OR RECEPTION OF VOICE, IMAGE OR OTHER DATA, INCLUDING APPARATUS FOR COMMUNICATION IN A WIRED OR WIRELESS NETWORK (SUCH AS A LOCAL OR WIDE AREA NETWORK), OTHER THAN TRANSMISSION OR RECEPTION APPARATUS OF HEADING 8443, 8525, 8527, OR 8528.

- Telephone sets, including telephones for cellular networks or for other wireless networks:

851762 Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:

85176290 --- "Other" (BCD-20%)

1.6 CTI 85183000 of the First Schedule to the Customs Tariff Act 1975 reads as follows:

8518 MICROPHONES AND STANDS THEREFORE: LOUDSPEAKERS, WHETHER OR NOT MOUNTED IN THEIR ENCLOSERS: HEADPHONES & EARPHONES, WHETHER OR NOT COMBINED WITH A, AND SETS AMPLIFIER SETS: CONSISTING OF A MICROPHONE AND ONE OR MORE LOUDSPEAKERS: AUDIO-FRQUENCY ELECTRIC AMPLIFIERS: ELECTRIC SOUND.

85183000 (Upto 30.04.2022) HEADPHONES AND EARPHONES, WHETHER OR NOT COMBINED WITH A MICROPHONE, AND SETS CONISTING OF A MICROPHONE AND ONE OR MORE LOUDSPEAKERS.
(BCD-15%)

85183011 (From 01.05.2022) TRUE WIRELESS STEREO [(TWS) SOUND CHANNEL NOT CONNECTED BY WIRE]
(BCD-20%)

1.7 Customs Tariff Item (CTI) **85183000** specifically covers "Headphones and earphones." Accordingly, the subject goods appeared to be rightly classifiable under CTI 85183000, attracting Basic Customs Duty (BCD)-15%, Social Welfare Surcharge (SWS)-10%, and IGST-18%. Further, from the brochures of the subject goods available on the Importer's website, it is observed that the principal function of the "Various True Wireless Bluetooth Stereo Headsets/Headphones/Earphones" is akin to that of conventional earphones/headphones classifiable under CTSH 851830, namely, listening

through the earphones and speaking through an integrated microphone. While performing this core function, Bluetooth wireless earphones/headsets/headphones differ from traditional variants primarily in terms of technological enhancements and ease of use, such as improved audio quality and sound enhancement, noise reduction facilitating clearer transmission of music and voice during listening and speaking, and advanced charging technologies enabling wireless operation. It is further observed that the pairing and compatibility of such Bluetooth-enabled devices have evolved over time and are not restricted to mobile phones/cell phones, but extend to a wide range of devices such as laptops, tablets, smart TVs, and smartwatches, many of which do not possess telephony functionality. This indicates that the utility of the subject goods is not confined to mobile telephony communication.

1.8 The Importer contends that the mere presence of Bluetooth connectivity is sufficient to warrant classification under CTSH 851762. However, this contention is not tenable in view of **Board's Circular No. 36/2013-Customs dated 05.09.2013**, which lays down a more specific criterion, both with respect to the nature of the device (i.e., monaural Bluetooth headsets) and the requirement that the principal function must be telephony communication in order to merit classification under CTSH 851762. The subject goods primarily perform the function of audio playback and streaming, including music and sound reproduction, across multiple Bluetooth-enabled devices. The communication function for mobile telephony arises only when paired with a mobile phone and remains merely an ancillary function rather than the principal function. In contrast, mobile phones primarily perform telephony functions over cellular networks, with additional multimedia features being secondary.

1.9 Further, no documentary evidence has been furnished by the Importer to establish that telephony communication constitutes the principal function of the subject goods or that such function has been accorded precedence in their design, development, or intended use. Additionally, product literature and trade parlance indicate that such goods are commonly referred to as wireless Bluetooth earphones or headphones, thereby emphasizing their primary function of audio playback. The telephony communication function cannot be regarded as the principal function so as to merit classification under Tariff Item/Subheading 851762. Accordingly, the subject goods appeared to be appropriately classifiable under Customs Tariff Subheading 851830, which specifically covers "Headphones and earphones, whether or not combined with a microphone."

1.10 Accordingly, Consultative Letter No. 3284 dated 01.03.2024 was issued to the Importer in respect of the subject imports, apprising them of the discrepancies noticed during Audit and the Department's view regarding the correct classification of the goods. The Importer was thereby called upon to voluntarily pay the differential Customs duty along with applicable interest and penalty, in terms of the relevant provisions of the Customs Act, 1962, and to

furnish their response, if any, to the observations communicated in the said letter. However, no reply had been received from the Importer.

1.11 It therefore appeared that:

i) The Importer had wrongly availed the benefit under Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017 in respect of the impugned goods, as detailed in Annexure-A to the SCN. Consequently, differential duty amounting to Rs. 3,91,13,094/- (Rupees Three Crore Ninety-One Lakh Thirteen Thousand Ninety-Four only), along with applicable interest, is recoverable from the Importer under Section 28 of the Customs Act, 1962.

ii) The acts of the Importer, with intent to evade duty, contravene the provisions of Sections 46(4) and 46(4A) of the Customs Act, 1962, thereby rendering the subject goods liable for confiscation under Sections 111(m) and 111(o) of the said Act, and making the Importer liable for penalty under Sections 112(a) and/or 114A of the Customs Act, 1962.

1.12 In view of the above, Show Cause Notice No. 399/2025-26 dated 16.10.2025 was issued under Section 28(4) read with Section 124 of the Customs Act, 1962 to M/s. Mobitech Creations Private Limited (IEC No. 0516965689), calling upon them to show cause before the Principal Commissioner / Commissioner of Customs (Import), Air Cargo Complex, Mumbai–400099, as to why:

i) The declared classification of the subject goods, namely “Various True Wireless Bluetooth Stereo Headsets/Headphones/Earphones etc.” covered under the Bills of Entry detailed in Annexure-A to the Show Cause Notice, under CTH 8517 should not be rejected and the goods reassessed under CTI 85183000/85183011, with consequential denial of the BCD exemption availed under Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017 (as amended).

ii) The differential duty amounting to Rs. 3,91,13,094/- (Rupees Three Crore Ninety-One Lakh Thirteen Thousand Ninety-Four only), arising from misclassification of the subject goods and undue availment of BCD exemption, as detailed in Annexure-A to the Show Cause Notice, should not be demanded and recovered under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the said Act.

iii) The imported goods valued at Rs. 59,80,43,781/- (Rupees Fifty-Nine Crore Eighty Lakh Forty-Three Thousand Seven Hundred and Eighty-One only), as detailed in Annexure-A to the Show Cause Notice, should not be held liable for confiscation under Section 111(m) read with Sections 46(4) and 46(4A) of the Customs Act, 1962; and

(iv) Penalty should not be imposed on M/s. Mobitech Creations Private Limited (IEC No. 0516965689) under Section 112(a)(ii) and/or Section 114A of the Customs Act, 1962.

2. WRITTEN SUBMISSIONS DATED 16.12.2025:

In their written submission dated 16.12.2025, Noticee stated as follows:-

2.1 The Noticee is a leading Indian company with a strong presence in consumer durables, mobile phones, IT products and mobile accessories, and is, inter alia, engaged in the import and sale of electronic appliances such as wireless earbuds/earphones/headsets. During the period from 26.10.2020 to 13.04.2022 ("relevant period"), the Noticee imported various models of wireless earbuds vide the disputed Bills of Entry, classifying the same under CTI 8517 62 90 of the First Schedule to the Customs Tariff Act, 1975 ("Customs Tariff"), and cleared the said goods on payment of BCD-10% by availing the benefit of concessional rate of duty under Sl. No. 20 of Notification No. 57/2017.

