
 सत्यमेव जयते	OFFICE OF THE PR. COMMISSIONER OF CUSTOMS, ICD PPG & OTHER ICDs PATPARGANJ, NEW DELHI-110096 Phone No. 011-21211110 Email:-commr.icdppg-cusdel@gov.in	
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F. No. VIII/6/ICD/PPG/Adj./Radio Design/38/2025-26

Dated: .04.2026

DIN No. - 20260474NB00008629E1

Order-in-Original No:- 01 /PC/RV/Radio Design/ICD-PPG/2026-27

Passed by Shri Rajeev Yadav, Principal Commissioner of Customs, ICD PPG & Other ICDs.

Subject: Adjudication of Show Cause Notice No. 12/COMMR/2025-26 dated 08.08.2025 issued vide C.No. VIII-B(40)/ICD Patli/Radio Design/IR/38/2025-26 to M/s Radio Design India Pvt. Ltd. (IEC - 0509026125, GSTIN - 06AAECR2580D1ZM) (hereinafter referred to as "importer" or "noticee") having registered address at Plot No. 168, Sector 4, IMT Manesar, Gurugram, Haryana - 122052

BRIEF FACTS OF THE CASE:

This case was booked by the Officers of Delhi Customs Preventive Commissionerate and is based on the investigation conducted by them, Investigation Report was forwarded to this office for necessary action. M/s Radio Design India Pvt. Ltd. (IEC - 0509026125, GSTIN - 06AAECR2580D1ZM) (hereinafter referred to as "importer" or "noticee") having registered address at Plot No. 168, Sector 4, IMT Manesar, Gurugram, Haryana - 122052, has filed Bill of Entry No. 9526176 dated 04.01.2024 (**RUD-I**) at ICD Patli, Gurugram, Haryana for import of goods having description RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus) under Customs Tariff Head CTH 85177990 and paid NIL BCD by availing benefit of Notification No. 57/2017 dated 30.06.2017 , Sr. No. 5.

2. The declaration made in Bill of Entry No. 9526176 dated 04.01.2024 read as below:

Table-A

SN o.	Item Description	CTH	QTY (in PCS)	Assessable Value (INR)	BCD	SW S	IGST (@ 18%) (INR)	Total Duty (INR)
1	RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus)	85177990	1476	18139724	NIL (availed benefit of Notification No. 57/2017 dated 30.06.2017 , Sr. No. 5)	NIL	3265150	3265150

2.1 Whereas, it was observed by the department that the item imported appears to be part of telecom switching apparatus and the part should be classified under CTH 85176290. Description of same is as below:

8517 62 - Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:

.....
85176290 --- Other

2.1.1 Also, screenshot of CTH 85176290 is attached below for reference:

8517 TELEPHONE SETS, *SMARTPHONES AND OTHER 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

*wef 01.01.2022

SECTION-XVI		1018		CHAPTER-85	
(1)	(2)	(3)	(4)	(5)	
	THAN TRANSMISSION OR RECEPTION APPARATUS OF HEADING 8443, 8525, 8527 OR 8528				
	- Telephone sets, *including smartphones and other telephones for cellular networks or for other wireless networks:				
8517 11	-- Line telephone sets with cordless handsets:				
8517 11 10	--- Push button type	u	Free	-	
8517 11 90	--- Other	u	Free	-	
*8517 13 00	-- Smartphones	u	20%	-	
*8517 14 00	-- Other telephones for cellular networks or for other wireless networks:	u	20%	-	
	--- Telephones for cellular networks:				
8517 18	-- Other:				
8517 18 10	--- Push button type	u	Free	-	
8517 18 90	--- Other	u	Free	-	
	- 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 61 00	-- Base stations	u	**20%	-	
8517 62	-- Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:				
8517 62 10	--- PLCC equipment	u	Free	-	
8517 62 20	--- Voice frequency telegraphy	u	Free	-	
*8517 62 30	--- Modems (modulators-demodulators) for xDSL based Wireline Telephony	u	Free	-	
	#omitted				
8517 62 50	--- Digital loop carrier system(DLC)	u	Free	-	
8517 62 60	--- Synchronous digital hierarchy system(SDH)	u	Free	-	
8517 62 70	--- Multiplexers, statistical multiplexers for PDH based Wireline Telephony	u	Free	-	
8517 62 90	--- Other	u	20%	-	
8517 69	-- Other:				
8517 69 10	--- ISDN System	u	Free	-	
8517 69 20	--- ISDN terminal adaptor	u	Free	-	
8517 69 40	--- X 25 Pads	u	Free	-	
	#omitted				
8517 69 60	--- #Set top boxes for gaining access to internet for Wireline Telephony	u	Free	-	
8517 69 70	--- Attachments for telephones	u	Free	-	
8517 69 90	--- Other	u	*20%	-	
	- *Parts				
*8517 71 00	-- Aerials and aerial reflectors of all kinds:	u	20%	-	
*wef 11.10.22	*wef 15.10.23				



