

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH

CUSTOMS APPEAL NO. 52239 OF 2019

(Arising out of Order-in-Appeal No. CC(A)CUS/D-II/PPG-161/2019-20 dated 23.05.2019 passed by Commissioner of Customs (Appeal), New Delhi)

Minda D-Ten Private Limited

...Appellant

Plot No. 383, Industrial Growth Center,
Phase-II, Sectore-3, Bawal,
District- Rewari, Haryana - 123501

VERSUS

Commissioner of Customs (Import),

...Respondent

New Customs House,
New Delhi

APPEARANCE:

Shri B.L. Narasimhan, Shri Rachit Jain, Ms. Jyoti Pal and Ms. Ashwini Bhatiya,
Advocates for the Appellant
Shri Rakesh Kumar, Authorized Representative of the Department

CORAM:

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

**Date of Hearing: June 30, 2021
Date of Decision: August 03, 2021**

FINAL ORDER No. 51693/2021

JUSTICE DILIP GUPTA:

Minda D-Ten India Private Limited¹ has filed this appeal to assail the order dated 23.05.2019 passed by the Commissioner of Customs (Appeals)² by which the assessment order dated 23.02.2017 passed by the Assistant Commissioner classifying the Bluetooth module imported by the appellant under Customs Tariff Heading³ 8529 90 90, as claimed by the Department and not under CTH 8517 62 90 as claimed by the appellant, has been upheld and the appeal has been dismissed.

1. the appellant
2. the Commissioner (Appeals)
3. CTH

2. The appellant is engaged in the manufacture and supply of car infotainment systems (information and entertainment systems). This system can be divided into two categories, namely (i) car infotainment systems embedded with Bluetooth module and (ii) car infotainment systems not embedded with Bluetooth module. The appellant, inter alia, imports Bluetooth module for use in the manufacture of car infotainment systems embedded with Bluetooth module.

3. The issue involved in this appeal concerns import of a Bluetooth module through Bill of Entry dated 17.01.2017 bearing description 'Bluetooth EDR module [Model No. NF2301-16M] (135312-09400880A0Z)(WPC LIC NO. 593 dated 15/05/15) (Parts of car audio)' from Fujitsu Ten Singapore Pvt. Ltd.

4. According, to the appellant the said Bluetooth module is a multi-chip system for multimedia Bluetooth applications comprising radio (Bluetooth Processor), baseband, flash memory, DSPs, which work together to achieve a fully compliant Bluetooth system. In case products like laptop, mobile phone, infotainment systems are required to be connected to each other through Bluetooth technology, a Bluetooth module has to be present in it.

5. The functioning of Bluetooth module has also been described. It has been stated that for instance in a case whether two devices are mobile phone and car infotainment systems, a user will have to switch on the Bluetooth of the mobile phone which is to be connected with the car infotainment systems. Once the Bluetooth is ON in the mobile phone, a user will have to switch ON the Bluetooth of the car infotainment system also. Since Bluetooth works on a specific frequency, both the products can be interconnected to each other through radio waves. Thereafter, the Bluetooth module of the mobile

phone and Bluetooth module of the car infotainment system communicate with each other. Without the presence of the Bluetooth module in electronic devices like mobile phone, laptop, printer or car infotainment system, the said devices can still perform their respective functions but they will not be able to connect wirelessly through Bluetooth technology.

6. According to the appellant, the Bluetooth module installed in the car infotainment system receives data from the connected mobile phone; converts the analog data into digital data; and transmits the data either back to the mobile phone (for two way communication) or to the micro-controller (brain) of car infotainment system for further processing. In this manner, the Bluetooth module performs the function of reception, conversion and transmission of data.