2.2 The disputed goods comprise wireless Bluetooth-enabled earbuds/earphones/neckbands/headphones with inbuilt rechargeable batteries, enabling seamless wireless connectivity with mobile phones and other Bluetooth-enabled devices. They facilitate two-way hands-free communication, allowing users to make and receive calls without any physical connection, and are equipped with control buttons for efficient management of call functions such as answering and ending calls. In addition to voice communication, the devices support wireless audio streaming, enabling users to enjoy music without the constraints of wired connections. The goods can be easily paired with compatible devices and deliver high-quality sound, enhanced mobility and user convenience. Overall, they offer features such as two-way voice communication, intuitive call control, wireless music streaming and easy device pairing.

An image of the goods in their as-imported form is provided below.

OnePlus Z E502A True Wireless EarPods with Mic (IWhite)

2.3 It is submitted that the Commissioner of Customs (Appeals-I), Chennai Customs Zone, vide Order-in-Appeal No. AIR C. Cus. I. No. 137 to 144/2021 dated 29.04.2021, in the Noticee's own case, after examining the technical details, held that the disputed goods are correctly classifiable under CTI 8517 62 90 and are consequently eligible for exemption under Sl. No. 20 of Notification No. 57/2017-Customs. It is further submitted that the said order has not been challenged by the Department and has thus attained finality. Reliance is also placed on subsequent Orders-in-Appeal, namely AIR C. Cus. I. No. 155 & 156/2021 dated 17.05.2021, AIR C. Cus. I. No. 169 & 170/2021 dated 09.07.2021, and Nos. 545 to 552/2021 dated 23.11.2021. Accordingly, it is contended that the disputed goods are correctly classifiable under CTI 8517 62 90 of the Customs Tariff.

2.4 It is submitted that a similar issue in respect of "Echo Family Devices" was examined by the Delhi High Court in *Amazon Wholesale India Private Limited vs. Customs Authority for Advance Rulings, New Delhi & Anr.*, (2024) 135 GSTR 361, wherein the Court held that the goods are to be regarded as "convergence devices" rather than mere speakers. The Court observed that CTH 8517 covers apparatus for transmission/reception of voice, image, or data in wired or wireless networks, and that such devices, being capable of multiple communication functions, cannot be treated as mere speakers under CTH 8518; their primary function is communication rather than playback. The said decision was followed by the Delhi High Court in *Amazon Wholesale (India) (P) Ltd. vs. Customs Authority of Advance Ruling*, (2024) 135 GSTR 361, wherein, in respect of wireless speakers, it was held that such products, being more than mere speakers, are appropriately classifiable under CTH 8517 and not under CTH 8518. Further reliance is placed on Binding Tariff Information (BTI) Ruling No. DEBTI10688/23-1 dated 14.06.2023, wherein Bluetooth headphones equipped with integrated Bluetooth transmitter/receiver, microphone, and controls for calls and playback were

classified under CTSH 8517 62, recognizing their communication functionality. It is submitted that the aforesaid rulings are applicable to the present case, as the disputed goods are capable of performing multiple functions such as music playback, making and receiving calls, and controlling playback through in-built Bluetooth technology. Accordingly, the goods are correctly classifiable under CTI 8517 62 90, and the issue of classification is no longer res integra.

2.5 It is further submitted that, in terms of judicial discipline, lower authorities are bound to follow binding precedents as held in *Union of India vs. Kamlakshi Finance Corporation Ltd.* (1991), *Pals Micro Systems Ltd.* (2007), *CIT vs. Ralson Industries Ltd.* (2007), *Nav Bharat Impex* (2010), *Khandwala Enterprises* (2020), and reaffirmed in *Rohan Vijay Nahar vs. State of Maharashtra* (2025). Accordingly, it is contended that the classification of the impugned goods under CTI 8517 62 90 is settled, the issue is no longer *res integra*, and the proposal in the SCN is not sustainable.

2.6 The Noticee submits that the disputed goods have been correctly classified under CTI 8517 62 90, and the proposed classification under CTI 8518 30 00/8518 30 11 is erroneous and unsustainable. The issue for consideration is whether the impugned goods are classifiable under CTI 8517 62 90 or under CTI 8518 30 00/8518 30 11. The Noticee submits that the goods, being Bluetooth-enabled earphones capable of two-way transmission and reception of voice/data, are correctly classifiable under CTI 8517 62 90 and not under CTI 8518. It is contended that classification is to be determined in terms of the General Rules for Interpretation (GRI), particularly GRI 1, read with relevant Section and Chapter Notes, which have statutory force as held in *Saurashtra Chemicals vs. Collector of Customs* (1986, affirmed by SC in 1997). Further, HSN Explanatory Notes are a reliable guide for interpretation as held in *CCE vs. Wood Craft Products Ltd.* (1995), *CC vs. Business Forms* (2002), *O.K. Play (India)* (2005), *Gujarat Perstorp Electronics Ltd.* (2005), *Phil Corporation Ltd.* (2008), *Hindustan Unilever Ltd.* (2008), and *LML Ltd.* (2010).

2.7 It is further submitted that, in terms of Note 3 and Note 5 to Section XVI, multifunctional or composite machines are required to be classified based on their principal function. Further, apparatus used for the transmission or reception of voice or data over wired or wireless networks are specifically covered under CTH 8517. In the present case, the impugned goods are Bluetooth-enabled wireless earphones capable of transmission and reception of voice/data over a wireless network. It is submitted that, in terms of GRI 1 read with the aforesaid Section Notes, such multifunctional devices are to be classified on the basis of their principal function, which, in the present case, is communication, while features such as audio playback are merely ancillary.

Accordingly, the impugned goods are correctly classifiable under CTI 8517 62 90, and the proposed classification under CTH 8518 is not sustainable.

2.8 Reliance is placed on judicial precedents including *Associated Millers Pvt. Ltd.*, *MX Software Services Ltd.*, *Xerox Modicorp Ltd.*, *Gestetner (India) Ltd.*, and *Celetronics India Pvt. Ltd.*, wherein classification of multifunctional devices has been determined based on principal function. Further reliance is placed on WCO Classification Rulings (HS Committee) classifying wireless headsets under Heading 8517, which have persuasive value as recognized by the Supreme Court in *CCE vs. Wood Craft Products Ltd.* The Noticee also relies on *Minda D-Ten Pvt. Ltd.* (2021), wherein Bluetooth-enabled devices performing transmission and reception of data were classified under Heading 8517, and on *Amazon Wholesale India Pvt. Ltd.* (2024), which held that convergence devices performing communication functions are not classifiable under CTH 8518. Accordingly, it is submitted that the impugned goods, being active components of a wireless communication network with principal function of communication, merit classification under CTI 8517 62 90, and the proposed classification under CTI 8518 is not sustainable.

2.9 The Noticee submits that the disputed goods are classifiable under CTI 8517 62 90 in terms of CBIC Circular No. 36/2013-Cus dated 05.09.2013.The Noticee submits that reliance placed in the SCN to distinguish CBIC Circular No. 36/2013-Cus on the basis of monoaural vs. binaural devices is misplaced, as the Circular clarifies that Bluetooth headsets are classifiable under Heading 8517 based on their principal function of communication over a wireless network. It is contended that the impugned goods, though having additional features, are essentially similar in nature and function, being wireless devices enabling two-way transmission of voice/data. It is further submitted that classification cannot be based on a static interpretation or additional features, as held by the Supreme Court in *Porritts & Spencer (Asia) Ltd.* and *Lekhraj Jessumal & Sons*, and must take into account technological advancements.

2.10 Reliance is also placed on *Amazon Wholesale India Pvt. Ltd.*, wherein a clear distinction has been drawn between passive audio devices under CTH 8518 and network-enabled communication devices under CTH 8517. It is contended that the impugned goods, being part of a wireless network (PAN) and enabling transmission/reception of voice/data, fall under CTH 8517 irrespective of their additional functionalities. Accordingly, the Noticee submits that the impugned goods are correctly classifiable under CTI 8517 62 90, and the proposed classification under CTI 8518 is not sustainable.