सीमा शुल्क प्रधान आयुक्त का कार्यालय
OFFICE OF THE PR. COMMISSIONER OF CUSTOMS
अंतर्देशीय कंटेनर डिपो पटपड़गंज एवं अन्य आई.सी.डी. दिल्ली - 110096
INLAND CONTAINER DEPOT PATPARGANJ & OTHER ICDs, DELHI-110096

F. No. VIII/6/ICD/PPG/Adj./Radio Design/38/2025-26 Dated: 9.04.2026

DIN No. - 20260474NB0000 8629E1

Order-in-Original No.:- 01 /PC/RV/Radio Design/ICD-PPG/2026-27

श्री राजीव यादव, प्रधान आयुक्त, सीमा शुल्क, अंतर्देशीय कंटेनर डिपो (आई सी डी) पटपड़गंज, दिल्ली 110096 द्वारा पारित मूल आदेश

- 1 यह प्रति उस व्यक्ति के व्यक्तिगत उपयोग के लिए निशुल्क दी जाती है, जिसके लिए जारी की जाती है।
- 2 कोई भी व्यक्ति जो इस आदेश से व्यथित है वह इस आदेश के विरुद्ध आयुक्त, सीमा शुल्क उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण(सिसटेट)पश्चिमीखंड संख्या-13 ए आर. के. पुरम नई दिल्ली-110066 को सीमा शुल्क (अपील) नियम, 1982 की धारा 6 अथवा 7 में उल्लेखित -A.C3-A.C,4 (चार प्रति में) अपील कर सकते हैं। सीमा शुल्क अधिनियम की धारा 1962 की धारा 129 के अंतर्गत अपील इस आदेश के पावती के 90 दिवसों के अन्दर कर देना चाहिए।
- 3 इस अपील के साथ मूल आदेश जिसके विरुद्ध अपील की जा रही है, की चार प्रति सलग्न होनी चाहिए जिसकी एक प्रति स्व प्रमाणित होनी चाहिए एवं उस पर दो रुपये का अदालती फीस का स्टाम्प लगा होना चाहिए।
- 4 इस आदेश के विरुद्ध अपील करने के पूर्व इस आदेश में मांगा गया शुल्क एवं लगाई गई शास्ति (Penalty) का 7.5% जमा कराएगा और इस अदायगी का प्रमाण संलग्न करेगा। ऐसा न करने पर सीमा शुल्क अधिनियम 1962 की धारा 129(e) के अंतर्गत अपील प्रावधानों के उल्लंघन हेतु अपील अस्वीकार कर दी जायेगी।

Regd. AD./Speed Post.

M/s Radio Design India Pvt. Ltd. (IEC - 0509026125, GSTIN - 06AAECCR2580D1ZM)
Plot No. 168, Sector 4, IMT Manesar,
Gurugram, Haryana - 122052

कर का भुगतान, देश का निर्माण

2.2 Whereas, the BCD on CTH 85176290 applicable is 20% (BCD) whereas the importer has paid Zero BCD after availing benefit of notification No. 57/2017 dated 30.06.2017. Therefore, it appears that the importer has wrongly availed the benefit of said Notification by resorting to misclassification of goods. Accordingly, alert/hold was placed on Bill of Entry No. 9526176 dated 04.01.2024 on 04.01.2024.

3. Examination

3.1 Whereas, alert/hold was placed on Bill of Entry No. 9526176 dated 04.01.2024 on 04.01.2024, however, an email dated 11.01.2024 was received from ICD Patli that the subject consignment pertains to Ex-bond Bill of Entry for which OOC has been given on 04.01.2024. Accordingly, further investigation was carried out by issuing Summons to the importer.