7. The appellant has further stated that the Bluetooth module is of general use and can be used in the following applications:

S. No.	Applications
1.	Bluetooth-enabled automotive wireless gateways
2.	Hands free car kits for embedded car audio system
3.	Bluetooth audio source gateways for PND systems
4.	High quality stereo Bluetooth headsets
5.	High quality mono Bluetooth headsets
6.	Bluetooth speakers
7.	Bluetooth VoIP handsets
8.	Multimedia USB dongles
9.	Bluetooth multimedia photo frame
10.	Bluetooth portable media player

8. The appellant sought classification of the Bluetooth module under CTH 8517 62 90 of the First Schedule to the Customs Tariff Act, 1975⁴ and claimed the benefit of a Notification dated 01.03.2005, which during the relevant period of import, granted exemption from payment of Basic Customs Duty on all goods (with few exceptions) classifiable under CTH 8517. However, the Department disputed the

4. the Tariff Act

afore-mentioned classification by the appellant under CTH 8517 and sought to classify the impugned goods under CTH 8529 90 90.

9. The Assistant Commissioner, after noticing the basic function of Bluetooth module and the usage of Bluetooth, concluded that Bluetooth module cannot be termed as a "part". The Assistant Commissioner also found that Bluetooth module can be termed as an apparatus/machine. Ultimately, the Assistant Commissioner observed that since Bluetooth module is principally used in car infotainment system, it will merit classification under CTH 8529 90 90. The relevant portion of the order dated 23.02.2017 of the Assistant Commissioner is reproduced below:

"The issue to be decided in the classification of "Bluetooth Module" which the said Importer has claimed under CTH 85176290. **The basic question to be decided is the independent status of Bluetooth Module, if it is a part, an apparatus, a machine or an accessory.**

The basic function of Bluetooth is to enable exchange of data between two Bluetooth enabled device within a wired or wireless network. It's application can be used for the following devices (a) Printer (b) Computers (c) Hard Drive (d) Keyboard/Mouse (e) Speaker (f) Compact Disc (g) Digital Camera (h) Global Positioning System (i) Clock Radio (j) Video Monitors/Televisions (k) Video game Machines.

As Bluetooth is used in so many devices as enumerated above and all these devices can work independently without having Bluetooth Chip in these devices, so it cannot be termed as part and has been rightly pointed out by the Importer in the written submission. They had also referred to the judgment of the Hon'ble Supreme Court in the case of Commissioner of Central Excise Delhi Versus Insulation Electrical Private Limited 2008 (224) ELT 512 (SC), wherein it has been averred that "A part is an essential component of the whole cannot function". Admittedly, all Bluetooth compliant devices can function without having Bluetooth Module. In the same judgment accessory has been defined as "Accessory is supplementary or subordinate in nature and need not be essential for actual functioning of the product. **Here the Bluetooth can be correctly termed as an accessory as it facilitates exchange of data between two devices upto a defined limit of around 10 mtrs.**

As delineated above, to be termed as a machine, it should independently perform a given function when attached to electric current, a Bluetooth will provide transfer of data or voice etc., it will function only after attached to the desired device to perform an activity, as desired. Hence can be termed as a machine. Thus Bluetooth Module has inbuilt devices to term it as an apparatus/machine but classifying the same under CTH 85176290 does not appear in order.

The said party's submission that Bluetooth Module will attract classification under 85176290 in view of the chapter note 2 (b) to annexed to section XVI of the customs tariff, Wherein it states that "other parts if suitable for use "other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading **(including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate.** However, parts which are equally suitable for use principally with the goods of heading 8517 and 8525 to 8528 are to be classified in heading 8517", are to be classified in heading 8517. As Bluetooth Module does not come under the gambit of parts and duly acknowledged by the importer and they have supported this argument by citing the judgment of Commissioner of Central Excise Delhi Versus Insulation Electrical Private Limited, 2008 (224) ELT 512 (SC).