2.11 The Noticee submits that CBIC Circulars are binding on the Customs authorities, and therefore the Department cannot adopt a contrary position or disregard the same. In this regard, reliance is placed on the judgments of the Supreme Court in *CCE vs. Ratan Melting & Wire Industries* (2008) and *Union of India vs. Arviva Industries Ltd.* (2007), wherein it has been held that circulars issued by the Board are binding on the Department. Further reliance is placed on *Paper Products Ltd. vs. CCE* (1999), *CCE vs. Indian Oil Corporation Ltd.* (2004),

and *Ranadey Micronutrients vs. CCE* (1996), wherein it has been consistently held that the Department cannot take a stand contrary to binding circulars and is bound to follow the same. Accordingly, it is submitted that the Department is bound to follow CBIC Circular No. 36/2013-Cus dated 05.09.2013 and cannot contend classification of the impugned goods under CTI 8518. The proposal in the SCN is therefore legally unsustainable and liable to be dropped.

2.12 The Noticee submits that CTH 8518 covers conventional headphones/earphones carrying only audio signals and not functioning as part of a communication network, whereas the impugned goods are Bluetooth-enabled devices capable of transmission and reception of voice/data and are active components of a wireless network. Reliance is placed on CBIC Circular No. 36/2013, which distinguishes such Bluetooth headsets from goods of CTH 8518 and supports classification under CTH 8517. It is further submitted that classification under CTI 8518 30 11 is not applicable for the relevant period, being a post-amendment entry. Applying GRI 1 read with Section Notes, the goods are appropriately classifiable under CTH 8517. Even otherwise, under GRI 3(b), classification is to be based on essential character, which in the present case is communication, thereby supporting classification under CTI 8517 62 90. Accordingly, it is contended that the proposed classification under CTH 8518 is legally untenable.

2.13 The Noticee submits that the conclusion in the SCN regarding principal function based on marketing or product description is misplaced, as communication is an inherent and core function of the impugned goods and need not be expressly highlighted. It is further contended that classification under CTH 8517 is not restricted to mobile telephony alone, and in any case, the goods are primarily designed for use with mobile phones, where their full functionality is realized. The Noticee also submits that reliance on trade/commercial parlance is misplaced where statutory provisions and HSN guidance are clear, as held in Akbar Badruddin Jiwani, Kulkarni Black & Decker Ltd., S. Narendrakumar & Co., Little Star Foods Pvt. Ltd., Nirlon Synthetic Fibres, and Panama Chemical Works. Further reliance is placed on Amazon Wholesale India Pvt. Ltd. and Nestle India Ltd., wherein it has been held that interpretative rules and principal function test prevail over trade understanding. It is further submitted that the distinction drawn in the SCN regarding applicability of CBIC Circular No. 36/2013 on the basis of monoaural/binaural devices or limited use with mobile phones is erroneous, as the Circular is based on the principle of communication being the primary function, which equally applies to the impugned goods. Accordingly, it is contended that the impugned goods, being communication devices forming part of a wireless network, are correctly classifiable under CTI 8517 62 90, and the contrary findings in the SCN are unsustainable.

2.14 The Noticee submits that the impugned goods, being classifiable under CTI 8517 62 90, are eligible for concessional BCD-10% under Sl. No. 20 of Notification

No. 57/2017-Cus dated 30.06.2017. It is contended that the said entry grants exemption to all goods under CTI 8517 62 90/8517 69 90 except specified excluded categories, and the impugned goods do not fall within any such exclusions. It is further submitted that the SCN does not dispute the eligibility of the exemption if classification under CTI 8517 62 90 is accepted. Accordingly, the Noticee contends that the impugned goods are rightly eligible for concessional BCD-10%, as against the standard rate of 20%.

2.15 The Noticee submits that invocation of the extended period under Section 28(4) is not sustainable as the issue pertains to classification and eligibility of exemption, which is a matter of interpretation and does not involve any wilful misstatement or suppression of facts. It is contended that the entire demand is time-barred, as the SCN has been issued beyond the normal period. Reliance is placed on *Nuvoco Vistas Corporation Ltd.*, *Vijeta Textiles*, and *Vijay Shanthi Builders Ltd.*, wherein it has been held that extended period and penalty are not invocable in cases involving interpretational issues. Further reliance is placed on *Northern Plastics Ltd.* and *Hewlett Packard Sales Pvt. Ltd.*, which hold that classification and exemption claims are matters of bona fide belief and opinion, and cannot be treated as misdeclaration in the absence of suppression of material facts. It is further submitted that the Noticee has correctly declared all material particulars in the Bills of Entry, and differences in classification or exemption claims cannot amount to suppression. Accordingly, invocation of extended period and the consequent demand are legally unsustainable and liable to be set aside.

2.16 The Noticee submits that the extended period of limitation is not invocable in the absence of any misdeclaration or suppression of facts. It is further submitted that the allegation of wilful misstatement or suppression is untenable, as no evidence of deliberate intent to evade duty has been established. Invocation of the extended period requires proof of conscious and deliberate withholding of material facts, as laid down by the Supreme Court in *Padmini Products*, *Chemphar Drugs & Liniments*, *Cosmic Dye Chemical*, *Pahwa Chemicals Pvt. Ltd.*, and *Aban Lloyd Chiles Offshore Limited.* Further reliance is placed on *CCE vs. H.M.M. Ltd.* and *Easland Combines vs. CCE,* wherein it has been held that mere non-declaration or failure to pay duty, without intent to evade, does not justify invocation of extended period. Accordingly, it is submitted that in the absence of any positive act of suppression or wilful misstatement, the extended period under Section 28(4) is not invocable and the demand is liable to be set aside.

2.17 The Noticee submits that the onus to establish suppression or misdeclaration lies on the Department and the same has not been discharged in the present case. It is further submitted that the burden to establish wilful misstatement or suppression for invoking the extended period rests upon the Department, which has failed to do so. In this regard, reliance is placed on *Kaur & Singh vs. Commissioner* (1997) and *Nizam Sugar Factory vs. Commissioner* (2006). It is also submitted that mere detection by the Department does not, by

itself, establish any intent to evade duty, as held in *Sands Hotel Pvt. Ltd. vs. CST* (2009). Accordingly, in the absence of any cogent evidence of suppression or intent to evade duty, the invocation of the extended period and the demand proposed in the SCN are unsustainable.

2.18 The Noticee submits that mere claim of exemption or classification does not amount to misdeclaration. It is further submitted that there was no wilful misstatement or suppression of facts, and reliance is placed on the submissions made hereinabove in this regard. It is contended that even if the classification or exemption claim is found to be incorrect, the same, being based on a bona fide belief, cannot be treated as misdeclaration in the absence of any corroborative evidence indicating intent to evade duty. Reliance is placed on *Sirthai Superware India Ltd. vs. Commissioner of Customs* (2020), wherein it was held that correct declaration of goods in the Bill of Entry discharges the Importer's obligation, and any error in classification or exemption claim does not amount to wilful misdeclaration. Accordingly, it is submitted that the extended period under Section 28(4) is not invocable and the demand is unsustainable.

2.19 The Noticee submits that invocation of extended period under Section 28(4) is an exception to Section 28(1) and must be strictly construed. Reliance is placed on *Tamil Nadu Housing Board vs. CCE* (1994) and *CCE vs. Punjab Laminates Pvt. Ltd.* (2006), wherein it has been held that extended limitation can be invoked only upon strict proof of fraud, collusion, or intent to evade duty. It is contended that no such case has been established in the present matter, and therefore, the invocation of extended period is not sustainable.