4. Summons and Statement:

4.1 Whereas, summons dated 17.01.2024 was issued to the importer to produce/provide brief write up of product 'Filter Body Assembly' (Parts of Telecom Networking Switching Apparatus) along with use and other details. In response to it, the importer vide letter dated 24.01.2024 submitted brief write-up and informed that imported goods are supplied by them to M/s Tejas Networks Ltd. and attached ledger for the period 01.04.2023 to 31.03.2024 with sample copy of invoice. Importer also submitted letter dated 30.01.2024 in response to Summons dated 17.01.2024.

4.2 Whereas, further, in response to Summons dated 17.01.2024, Sh. Gaurav Chauhan, Director M/s Radio Design India Pvt. Ltd. appeared on 31.01.2024 to tender his voluntary statement dated 31.01.2024. Accordingly, statement dated 31.01.2024 (**RUD-II**) was recorded under Section 108 of the Customs Act, 1962. Relevant portion of the above referred statement is reproduced below for ready reference:

“Q.1 Please state about yourself.

Ans. I, Gaurav Chauhan, DOB 30.08.1978, S/o Sh. Shyam Singh Chauhan, am Director in M/s Radio Design India Pvt. Ltd (IEC: 0509026125) and I have appeared before the Superintendent of Customs to tender the statement with regard to goods imported vide Bill of Entry No 9526176 dated 04.01.2024. I have done B.E in Electronics and Telecommunication and I am well versed in both English and Hindi languages and I can read, write and understand both English and Hindi. I am residing at WZ-217, Basai Dara Pur, Delhi-110015. I am submitting copy of my Driving License No. DL-1020150139412 in token of my identification proof.

Q2. Please state about your role in M/s Radio Design Pvt. Ltd (IEC: 0509026125).

Ans. I am one of Director in M/s Radio Design Pvt. Ltd, the other directors in firm M/s Radio Design Pvt. Ltd are Mr. Eric Hawthorn and Mr. Sandy Peterson who are from United Kingdom. All work in India related to firm is managed by me.

Q3. Please state about the firm M/s Radio Design India Pvt. Ltd (IEC: 0509026125).

Ans. M/s Radio Design India Pvt. Ltd is a 100 % sister concern of M/s Radio Design Ltd UK. I state that M/s Radio Design India Pvt. Ltd is a manufacturer of RF Filter Products for the telecom market. We are having manufacturing unit at Manesar, Gurgaon. The firm M/s Radio Design India Pvt. Ltd (M/s RD IPL) was incorporated in 2008.

Q4. Please have a look at the item description 'RD 0935-H4-01-09 B1 4T4R Filter Body Assembly (Parts of Telecom Networking Switching Apparatus)' declared at the time of import in Bill of Entry No. 9526176 dated 04.01.2024, please explain about the product?

Ans. I state that item imported vide Bill of Entry No. 9526176 dated 04.01.2024 is a filter body assembly to be integrated with a Base Station. The product will be used in the Telecom Network. The main function of the product is to pass on desired spectrum/frequency bands for which the Base Station has been designed and reject other frequency bands. The product 'RD 0935-H4-01-09 B1 4T4R Filter Body Assembly (Parts of Telecom Networking Switching Apparatus)' that we are importing will be used in BSNL Network only. We are importing this product for our customer M/s Tejas Network Limited who is designing and manufacturing the final Base Stations for the BSNL 4G Network.

Q5. Please explain whether the Filter Body Assembly is a complete product or not. If not, then the complete product that will be designed from this part?

Ans. I state that Filter Body Assembly is not a complete product because standalone it cannot perform any function. The product is passive and it do not have any active circuitry. On this product, further four functions are performed i.e. partial assembly, alignment, inter-modulation/testing and then final testing of the product. The product 'Filter Body Assembly' has four inputs from which RF signal will enter the product and has four output ports to which the RF Circuit of the Base Station is connected when the final Base Station will be manufactured.

Q.6 Please explain the activity that will be carried out on Filter Body Assembly at your firm?