In view of the foregoing discussions, it is apparent that Bluetooth Module cannot be termed as part of car Infotainment systems. It can be termed as an apparatus or machine. As the apparatus/machine do not specifically fall under any chapter heading, it will attract can be safely classification under CTH 8543, which states that "Electric Machine and apparatus having individual functions, not specified or included elsewhere in the chapter" and CTH 85437099 is more akin to its classification. Further, as per note 2(b) of chapter note under section XVI, wherein it states that "other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machine of the same heading **(including a machine of heading 8479 or 8543) are to be classified with the machine of that kind. Since Bluetooth Module is principally used in car infotainment system, as declared by the Importer, it will merit classification under CTH 85299090."**

(emphasis supplied)

10. The Commissioner (Appeals), as can be seen from the order itself, merely reproduced parts of the order passed by the Assistant Commissioner and dismissed the appeal after upholding the assessment order. The relevant portions of the order passed by the Commissioner (Appeals) are reproduced below:

5.1 The basic function of Bluetooth is to enable exchange of data between two Bluetooth enabled devices within a wired or wireless network. It's application can be used for the following devices (a) Printer (b) Computers (c) Hard Drive (d) Keyboard/Mouse (e) Speaker (f) Compact Disc (g) Digital Camera (h) Global Positioning System (i) Clock Radio (j) Video Monitors/Televisions (k) Video game Machines. **As Bluetooth in used in so many devices as enumerated above and all these devices can work independently without having Bluetooth Chip in these devices, so it cannot be termed as part.**

5.2 In the case of Commissioner of Central Excise Delhi Vs. Insulation Electrical pvt. Ltd. 2008(224) ELT 512(SC) it is clarified that "A part is an essential component of the whole without which the whole cannot function. Admittedly, all

Bluetooth compliant devices can function without having Bluetooth Module. In the same judgment accessory has been defined as "Accessory is supplementary or subordinate in nature and need not be essential for actual functioning of the product. **Here the Bluetooth can be correctly termed as an accessory as it facilitates exchange of data between two devices upto a defined limit of around 10 mtrs.**

5.3 **I find that Bluetooth Module will attract classification under 85176290 in view of the chapter note 2 (b) to annexed to section XVI of the customs tariff,** Wherein it states that "other parts if suitable for use "other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of heading 8517 and 8525 to 8528 are to be classified in heading 8517", are to be classified in heading 8517. **As Bluetooth Module does not come under the ambit of parts and duly acknowledged by the importer** and they have supported this argument by citing the judgment of Commissioner of Central Excise Delhi Versus Insulation Electrical Private Limited, 2008 (224) ELT 512 (SC). Similarly, the circular no. 36/2013-cus dated 05.09.2013 quoted by the Importer in support of their defense, do not squarely cover Bluetooth Module. That circular settles the classification of Bluetooth wireless.

5.4 **In view of the foregoing discussions, it is apparent that Bluetooth Module cannot be termed as part of car Infotainment systems. It can be termed as an apparatus or machine. As the apparatus/machine do not specifically fall under any chapter heading, it will attract its classification under CTH 8543, which states that "Electric Machine and apparatus having individual functions, not specified or included elsewhere in the chapter" and CTH 85437099 is more akin to its classification.** Further, as per note 2(b) of chapter note under section XVI, wherein it states that "other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machine of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machine of that kind. **Since Bluetooth Module is principally used in car infotainment system, as declared by the Importer, it will merit classification under CTH 85299090."**

(emphasis supplied)

11. Shri B.L. Narasimhan, learned counsel appearing for the appellant made the following submissions:

- (i) The impugned goods are appropriately classifiable under CTH 8517 and not under CTH 8529. For any product to be classifiable under the sub-heading 8517 62, it should receive, convert, and transmit voice, images and other

data. The impugned goods receive, transmit and convert data, voice, etc. through radio frequency signals to enable connectivity between the mobile phone of the user and car infotainment system. Accordingly, the impugned goods squarely fall under sub-heading 8517 62 and consequently the appellant has rightly classified the impugned goods under CTH 8517 62 90;