2.20 The Noticee submits that the demand and reclassification proposed in the SCN are invalid in the absence of any appeal against the assessed Bills of Entry and out-of-charge orders, which have attained finality. It is contended that assessment orders, including self-assessment, are quasi-judicial and can be modified only through appellate proceedings, as held by the Supreme Court in *ITC Ltd. vs. CCE* (2019) and followed in *Jairath International* and *Cummins Technologies India Pvt. Ltd.* Reliance is also placed on *Vittesse Export Import*, *Ashok Khetrapal*, *Indian Oil Corporation Ltd.*, and *Axiom Cordages Ltd.*, wherein it has been held that once assessment attains finality, it cannot be reopened through SCN proceedings without first challenging the assessment in appeal. Accordingly, it is submitted that the impugned SCN is not maintainable in law and is liable to be set aside.

2.21 The Noticee submits that confiscation under Sections 111(m) and 111(o) is not sustainable as there is no misdeclaration of value or description in the Bills of Entry; mere classification dispute or exemption claim does not amount to misdeclaration. Reliance is placed on *Lotus Beauty Care*, *Lewek Altair Shipping* (affirmed by SC), *Sutures India Pvt. Ltd.*, *Northern Plastics Ltd.*, *Aureole Inspecs India Pvt. Ltd.*, and *Kirti Sales Corporation*, which hold that wrong classification

or exemption claim, in the absence of incorrect description, does not attract confiscation. It is further submitted that Section 111(o) is not applicable as the goods are not in violation of any post-import condition, as clarified in *Union of India vs. Sampat Raj Dugar*.

2.22 The Noticee also distinguishes between misclassification and misdeclaration, relying on *A. Mahesh Raj* and *Hindustan National Glass*, to contend that classification disputes do not justify confiscation. Additionally, it is submitted that in a self-assessment regime, classification and exemption claims are matters of opinion and do not constitute misstatement, as held in *Midas Fertchem Impex* and *Surbhit Impex Pvt. Ltd.* Without prejudice, it is submitted that once goods are cleared for home consumption, they cease to be "imported goods" and are not liable to confiscation, as held in *Bussa Overseas & Properties* and *Southern Enterprises*. Further, when goods are not available, confiscation is not permissible as held in *Shiv Kripa Ispat Pvt. Ltd.* Accordingly, it is contended that the proposal for confiscation is legally untenable and liable to be set aside.

2.23 The Noticee submits that the disputed goods are not liable for confiscation, as the Noticee has acted in a bona fide manner. It is further submitted that confiscation is not warranted in the absence of any mala fide intent, as consistently held in *P. Ripakumar & Co. vs. Union of India* (1991) and *Porcelain Crafts & Components Exim Ltd.* (2001). It is also submitted that misdeclaration under Section 111(m) requires intentional conduct and cannot be equated with a bona fide error, as held in *Kirti Sales Corporation*. Further reliance is placed on *Aspam Petronergy Pvt. Ltd.* (2024), wherein confiscation was set aside in the absence of mala fide intent. Accordingly, it is submitted that in the present case, there being no mala fide or deliberate misdeclaration, the proposal for confiscation is unsustainable and liable to be dropped.

2.24 The Noticee submits that, without prejudice, penalty is not imposable under Sections 112(a) and 114A of the Customs Act. It is further submitted that penalty under the aforesaid provisions is not sustainable as it is contingent upon the liability of goods to confiscation and the existence of mens rea, both of which are absent in the present case. It is contended that no act or omission attributable to the Noticee renders the goods liable to confiscation, and therefore, penalty under Section 112(a) is not imposable. Reliance is placed on *Trade Wings Ltd.* and *P.D. Manjrekar* to submit that mere negligence does not constitute abetment and knowledge must be established. Further reliance is placed on *P & B Pharmaceuticals (P) Ltd.* and *Meticulous Forwarders*, holding that penalty is not imposable in the absence of confiscation or collusion.

2.25 It is further submitted that penalty cannot be imposed in cases of bona fide classification disputes, as held in *Hindustan Steel Ltd.*, *Akbar Badruddin Jiwani*, and *Nakoda Textile Industries Ltd.*, where absence of mens rea precludes imposition of penalty. With respect to Section 114A, it is contended that the

conditions for its invocation are identical to those for extended period under Section 28(4), as held in *Videomax Electronics* and *Rajasthan Spinning & Weaving Mills*. In the absence of any wilful misstatement or suppression, penalty under Section 114A is not sustainable. Accordingly, it is submitted that the proposed penalties are legally untenable and liable to be set aside.

2.26 The Noticee submits that no penalty is imposable as its conduct was bona fide and devoid of any intent to evade duty. It is contended that the classification and exemption claimed were supported by favourable Orders-in-Appeal in its own case, which have attained finality, thereby reinforcing its bona fide belief. It is further submitted that all material particulars were duly disclosed in the Bills of Entry and duties were paid accordingly, negating any allegation of suppression or intent to evade. Reliance is placed on *Hindustan Steel Ltd.* and *Akbar Badruddin Jiwani*, wherein it has been held that penalty is not imposable in the absence of mens rea. Accordingly, it is contended that in the absence of any deliberate act or mala fide intention, the proposal for imposition of penalty is not sustainable and liable to be dropped.

2.27 The Noticee submits that the present dispute involves interpretation of tariff entries and exemption notifications, and it is settled law that penalty is not imposable in such cases. Reliance is placed on *Vadilal Industries Ltd.* (2007) and other decisions including *Auro Textile*, *Hindustan Lever Ltd.*, *Prem Fabricators*, *Whiteline Chemicals*, *Delphi Automotive Systems*, and *SAFT India Pvt. Ltd.*, wherein penalty was set aside in interpretational disputes. Further reliance is placed on *Bahar Agrochem & Feeds Pvt. Ltd.* and other decisions (*Digital Systems*, *Goodyear (India)*, *Anand Metal Industries*), holding that no penalty is warranted where classification is debatable and different views are possible. Accordingly, it is submitted that, the issue being interpretational and the Noticee having acted under a bona fide belief, no penalty is imposable.

2.28 The Noticee submits that penalty under Section 112(a) is not sustainable as there is no abetment of any act rendering the goods liable to confiscation. It is contended that "abetment" requires intentional instigation, conspiracy, or active aiding with knowledge and mens rea, as understood from Section 107 of the IPC and applied in *Tata Oil Mills Co. Ltd.* Reliance is placed on *Harbhajan Kaur*, *V. Lakshmipathy*, and *Owens Corning Enterprises*, wherein it has been held that mere involvement or aid without knowledge or intent does not constitute abetment and penalty under Section 112(a) requires mens rea. It is submitted that the Noticee acted under a bona fide belief and has neither instigated nor aided any offence. Accordingly, in the absence of abetment and mens rea, penalty under Sections 112(a) and 114A is not sustainable and liable to be dropped.

2.29 The Noticee submits that interest under Section 28AA is not leviable as it is consequential to duty, and where duty itself is not payable, interest cannot be demanded, as held in *Prathibha Processors* and *Jayathi Krishna & Co.* It is

further submitted that, for the relevant period, there was no statutory provision under Section 3(7) read with Section 3(12) of the Customs Tariff Act to levy interest, penalty, or confiscation in respect of IGST, as only limited provisions of the Customs Act were borrowed. Reliance is placed on *India Carbon Ltd.*, *J.K. Synthetics Ltd.*, *V.V.S. Sugars*, *Pioneer Silk Mills*, *Bajaj Health & Nutrition*, and *Tonira Pharma Ltd.*, holding that interest and penalty require specific statutory authority. Further reliance is placed on *Mahindra & Mahindra Ltd.* and subsequent decisions including *Acer India Pvt. Ltd.*, *ETA General Pvt. Ltd.*, *Chiripal Poly Films Ltd.*, and *A.R. Sulphonates Pvt. Ltd.*, wherein it has been held that, prior to the amendment dated 16.08.2024, there was no enabling provision for levy of interest, penalty, or confiscation on IGST. Accordingly, it is submitted that in the absence of a charging provision during the relevant period, the demand of interest, penalty, and confiscation in respect of IGST is without authority of law and liable to be set aside.