Ans. As stated earlier in answer to Q.No. 5, at our firm we carry out four functions on this product i.e. partial assembly, alignment, inter-modulation/testing and then final testing of the product. In partial assembly, we will be assembling nuts, screws, gaskets on this product. On alignment, all the channels/cavities in the product will be tuned to an appropriate signal/frequency band then in inter-modulation, we will study signals interaction in the product to ensure that the desired signals are not distorted and the final testing of the product will be done to ensure that the product performs at the designed level. The product itself does not generate any signal it only filters out undesired signals. The product will be used in a Base station after assembling with RF Circuits of the Base Stations. We sale this product after carrying out above mentioned operations to our customer (M/s Tejas

Networks Limited) and assembling of RF Circuits will be carried out at the end of the customer and we do not have any role in that.

Q7. Please explain about the inputs on which the Filter Body Assembly will be working and the output that it will generate?

Ans. I state that input to Filter Body is a mixed Radio Frequency (RF) signal which passes through the cavities of the Filter Body Assembly and during this process only the wanted RF signal will be directed to the RF Circuitry of the Base Station. The input signals that will be fed to the Filter Body Assembly are passed on to the RF Circuitry of the Base Stations for analogue to Digital conversion and vice-versa. After processing in the Base Station, the signal is directed towards the antenna and vice-versa. The Base Station also perform the activity of amplifying the signal.

Q8. Please state whether the RF signal fed to Filter Body Assembly is carrying any data or not?

Ans. I state that the RF signal fed to Filter Body Assembly is carrying unprocessed data in the form of RF energy and Filter Body Assembly will be filtering out unwanted data from the RF signal.

Q9. During import of Filter Body Assembly, in the item description you have mentioned (Parts of Telecom Networking Switching Apparatus), please elaborate?

Ans. I state that the description 'Parts of Telecom Networking Switching Apparatus' is declared to relate the Filter Body Assembly with Base Stations which performs the switching function in the telecom network.

Q10. At the time of filing Bill of Entry No. 9526176 dated 04.01.2024, you have classified item Filter Body Assembly (Parts of Telecom Networking Switching Apparatus) under CTH 85177990 and claimed exemption under Notification No. 57/2017 dated 30.06.2017, which is a entry for 'Others' under CTH 8517, however, as per Section Note 2 of Section XVI of the Customs Tariff Act, 1975 '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..... are to be classified with the machines of that kind...' as stated earlier Filter Body Assembly is a part of Base Station and Base station is specifically defined under CTH 85176100 and thus merits classification under CTH 85176100, please explain?

Ans. I state that I will consult the matter with my consultant and will provide reply in 2-3 days."

4.3 Whereas, importer also submitted its letter dated 30.01.2024 and provided agreement with their customer namely M/s Tejas Network Limited and data of goods imported under CTH 85177990. Also, vide letter dated 30.01.2024, they submitted their justification for HSN Code. Relevant portion of same is quoted below:

"Justification for HSN Code:

8517 6290

This code relate to the switching and routing products related to internet (IP) and does not mention telecom base station parts anywhere, hence we have not used this HSN Code.

8517 7990

This code cover part and assemblies of base station, specifically mentioned in the custom tariff act. Our sub product can only be used for making the base station (RRH), Apart from this standalone our sub product don't have any technical or commercial value/ advantage.

.....”

4.4 Further, Summons dated 07.02.2024 was issued to the importer to submit following documents:

1. Details of Specifications communicated by M/s Radio Design Pvt. Ltd to supplier for design of Product Filter Body Assembly?
2. Details of Specifications communicated by M/s Tejas Networks Limited for design of Filter Body Assembly?
3. Audited Balance Sheet for FY 2020-21; FY 2021-22 and FY 2022-23 along with schedules and Form 3CD and CB ?

4.5 Importer, vide letter dated 07.02.2024 & 13.02.2024 requested for extension. Accordingly, another summons dated 23.02.2024 was issued to submit the said documents.