- (ii)** The Bluetooth module cannot be called as 'part' of car infotainment system for the reason that the car infotainment system can perform its function even without the Bluetooth module and even the Assistant Commissioner and the Commissioner (Appeals) have given a finding that the Bluetooth module is not a 'part'. The function of the Bluetooth module is to provide wireless connectivity to the car infotainment systems. Once the Bluetooth module is not a 'part' of car infotainment systems, it cannot be classified under CTH 8529 because the scope of entry is to cover only 'parts' suitable for use solely or principally with Heading 8525 to 8528 and not to cover accessories;
- (iii)** It can be seen from the findings recorded by the Commissioner (Appeals) that Bluetooth module can be used in printers, computers, speaker etc. and all these devices can work independently without having Bluetooth chip in these devices. Therefore, Bluetooth module cannot be termed as 'part' of car infotainment systems. Despite this finding, the Commissioner (Appeals), in the last line of the impugned order just before the operative portion of

the impugned order, observed that since Bluetooth module is principally used in car infotainment systems, as declared by the importer, it will merit classification under CTH 8529. The classification upheld under CTH 8529 is, therefore, bad in law;

- (iv) Even if it is assumed for the sake of argument that the Bluetooth module is 'part' of car infotainment systems, still it cannot be classified as 'part' of car infotainment systems under CTH 8529 because of application of Section Note 2(a);
- (v) There is no discussion of Section Note 2(a) by the Commissioner (Appeal). Clauses under Section Note 2 are to be sequentially applied and one cannot, therefore, directly jump to Section Note 2(b) without exhausting the possibility of Section Note 2(a). In this connection, reliance has been placed on the decision of the Supreme Court in **Collector of Central Excise vs. Delton Cables Ltd.**⁵; and
- (vi) An order has to be sustained on the basis of the findings given thereunder and not on what could be the intention of the person passing the order. In this connection, reliance has been placed on the judgment of the Supreme Court in **Mohindhr Singh Gill and another vs. Chief Election Commissioner, New Delhi and Others**⁶.

5. 2005 (181) E.L.T. 373 (S.C.)

6. (1978) 1 SCC 405

12. Shri Rakesh Kumar, learned Authorized Representative of the Department, supported the impugned order and made the following submissions:

- (i) Where the subject goods are principally (primarily/mainly/chiefly) used with the apparatus/machines of Headings 8525 to 8528, the same shall be classified under Heading 8529. The subject goods may not be an integral part, but can be a part principally used for the apparatus of Heading 8525 to 8528 to enhance its outcome;
- (ii) Chapter Heading 8517 essentially talks about telephone/telecommunication but the appellant had declared the goods as 'part' of Car infotainment System;
- (iii) The Tariff Heading of goods is ascertained on the basis of the description of subject goods as declared and not otherwise. The importer declared the goods as "Bluetooth EDR module (Module No. NF 2301-16M) part of car audio", which means that the goods are customized for car audio system only. Hence, the goods were correctly classified under CTH 8529 90 90. In this connection reliance has been placed on the judgment of the Supreme Court in **Westinghouse Saxby Farmers Ltd. vs. Commr. of Central Excise, Calcutta**⁷;
- (iv) The submission of the appellant that the order of Commissioner (Appeals) under challenge has mentioned the subject goods as an independent apparatus and not as 'part' is incorrect as the assessment order and the order of

7. MANU/SC/0162/2021

Commissioner (Appeals) categorically classify the subject goods under Chapter Heading 8529;

- (v) The submission of the appellant that it is a general 'part' which can be used anywhere is irrelevant as the subject goods shall only be used in the apparatus (Car Audio) as declared by importer;
- (vi) The submission about Chapter Note 2(a) is out of context as the declaration of the importer on the Bill of Entry is 'parts' of car infotainment systems;
- (vii) Since Bluetooth is directly responsible for enhancing the features of the system, without which the system cannot function to give the desired output, it has been correctly classified as a 'part' of the system falling under CTH 8529 90 90; and
- (viii) The benefit of Exemption Notification should not be extended to circumvent duty on goods and should never be elastically stretched to cover such goods which may not come under its periphery. Reliance has been placed on the judgment of the Supreme Court in **Commissioner of Customs (Import) Mumbai vs. Dillep Kumar and Company & Ors**⁸.

13. The submissions advanced by the learned counsel for the appellant and the learned Authorized Representative of the Department have been considered.