2.30 The Noticee submits that recovery under Section 28 is confined to "duty of Customs" as defined under Section 2(15) of the Customs Act, which does not include IGST. It is contended that IGST is levied under Section 5 of the IGST Act read with Section 3(7) of the Customs Tariff Act and is not a "duty of Customs", as held in *Interglobe Aviation Ltd.*, *Spice Jet Ltd.*, and *Vedanta Ltd.* Further reliance is placed on *Prestige Engineering (India) Ltd.* to submit that statutory definitions must be strictly applied. It is also submitted that Section 3(7) merely provides the mechanism for collection and does not constitute an independent levy, as affirmed by the Delhi High Court in *Interglobe Aviation Ltd.* (2025). Accordingly, it is contended that IGST cannot be recovered as "duty" under Section 28 and, in any case, in the absence of suppression or wilful misstatement, invocation of extended period is not sustainable.

2.31 The Noticee respectfully submits that the proceedings initiated vide SCN No. 399/2025 dated 16.10.2025 be dropped; that the impugned goods be held classifiable under CTI 8517 62 90 with consequential benefit of exemption under Sl. No. 20 of Notification No. 57/2017-Cus; that the demand of differential duty along with interest be set aside; and that the proposals for confiscation and imposition of penalties under Sections 111, 112, and 114 of the Customs Act be dropped.

3. WRITTEN SUBMISSION DATED 27.03.2026:

In their written submissions dated 27.03.2026, the Importer referred to their earlier reply dated 17.12.2025 filed by M/s Mobitech Creations Private Limited ("Noticee") in response to Show Cause Notice No. 399/2025 dated 16.10.2025. They submitted that the extended period of limitation is not invocable in the present case, as there has been no suppression or misdeclaration on the part of the Noticee. It was also submitted that no duty is payable within the normal period (16.10.2023 to 16.10.2025), and the entire demand pertains

only to the extended period. Accordingly, it was requested that the table at Para D.4 of the Reply dated 17.12.2025 be substituted as under:

- Differential duty proposed: Rs. 3,91,13,094/-
- Duty payable during the normal period: Nil
- Duty pertaining to the extended period: Rs. 3,91,13,094/-

It was submitted that the entire demand of Rs. 3,91,13,094/- is barred by limitation and is liable to be dropped.

4. PERSONAL HEARING

The personal hearing in the matter was conducted through online mode on 27.03.2026 and was attended by Ms. Ruble Bareja, Advocate, on behalf of the Importer. She explained the case in detail and reiterated that the imported goods, being wireless Bluetooth headsets, had been correctly classified by the Importer under CTI 85176290, whereas the Department has proposed classification under CTI 85183000/85183011.

It was submitted that the Importer had already filed a detailed reply to the Show Cause Notice in December, 2025. During the hearing, Ms. Bareja referred to the Show Cause Notice, the written submissions filed, Board's Circular No. 36/2013-Customs, and various judicial pronouncements. She contended that the issue of classification stands settled in favour of the Importer by multiple Orders-in-Appeal and by the Delhi High Court in the Amazon Echo case. She further submitted that classification is a dynamic exercise in view of evolving technology and relied upon the decision in the case of Lekhraj Jessumal and Sons. It was also argued that the exemption claimed is admissible in view of the settled classification, and that the demand is time-barred under Section 28(4) of the Customs Act, 1962. Consequently, it was contended that no penalty or fine is imposable.

Ms. Bareja also submitted a compilation of case laws. After concluding her submissions, she requested permission to file a final written submission to rectify certain typographical errors in the earlier submissions, particularly with respect to the duty amounts mentioned, which was allowed.

5. DISCUSSION AND FINDINGS

5.1 I have gone through the Show Cause Notice (SCN) No. 399/2025-26 dated 16.10.2025, submissions made by the Importer in writing as well as during Personal Hearing and material on record.

5.2 The primary issue for determination in the present proceedings is whether the imported goods, namely "Wireless Bluetooth Stereo Headsets/Headphones/Earphones etc.," are correctly classifiable under CTI

85176290 or are liable to be classified under CTI 85183000, as proposed in the Show Cause Notice, and consequently, whether the said goods are eligible for the benefit of exemption under Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017.

5.3 DETAILS AND FUNCTIONS OF THE SAID IMPORTED GOODS: I find that said imported goods have been described /declared as "Wireless Bluetooth Stereo Headsets/Headphones/Earphones". From the brochures of the subject goods, it appears that the main function of the said imported goods is similar to the traditional earphones/headphones i.e. to listen through the earphones and to speak through the microphones. They enable the user to access Bluetooth for wireless two-way voice communication and receive streaming audio playback from Bluetooth-enabled music playback devices. The user can make calls using the control buttons on the imported goods. The user can also receive calls in the same manner. It can also be used for communicating with Bluetooth enabled device by using voice assistance feature. The user can also listen to music from the connected device. The imported goods can perform multiple functions.

As per multiple brochures available online, Bluetooth Wireless Earphone, Headsets, Headphones are promoted as music devices and can be paired with multiple Bluetooth devices. Such devices are Laptops, Tablets, Smart Phones, Smart TV, Smart Watches, etc. In other words, the imported goods are compatible with many other devices which do not have the mobile telephony function. Further, nowhere in their brochure it is mentioned that the Bluetooth Wireless Earphones, Headsets, Headphones are principally designed, promoted, sold, marketed or manufactured for mobile telephony communication.

It is therefore evident that the said imported goods perform function of playing/streaming of Audio, Music with multiple Bluetooth enabled devices and that they perform communication function for mobile telephony only when connected with a mobile phone and that too only as one of the functions and not as the principal function. Mobile phones primarily undertake the telephony communication using cellular networks. Mobile phones and in particular smart phones have expanded their domain and also have other features that allow for watching movies/videos, playing games/gaming; reproducing sounds/music streaming etc. Even in the case of pairing of the said imported goods with mobile phones, from the design, functioning and marketing of Bluetooth/Wireless Earphones, Headsets, Headphones, they appear to be designed and cater equally or even more for these other aspects that involve audio reproduction, music playback and quality of streaming.

5.4 CTI 85176290 USED BY THE IMPORTER:

The description of goods falling under Tariff Heading CTH 8517 reads as follows:

Tariff		***Description of goods***

Item		
8517		***Telephone sets, including telephones for cellular networks or for other wireless networks: other apparatus for the transmission or reception of vice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528***
	-	*Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network):*
8517 62	--	*Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:*
8517 62 90	---	*Other*

In order to be classified under CTH 8517 the "Wireless /Bluetooth Headsets/Headphones/Earphones" should primarily carry out mobile telephony functions, such as transmission or reception of voice (for the telephonic communication) and other data (for the management and control of the network) and the communication function for the operation of mobile telephony functions should characterize the principal function of the headset for the purpose of Note 3 to Section XVI.

5.5 The Circular No. 36/2013- Customs dated 05.09.2013 is reproduced below for reference:

> " **Circular No.36 / 2013 -Customs** dated 5th September, 2013
>
> **Subject: Classification of "Bluetooth Wireless Headset for mobile phones / cell phones" under harmonised Customs Tariff - regarding.**
>
> **
>
> Doubts have been raised on whether "Bluetooth Wireless Headset for mobile phones / cell phones" is classifiable in heading 8517 or 8518 of the Customs Tariff. The relevant text of these headings is as under:

85.17 "...; *other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network*),..."