14. The appellant claims that the Bluetooth module imported by the appellant should be classified under CTH 8517 62 90 of the First Schedule to the Tariff Act as it receives, transmits and converts data,

8. 2018 (361) E.L.T. 577 (S.C.)

voice, etc., through radio frequency signals to enable connectivity between the mobile phone and car infotainment systems. However, the Department has sought to classify it under CTH 8529 90 90 as it would be a 'part' principally used for the apparatus of Headings 8525 to 8528 to enhance its outcome.

15. To appreciate the contentions advanced on behalf of the parties, it would be appropriate to reproduce the relevant portions of Chapter 85 and they are as follows:

Chapter 85

Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles

8517	Telephone sets, including telephones for cellular networks or for other wireless networks; 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), 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	u	10%	-
*****	*****			
8529	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528			
*****	*****			
8529 90 90	--- Other	u	10%	-

16. The Bluetooth module receives radio frequency analog signals from other devices (like mobile phone), converts the radio frequency

analog signals into digital signals and thereafter transmits the signals back to the Bluetooth module of mobile phone (in radio frequency signal form) or to the micro controller (brain) of the car infotainment system (in electric signal form). For any product to be classifiable under the sub-heading 8517 62, it should receive, convert, and transmit voice, images and other data. The Bluetooth module receives, transmits and converts data, voice, etc. through radio frequency signals to enable connectivity between the user's mobile phone and car infotainment system. The Bluetooth module, therefore, receives data like contact names and numbers saved in the user's phone, voice data in the form of radio frequency signals during an active call (i.e. the signals first received by phone and then from phone to the car infotainment system through the Bluetooth module). The Bluetooth module also transmits voice data in the form of radio frequency signals during an active call (i.e. the user's voice is first received by the microphones installed in the car, converted into electric signals and sent to the Bluetooth module to be further transmitted to phone for regular telecommunication transmission thereafter). Thus, the Bluetooth module is engaged in reception, transmission and conversion of voice and other form of data. Accordingly, it would fall under sub-heading 8517 62 and consequently deserves to be classified it under CTH 8517 62 90.

17. Even after holding that Bluetooth module is not a 'part' as it can be used in many devices like printers, computers, hard drive, compact disc, digital camera etc., and all these devices can work independently without Bluetooth module, the Commissioner (Appeals) still accepted the contention of the Department that it would be classifiable under

CTH 8529 90 90 on the basis of Section Note 2(b) for the reason that Bluetooth module is principally used with car infotainment system.

18. There is no challenge by the Department to the finding recorded by the Commissioner (Appeals) that Bluetooth module is not a 'part' of car infotainment systems as the Department has not filed any cross-appeal. It is, therefore, not possible to accept the contention of the learned Authorized Representative of the Department that despite a specific finding having been recorded by the Commissioner (Appeals) that the Bluetooth module is not a 'part', of car infotainment systems, it should still be considered as a 'part' because of the description given by the appellant in the Bill of Entry.

19. Chapter Note 2 deals with classification of parts of machines and it is reproduced below:

SECTION XVI

"Notes:

1. **xxxxxxx**
2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:
 - (a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;
 - (b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;
 - (c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548."

20. Thus, having held that Bluetooth module is not a part of machine, there was really no occasion for the Commissioner (Appeals) to examine Section Note 2.

21. Even otherwise, Section Note 2(b) of Section XVI covers parts which are not covered under Section Note 2(a) and provides that such parts, if suitable for use solely or principally with a particular kind of machine, are to be classified with the machine of that kind or in Heading 8529, 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538. The order passed by the Commissioner (Appeals) completely ignores Section Note 2(a). It cannot be doubted that clauses under Section Note 2 are to be sequentially applied and, therefore, Section Note 2(a) has to be first considered. Since Section Note 2(a) is applicable, the Commissioner (Appeals) could not have applied Section Note 2(b).

22. The submission of learned Authorized Representative of the Department that since the Commissioner (Appeals) has classified Bluetooth module under Heading 8529 it should be presumed that he has considered it to be a 'part' cannot also be accepted in view of the specific finding recorded by the Commissioner (Appeals) that Bluetooth module is not a 'part'. An order has to be sustained on the basis of the findings given thereunder and not on what could be the intention of the person passing the order in view of the judgment of the Supreme Court in **Mohindhr Singh Gill**.

23. Once Bluetooth module is classified under CTH 8517 62 90, it would not be necessary to examine the contention advanced by the learned counsel for the appellant that even if Bluetooth module is considered to be a 'part' of car infotainment systems, it would still merit classification under CTH 8517 62 90.

24. Learned Authorized Representative of the Department has placed reliance upon the judgment of the Supreme Court in **Westinghouse**. This judgment is regarding classification of 'parts' whereas, as noticed above, the Bluetooth module cannot be considered as a 'part'. Even otherwise, the dispute in **Westinghouse** was regarding two Chapters, namely Chapter 85 and 86. In the present appeal the dispute is between two Headings of the same Chapter and not between two Chapters. The judgment is also in connection with Section Note 2 to Section XVII, which covers Chapter 86. Section Note 2 to Section XVI and Section Note 2 to Section XVII are different.

25. Before concluding, it is necessary to take note of the order passed by the Commissioner (Appeals). It can clearly be seen from his order dated 23.05.2019 that he has at many places merely reproduced the order passed by the Assistant Commissioner, without recording his independent findings and to highlight this position, the two orders can be compared:

	Order of Assistant Commissioner	Order of Commissioner (Appeals)
1.	The basic function of Bluetooth is to enable exchange of data between two Bluetooth enabled device within a wired or wireless network. It's application can be used for the following devices (a) Printer (b) Computers (c) Hard Drive (d) Keyboard/Mouse (e) Speaker (f) Compact Disc (g) Digital Camera (h) Global Positioning System (i) Clock Radio (j) Video Monitors/Televisions (k) Video game Machines. As Bluetooth in used in so many devices as enumerated above and all these devices can work independently without having Bluetooth Chip in these devices, so it cannot be termed as part	The basic function of Bluetooth is to enable exchange of data between two Bluetooth enabled devices within a wired or wireless network. It's application can be used for the following devices (a) Printer (b) Computers (c) Hard Drive (d) Keyboard/Mouse (e) Speaker (f) Compact Disc (g) Digital Camera (h) Global Positioning System (i) Clock Radio (j) Video Monitors/Televisions (k) Video game Machines. As Bluetooth in used in so many devices as enumerated above and all these devices can work independently without having Bluetooth Chip in these devices, so it cannot be termed as part.