85.18 "...; *headphones and earphones, whether or not combined with a microphone,...*"

2. The illustrative product description for the purpose of classification of similar or identical headsets for "mobile phones / cell phones" is as follows: "*Wireless headset consisting of a single (monaural) over-the-ear earphone combined in the same housing with a microphone, a radio transceiver, a rechargeable battery, a power input, a LED indicator light and controls. The radio transceiver utilizes an open wireless technology standard (wireless protocol for exchanging data within a Personal Area Network (PAN) using short length radio waves over short distances (up to 10 meters)) with Enhanced Data Rate (EDR) technology, which enables the headset to communicate wirelessly with fixed and mobile devices, such as a mobile telephone for cellular networks. The controls are used functions like on and off, voice dialling, call waiting, redial of the last number, etc., if supported by the apparatus with which it is "paired" (transmitting to and receiving from). The product is put up in a set for retail sale in a box with an AC charger and two ear-hooks of different sizes and a quick start manua*l."

3. This issue has been examined by the Board in consultation with the Department of Electronics and Information Technology, Ministry of Communication and Information Technology. The Compendium of Classification Opinions reflecting the decisions taken by the Harmonized System Committee (HSC) (47thSession - March 2011) was also referred. As seen, the classification of goods in the First Schedule of the Customs Tariff Act, 1975 is governed by the General Rules for the Interpretation (GRI) of Import Tariff.

4. In the instant case, as "Bluetooth Wireless headset for mobile / cell phone", is presented together with a charger, ear hooks and user documentation and put up in a set for retail sale, therefore besides GRI 1, the legal basis of classification would be the sequential application of Rules 2(a), 2(b), 3(a) and 3(b). It is the **headset** that confers it the essential character to this set. As seen, the "Bluetooth Wireless Headset for mobile phones/cell phones" comprises microphone / transmitter, headphone / receiver, wireless communication system**.** The communication function for mobile telephony characterizes its principal function for the purpose of Note 3 to Section XVI. This function is included in heading 85.17: "*other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network*". Thus, heading 85.17 would apply to

"apparatus" used for communication in wireless networks, which is a simultaneously two-way audio and data streaming in the radio frequency band. Also, the HS Explanatory Note to subheading 8517.62 (*Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus)* provides that, "*this subheading includes cordless handsets or base units, when presented separately*." Headphones combined with a microphone of heading 8518 carry only audio signals and are not an active part of a network, whereas a Bluetooth headset with mobile telephony function is an active part of a wireless network, includes a software part for the wireless network and simultaneously receives/transmits voice and data in a wireless network. Thus, "Bluetooth Wireless headsets for mobile phones / cell phones" equipped with communication device fully comply with the subheading 8517.62.

5. In view of the above, the Board is of the view that "Bluetooth Wireless headsets for mobile phones / cell phones" is correctly classified in heading 85.17, subheading 8517.62, by application of GRI 1 (Note 3 to Section XVI), 3(b) and 6.

6. Accordingly, suitable instructions may be given to the field formations. Difficulty faced, if any, may be brought to notice of the Board."

The following observations are made with regard to the Circular No. 36/2013-Customs dated 05.09.2013:

i. The classification is guided by the sequential application of the General Rules of Interpretation (GIR). "Bluetooth Wireless headsets for mobile phones/cell phones" is classified in Heading 85.17, Subheading 8517.62, by application of GRI 1 (Note 3 to Section XVI), 3(b) and 6.

ii. The Circular mentions that "Bluetooth Wireless Headset for Mobile phones /Cell phones" is classifiable under CTSH 851762 because the communication function for mobile telephony characterizes its principal function for the purpose of Note 3 to Section XVI.

5.6 The Circular covers only those Bluetooth monaural (single ear) wireless headsets under CTSH 851762 that are designed to be used solely or principally with telephones for cellular networks (mobile phones) and in particular where communication function for mobile telephony is the principal function of the headsets. The headset should be primarily an apparatus for mobile telephony and should not merely rely on Bluetooth alone for classification under CTSH 851762. The Circular was not referring to all types of Bluetooth devices, but to a Bluetooth headset device solely or principally designed for mobile telecommunication. Unlike the device referred in the illustrative example of the Circular, the imported goods in this case do not come within its ambit.

In Para 4 of the Circular, reference is also drawn to **Note 3 of Section XVI** of Customs Tariff Act which reads as follows –

> *"Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machine designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine, which performs the* ***principal function****."*

Further, the illustrative product description in the said 2013 Circular is that of a monaural Bluetooth wireless headset, which is different from the imported goods. The headset referred in the Circular is principally designed for telephony and communication functions and is therefore rightly classified under CTH 8517 as it operates primarily as an apparatus for communication for mobile telephony.

5.7 Even though the said imported goods have a hardware part and a software part that enable wireless connection with Bluetooth enabled devices such as Smartphones, Smartwatches, Smart TVs, Laptops, etc. it is only one aspect of the earphones. Mere facilitation of wireless connection from earphones to the source of audio signals i.e. the Bluetooth enabled device, is not sufficient condition to override its core or principal function of performing as earphones combined with a microphone. Further, the Importer has selectively relied upon certain sentences from the Circular No. 36/2013-Customs, dated 05.09.2013, to state that all Bluetooth headsets and earphones are classifiable under CTSH 851762. Inter-alia, the Circular mentions that

> *"heading 85.17 would apply to "apparatus" used for communication in wireless networks" and "a Bluetooth headset with mobile telephony function is an active part of a wireless network".*

These sentences, however, cannot be seen in isolation, disregarding the core content of the Circular and the General Rules of Interpretation, especially Note 3 to Section XVI. The mobile telephony function referred in the above sentence should also be the principal function for adopting classification under CTSH 851762. The true intent of the Circular is amply clear when it is read along with the sentence *"The communication function for mobile telephony characterizes its principal function for the purpose of Note 3 to Section XVI"*. The said imported goods are designed to undertake multiple functions without primacy to mobile telephony function. They are also designed to be compatible with many devices and not specific to mobile phones. As per multiple brochures available online, Bluetooth Wireless Earphones, Headsets, Headphones can be paired with multiple devices like Laptops, Tablets, Smart Phones, Smart TV, Smart Watches, etc. In other words, the imported goods are compatible with many other devices which do not have the mobile telephony function.

5.8 The Importer has relied upon certain World Customs Organization (WCO) Classification Rulings pertaining to "wireless headsets"; however, such reliance is misplaced, as the said rulings apply to monaural (single-ear) devices primarily designed for voice communication. In contrast, the goods under consideration in the present SCN are binaural (two-ear) wireless earphones/headphones, primarily intended for audio playback with ancillary communication features. In view of the clear distinction in design, functionality, and principal use, the cited WCO Ruling is not applicable to the subject goods and cannot be relied upon for determining their classification.

5.9 CTI 85183000 AS APPLIED BY SCN:

The description of goods falling under CTH 8518 reads as follows –

Tariff Item		***Description of goods***
8518		*Microphones and stands therefor: loudspeakers, whether or not mounted in their enclosures**:*** ***headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers;*** *audio-frequency electric amplifiers; electric sound amplifier sets*
8518 3000	*-*	*Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers*

5.10 Further, as per the HSN Explanatory Notes for CTH 8518, the heading covers microphones, loudspeakers, headphones, earphones and audio-frequency electric amplifiers of all kinds presented separately, regardless of the particular purpose for which such apparatus may be designed (e.g. telephone microphones, headphones and earphones, and radio receiver loudspeakers). The extract from the HSN Explanatory notes of CTH 8518 is reproduced below for reference.

> ***" 8518- Microphones and stands therefor; Loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets***
>
> ***8518.10*** *- Microphones and stands therefor*
>
> *- Loudspeakers, whether or not mounted in their enclosures*
>
> ***8518.21*** *- - Single loudspeakers, mounted in their enclosures*

8518.22 *- - Multiple loudspeakers, mounted in the same enclosure*

8518.29 *- - Other*

8518.30 *- Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers*

8518.40 *- Audio-frequency electric amplifiers*

8518.50 *- Electric sound amplifier sets*

8518.90 *- Parts*

This heading covers microphones, loudspeakers, headphones, earphones, earphones and audio-frequency electric amplifiers of all kinds presented separately, regardless of the particular purpose for which such apparatus may be designed (e.g. telephone microphones, headphones and earphones, and radio receiver loudspeakers).