<p>2.</p>	<p>Admittedly, all Bluetooth compliant devices can function without having Bluetooth Module. In the same judgment accessory has been defined as "Accessory is supplementary or subordinate in nature and need not be essential for actual functioning of the product. Here the Bluetooth can be correctly termed as an accessory as it facilitates exchange of data between two devices upto a defined limit of around 10 mtrs.</p>	<p>Admittedly, all Bluetooth compliant devices can function without having Bluetooth Module. In the same judgment accessory has been defined as "Accessory is supplementary or subordinate in nature and need not be essential for actual functioning of the product. Here the Bluetooth can be correctly termed as an accessory as it facilitates exchange of data between two devices upto a defined limit of around 10 mtrs.</p>
<p>3.</p>	<p>The said party's submission that Bluetooth Module will attract classification under 85176290 in view of the chapter note 2 (b) to annexed to section XVI of the customs tariff, Wherein it states that "other parts if suitable for use "other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of heading 8517 and 8525 to 8528 are to be classified in heading 8517", are to be classified in heading 8517. As Bluetooth Module does not come under the gambit of parts and duly acknowledged by the importer and they have supported this argument by citing the judgment of Commissioner of Central Excise Delhi Versus Insulation Electrical Private Limited, 2008 (224) ELT 512 (SC).</p>	<p>I find that Bluetooth Module will attract classification under 85176290 in view of the chapter note 2 (b) to annexed to section XVI of the customs tariff, Wherein it states that "other parts if suitable for use "other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of heading 8517 and 8525 to 8528 are to be classified in heading 8517", are to be classified in heading 8517. As Bluetooth Module does not come under the ambit of parts and duly acknowledged by the importer and they have supported this argument by citing the judgment of Commissioner of Central Excise Delhi Versus Insulation Electrical Private Limited, 2008 (224) ELT 512 (SC).</p>
<p>4.</p>	<p>In view of the foregoing discussions, it is apparent that Bluetooth Module cannot be termed as part of car Infotainment systems. It can be termed as an apparatus or machine. As the apparatus/machine do not specifically fall under any chapter heading, it will attract can be safely classification under CTH 8543, which states that "Electric Machine and apparatus having individual functions, not specified or included elsewhere in the chapter" and CTH 85437099 is more akin to its classification. Further, as per note 2(b) of chapter note under section XVI, wherein it states that "other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machine of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machine of that kind. Since Bluetooth Module is principally used in car infotainment system, as declared by the Importer, it will merit classification under CTH 85299090."</p>	<p>In view of the foregoing discussions, it is apparent that Bluetooth Module cannot be termed as part of car Infotainment systems. It can be termed as an apparatus or machine. As the apparatus/machine do not specifically fall under any chapter heading, it will attract its classification under CTH 8543, which states that "Electric Machine and apparatus having individual functions, not specified or included elsewhere in the chapter" and CTH 85437099 is more akin to its classification. Further, as per note 2(b) of chapter note under section XVI, wherein it states that "other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machine of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machine of that kind. Since Bluetooth Module is principally used in car infotainment system, as declared by the Importer, it will merit classification under CTH 85299090.</p>

26. As an appellate authority, the Commissioner (Appeals) should have considered the factual and legal aspects and then arrived at a decision but it clearly transpires that the Commissioner (Appeals) simply reproduced the findings of the Assistant Commissioner.

27. The observations made by the Commissioner (Appeals) at serial no. 3 in the aforesaid chart are also disturbing. While the Assistant Commissioner noted the submission advanced by the appellant that Bluetooth module will attract classification under 8517 62 90, the Commissioner (Appeals) recorded a finding that the Bluetooth module will attract classification under 8517 62 90, little realizing that this was infact the classification sought by the appellant. Even otherwise, this portion of the order passed by the Assistant Commissioner has many mistakes, but the Commissioner (Appeals) has reproduced the mistakes also.

28. In view of the aforesaid discussion, Bluetooth module deserves classification under CTH 8517 62 90 as contended by the appellant and not under CTH 8529 90 90 as contended by the Department.

29. The order dated 23.05.2019 passed by the Commissioner (Appeals), therefore, cannot be sustained and is set aside. The appeal is, accordingly, allowed.

(Order pronounced on 03.08.2021)

**(JUSTICE DILIP GUPTA)
PRESIDENT**

**(P V SUBBA RAO)
MEMBER (TECHNICAL)**

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH

CUSTOMS APPEAL NO. 52239 OF 2019

(Arising out of Order-in-Appeal No. CC(A)CUS/D-II/PPG-161/2019-20 dated 23.05.2019 passed by Commissioner of Customs (Appeal), New Delhi)

Minda D-Ten Private Limited

Plot No. 383, Industrial Growth Center,
Phase-II, Sectore-3, Bawal,
District- Rewari, Haryana - 123501

...Appellant

VERSUS

Commissioner of Customs (Import),

New Customs House,
New Delhi

...Respondent

APPEARANCE:

Shri B.L. Narasimhan, Shri Rachit Jain, Ms. Jyoti Pal and Ms. Ashwini Bhatiya,
Advocates for the Appellant

Shri Rakesh Kumar, Authorized Representative of the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

Date of Decision: August 03, 2021

ORDER

Order pronounced.

**(JUSTICE DILIP GUPTA)
PRESIDENT**

**(P. ANJANI KUMAR)
MEMBER (TECHNICAL)**

Shreya