The heading also covers electric sound amplifier sets."

In order to be classified under CTH 8517 by overriding the specific description under CTH 8518, the said imported goods should primarily carry out mobile telephony functions, such as transmission or reception of voice (for the telephonic communication) and other data (for the management and control of the network) and the communication function for the operation of mobile telephony functions should characterize the principal function of the headset for the purpose of Note 3 to Section XVI. It is evident that the said imported goods perform function of playing/streaming of Audio, Music with all Bluetooth enabled devices and that the said imported goods perform communication function for mobile telephony only when connected with a mobile phone and that too only as one of the functions and not as the principal function. Mobile phones and in particular smart phones have expanded their domain and also have other features that allow for watching movies/videos, playing games/gaming; reproducing sounds/music streaming etc. Even in case of pairing of the said imported goods with mobile phones, from the design, functioning and marketing of Bluetooth Wireless Earphones, Headsets, Headphones, they are actually designed and cater equally or even more for these other aspects that involve audio reproduction, music playback and quality of streaming.

5.11 Now with regard to GIR, the sequential application of GIR 2 is not warranted, as Rule 2(a) pertains to incomplete, unfinished, unassembled, or disassembled goods, and Rule 2(b) applies to mixtures or combinations of materials or substances—neither of which is applicable in the present case. Accordingly, classification is appropriately determined under GIR 3(a). As per this rule, when goods are prima facie classifiable under two or more Headings, the

Heading that provides the most specific description is to be preferred over those providing a more general description. In other words, a Heading that specifically identifies the product takes precedence over Headings that merely refer to its components or broader categories. In the present case, the imported goods, namely Bluetooth/Wireless Headsets, Earphones, and Headphones, are specifically covered under Tariff Headings 85183000/85183011 of the Customs Tariff Act, 1975. Accordingly, by application of GIR 1 and GIR 3(a), the goods are appropriately classifiable under CTI 85183000 for the period prior to 01.05.2022 and under CTI 85183011 for the period on or after 01.05.2022, as these headings most specifically describe their nature and identity.

5.12 EXEMPTION BENEFIT OF NOTIFICATION NO. 57/2017-CUSTOMS DATED 30.06.2017: The Noticee has imported the said goods under CTI 85176290 and availed the exemption benefit of Sr. No. 20 of the Notification No. 57/2017-Customs dated 30.06.2017 by paying BCD at the rate 10%, SWS at the rate 10% and IGST at the rate 18%.

As discussed in foregoing paras, the said imported goods are rightly classifiable under CTI 85183000 and therefore exemption benefit of Notification No. 57/2017-Customs dated 30.06.2017 is not available for the said goods. The said imported goods attract BCD at the rate 15%, SWS at the rate 10% and IGST at the rate 18%.

5.13 As per Section 17(1) of the Customs Act, 1962, an Importer filing a Bill of Entry under Section 46 is required to self-assess the duty leviable on the imported goods and correctly declare their description, classification, and applicable duty liability. In the present case, the Importer, being a reputed entity with access to technical, EXIM, and taxation expertise, was expected to exercise due diligence and correctly classify the subject goods at the time of import. The Importer has contended that the extended period under Section 28(4) is not invocable in the absence of misdeclaration or suppression of facts. However, I find that M/s. Mobitech Creations Private Limited knowingly and deliberately misclassified the imported goods under CTI 85176290 and wrongly availed the benefit of exemption under Notification No. 57/2017-Customs dated 30.06.2017 with the intent to evade payment of differential duty amounting to Rs. 3,91,13,094/- (Rupees Three Crore Ninety-One Lakh Thirteen Thousand Ninety-Four). The wilful misstatement and misdeclaration have resulted in short levy of Customs duty. The Importer has thus failed to discharge its statutory obligation under Section 17(1) read with Section 46 of the Customs Act, 1962 by misclassifying the goods and availing ineligible exemption. Accordingly, I hold that the extended period of limitation under Section 28(4) of the Customs Act, 1962 has been rightly invoked on account of wilful misclassification and suppression of material facts. The demand of duty is, therefore, legally sustainable and recoverable under Section 28(4) of the said Act, along with applicable interest under Section 28AA.

5.14 The Show Cause Notice proposes confiscation of the imported goods under Sections 111(m) and 111(o) of the Customs Act, 1962. Section 111(m) provides for confiscation where goods do not correspond with the particulars declared in the entry, while Section 111(o) covers cases where goods, exempted subject to conditions, are imported in violation of such conditions. In the subject case, the Importer has willfully misclassified the imported goods and wrongly availed the benefit of exemption under Notification No. 57/2017-Customs dated 30.06.2017 with the intent to pay a lower rate of duty, resulting in short levy and short payment of duty. Such misclassification amounts to misdeclaration and suppression of the true nature of the goods. Accordingly, I find that the imported goods covered under the Bills of Entry, as detailed in Annexure-A to the Show Cause Notice and valued at Rs. 59,80,43,781/- (Rupees Fifty-Nine Crore Eighty Lakh Forty-Three Thousand Seven Hundred and Eighty-One only), are liable for confiscation under Section 111(m) of the Customs Act, 1962, and such confiscation is justified and sustainable. The aforesaid acts of intentional misdeclaration and suppression of facts render the Importer liable to penalty under Section 114A of the Customs Act, 1962. It is further noted that, in terms of the proviso to Section 114A, where penalty is imposed under the said section, no separate penalty is imposable under Section 112 of the Customs Act, 1962.

5.15 The Importer argues that the imposition of penalty under Section 114A of the Customs Act can only be imposed in cases where duty has not been paid or shot/part paid because of collusion or willful mis-statement or suppression of facts. However, as established in the preceding paragraphs, the Importer, despite being fully aware of the nature of the imported goods, withheld relevant information and misclassified the said goods thereby clearly indicating the existence of mens rea. Even otherwise, the Supreme Court in UOI v. Dharmendra Textile Processors [2008 (231) E.L.T. 3 (SC)] clarified that mens rea is not a prerequisite for civil penalties under tax laws unless specifically stated. Similarly, in Chairman, SEBI v. Shriram Mutual Fund [(2006) 5 SCC 361], the Apex Court held that for contraventions under civil statutes, proving intention is unnecessary-mere breach of the statutory obligation attracts penalty. Further support is drawn from Comex Co. v. Collector of Customs, Madras-I [1997 (96) E.L.T. 526 (Mad.)], where the Madras High Court held that under Section 112(a), mens rea need not be established for imposition of personal penalties in departmental proceedings; proof of contravention suffices. I find that the Importer intentionally misclassified the subject goods to reduce the Customs duty payable. Since, the impugned goods have already been held liable to confiscation under Sections 111(m) of the Customs Act, 1962 and duty is demanded under Section 28(4) of the Customs Act, 1962 along with applicable interest, the Importer has rendered itself liable to penalty under Section 114A of the Customs Act, 1962 for acts/omissions and the above said deliberate mis-classification and wrong self-assessment of duty.

5.16 As regards actual confiscation and applicability of redemption fine in terms of Section 125 of the Customs Act, 1962, I find that it is a settled position of law that redemption fine under Section 125 of the Customs Act, 1962 can only be imposed where goods are physically available for confiscation and subsequent redemption. This principle has been categorically affirmed by the Bombay High Court in Commissioner of Customs (Import), Mumbai v. Finesse Creation Inc., 2009 (248) E.L.T. 122 (Bom.), wherein the Court held that the concept of redemption fine arises only if the goods are available and can be redeemed. In the absence of the goods, no redemption fine can be imposed. This order of the High Court in Finesse Creation Inc., stands accepted by the department in view of Supreme Court's order dated 12.05.2010 [(C.A. No. 66/2009), (255) E.L.T. A120 (S.C) 2010].

Accordingly, since the goods in the subject case have already been cleared and are no longer available for confiscation, the invocation of Section 125 of the Customs Act, 1962, lacks jurisdictional basis and is legally unsustainable.

5.17 DEMAND OF IGST AND INTEREST ON IGST: The Importer's contention that the demand for IGST and interest is legally untenable is incorrect. It is important to highlight that the differential duty demand in the present proceedings has mainly resulted from the increase in the rate of Basic Customs Duty (BCD) due to the reclassification of the goods. The BCD liability arises under Section 12 of the Customs Act, 1962, and the levy of interest under Section 28AA is fully supported by the Customs Act, regardless of the amendments to the Customs Tariff Act (CTA). The corresponding IGST increase is incidental to the BCD reassessment and is not independently levied in this case under Section 3(7) of the Customs Tariff Act, 1975 as a standalone issue. The department's demand is therefore not based on an IGST reassessment under Section 3(7) of CTA requiring the application of the amended Section 3(12) of CTA, but instead flows entirely from reassessed BCD obligations and their cascading impact.

5.18 The Importer has contended that department ought to have challenged the assessment order passed with respect to duly assessed and cleared Bills of Entry and the reopening of the assessment in the present proceedings post clearance of the goods is bad in law. However, multiple Appellate decisions have established that for a demand of short-levy of Customs duty, it is not necessary to challenge the original assessment. The Supreme Court in Union of India vs Jain Shudh Vanaspati Limited (1996 (86) ELT 460 SC) held that a Show Cause Notice under Section 28 of the Customs Act can be issued without revising the assessment order. This principle was reaffirmed in Collector of Central Excise, Bhubaneshwar vs Re-Rolling Mills (1997 (94) ELT 8 SC) and upheld again in Component Corporation vs Collector (1998 (99) ELT A228 SC). Further supporting judgments include: -

• M/s Interglobe Aviation Ltd vs Pr. Commissioner Bangalore (2022 (379) ELT 235 Tri. Bang.), held that for issuance of Show Cause Notice, assessment order is not required to be challenged by filing appeal.

5.19 The Importer has placed reliance on various Orders-in-Appeal passed by the Commissioner (Appeals), Chennai in their own case, wherein similar goods were held to be classifiable under Customs Tariff Item (CTI) 8517 62 90. However, such reliance is not found to be tenable, as it is observed that one of the Orders-in-Appeal in respect of M/s Xiaomi Technology India Private Limited has already been challenged by the Department before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Chennai and the matter is presently sub judice; hence, the said Orders-in-Appeal have not attained finality and cannot be treated as binding precedents for deciding the present issue. It is a settled position of law that each assessment under the Customs Act, 1962 is required to be examined independently, having regard to the facts, nature, and technical specifications of the goods under import, and there is no estoppel in matters of taxation. An erroneous view taken in any earlier proceeding cannot preclude the Department from adopting the correct legal position in subsequent cases. Further, orders passed by the Commissioner (Appeals) are case-specific and do not constitute binding precedents on adjudicating authorities, and the mere fact that such orders were not challenged by the Department does not prevent it from taking a legally sustainable view in subsequent proceedings, particularly where classification is to be determined in accordance with the statutory provisions and the applicable tariff structure.

5.20 The Importer has also placed reliance on the judgement of the Delhi High Court in the case of Amazon Wholesale (India) Pvt. Ltd. vs Customs Authority for Advance Rulings. However, I find that the facts of the said case are distinguishable from the present case. The commodity (Echo Dot) under consideration in the Amazon case was completely different from the impugned goods involved in the present proceedings and the observations made therein were in the context of the specific products examined in that case and the Tariff structure applicable to them. Therefore, the ratio of the said judgement cannot be applied mechanically to the goods presently under consideration. Each case of classification is required to be examined on the basis of the nature, characteristics and functionality of the goods in question, as well as the applicable Tariff entries and interpretative rules.

5.21 The Noticee has placed reliance on the judgment of the Supreme Court in *Collector of Customs vs. Lekhraj Jessumal & Sons* (1996 (82) E.L.T. 162 (S.C.) to contend that classification should take into account technological advancements. However, I find that the reliance on the said judgment is misplaced and distinguishable. The said case pertained to interpretation of Import Policy in the context of evolving components and did not involve a classification dispute between two specific and competing Tariff headings. In the present case, the issue

is classification between CTH 8517 and CTH 8518, both of which are clearly defined. As per the General Rules for Interpretation, classification is to be determined based on the most specific description, and Heading 851830 specifically covers "Headphones and earphones, whether or not combined with a microphone," which directly describes the subject goods. The mere presence of Bluetooth technology, being only a technological enhancement, does not alter the essential character or principal function of the goods, which remains audio playback. Therefore, the ratio of the aforesaid judgment is not applicable to the facts of the present case.

5.22 The Importer has cited various other case laws in their submission against the said SCN. I find that the facts and circumstances in the subject case and the cited case laws are different. It is a settled position in law that a ratio of a decision would apply only when the facts are identical. Thus, the case laws as mentioned in the Noticee's submissions do not support the Noticee in any manner. I refer to the case of M/s Ispat Industries Ltd vs Commissioner of Customs, Mumbai [2006 (202) ELT 561 (SC), where it was held that:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect……."

6. In view of the foregoing discussion and findings, I pass the following order:-

7. **ORDER**

i) I reject the declared classification of the imported goods, namely "Wireless Bluetooth Stereo Headsets/Headphones/Earphones etc.," under CTI 85176290 and deny the exemption benefit claimed under Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017. I order that the said goods, as detailed in Annexure-A to the Show Cause Notice, be reclassified and reassessed under CTI 85183000, in accordance with the provisions of the Customs Tariff Act, 1975.

ii) I confirm the demand of differential duty amounting to Rs. 3,91,13,094/- (Rupees Three Crore Ninety-One Lakh Thirteen Thousand Ninety-Four) in respect of Bills of Entry as detailed in Annexure-A to the Show Cause Notice under Section 28(4) of the Customs Act, 1962, along with applicable Interest in terms of Section 28AA of the Customs Act, 1962 and order to recover the same from the Importer, M/s. Mobitech Creations Private Limited.

iii) I impose a penalty equal to differential duty of Rs. 3,91,13,094/- (Rupees Three Crore Ninety-One Lakh Thirteen Thousand Ninety-Four) and equal

to interest leviable thereon, on the Importer M/s. Mobitech Creations Private Limited under Section 114A of the Customs Act, 1962. However, if such duty and the interest is paid within thirty days from the date of communication of this order, the amount of penalty liable to be paid shall be twenty-five per cent of the duty and interest, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.

8. This order is passed without prejudice to any other action that may be taken against the above mentioned Noticee /Importer under the provisions of the Customs Act, 1962 and / or any other law for time being in force.

Digitally signed by
MANISH CHANDRA
Date: 01-04-2026
18:15:20

(Manish Chandra)
Pr. Commissioner of Customs (Import)
Air Cargo Complex, Mumbai

To,
M/s. Mobitech Creations Private Limited (IEC No. 0516965689)
Blue Dart Express Ltd.,
No. 114/15/116, Bashettyhalli Village,
Kasaba Hobli, Doddaballapura Taluk,
Bangalore, Karnataka – 561203.

Copy:

1. The Pr. Chief Commissioner of Customs, Mumbai Customs Zone - III.
2. The Commissioner of Customs, Audit Commissionerate, New Custom House, Mumbai Zone - I.
3. The Asst./Dy Commissioner of Customs, Gr.5-A, ACC, Mumbai-III.
4. The Asst./Dy. Commissioner of Customs, TRC, ACC, Mumbai-III.
5. Master File