4.6 Thereafter importer submitted letter dated 05.02.2024 vide which they gave a brief about their organization. Also, vide said letter dated 05.02.2024 they submitted technical literature and made following submission in technical literature:

- *Filter Body Assembly is a subpart of telecom (Remote Radio Head, RRH/Remote Radio Unit, RRU/ Base station) apparatus.*
- *RRH/RRU/ Base stations have become one of the most important subsystems of today's new distributed base stations. The RRH/RRU contains the base station's RF circuitry plus analogue-to-digital/ digital-to-analogue converters and up/down converters and connects to, and thus drives the base station's antenna and performs network switching function.*
- *Filter body assembly is a passive unit with no active PCB or circuits inside it, it is an aluminium casted body which is not capable of performing any standalone function, It has no technical and commercial value as a standalone part. Filter Body assembly is one of the 22 key parts of the base station, filter body assembly is used to make an RF filter for the base station. Filter body assembly after some partial assembly, alignment, intermodulation and final testing can be installed inside a base station by the base station manufacturer.*

4.7 Whereas, importer also submitted letter dated 06.03.2024 in response to Summons issued wherein they again submitted Technical Literature

about filter body assembly as Annexure-A (**RUD-III**). They also submitted Legal Opinion of independent law firm (M/s RSA Legal Solutions) and judgement in the matter of Mumbai (Air Cargo Import) vs Ms Reliance Jio Infocom Ltd. dated 06.11.2019 issued by Hon'ble CESTAT Mumbai.

4.7.1 (i) A careful perusal of the judgement in the matter of Mumbai (Air Cargo Import) vs Ms Reliance Jio Infocom Ltd. dated 06.11.2019 issued by Hon'ble CESTAT Mumbai(Final Order No. A/87015-87016/2019 dated 06.11.2019) reveals that deals with the matter of import of "Antenna" and its classification while the instant case deals with the import of "RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus)" and thus the ratio of the cited case law is not applicable in the instant proceedings. Further, the Final Order No. A/87015-87016/2019 dated 06.11.2019 has been challenged by the department before the Hon'ble Supreme Court vide CIVIL APPEAL Diary No(s). 14979/2020. As per the website of the Hon'ble Supreme Court, the matter is still pending.

(ii) Further, in the instant matter, clarification has been provided by the Director (IMP & TEP) & Nodal Officer, Telecom Engineering Centre, DoT, New Delhi (expert and nodal body in the matter) vide their letter dated 08.11.2024 read with minutes of meeting held on 04.03.2025 that the imported product is a part of radio communication RRH. Accordingly, the product may lie under Notification item (h)(i) & (ii) of 85176990 of Circular No. 08/2023.

5. **Clarification sought from DoT:**

5.1 Whereas, as the product came under the purview of Telecom Equipment therefore, Department of Telecommunication (DoT), New Delhi, the expert body in the matter, was requested to provide clarification in respect of equipment Le. RD0935-H4-01-09 B1 4T4R Filter Body Assembly. This office vide letter 07.03.2024 forwarded the technical literature provided by the importer and requested DoT to provide following clarification:

"Whether the equipment 'Filter Body Assembly' is getting covered under definition of Other apparatus for transmission or reception of voice, images or other data including apparatus for communication in a wired or wireless network?"

5.1.1 Whereas, in this context, Sh. Santosh Kumar Singh, Director (IMP & TEP), Telecommunication Engineering Centre, DoT vide e-mail dated 09.09.2024 informed that vide Email dated 09.05.24, DoT had asked M/s Radio Design India Pvt. Ltd to depute a representative to explain few technical points, however in response Shri Gaurav Chauhan, Managing Director, M/s Radio Design India Pvt. Ltd. vide email dated 09.05.2024 informed DoT that matter has been closed, and no representative of M/s Radio Design India Pvt. Ltd. was deputed to explain the technical points to DoT Officials.

5.2 Accordingly, vide letter dated 23.10.2024 Sh. Gaurav Chauhan, Managing Director, M/s Radio Design India Pvt. Ltd. was informed that the case is yet to be concluded and advised them to extend due co-operation to Director (IMP & TEP), TEC by providing the clarification/information as sought by DoT officials. Consequently vide Letter dated 08.11.2024 (**RUD-IV**) Director (IMP & TEP) & Nodal Officer, Telecom Engineering Centre, DoT, New Delhi with reference to equipment i.e. RD0935-H4-01-09 B1 4T4R Filter Body Assembly clarified as follows:

“On the above cited subject, it is clarified that the RF filter body assembly is a mechanical and electronic structure designed to house and support an RF filter (which is used to selectively allow or block specific frequencies in a radio frequency (RF) spectrum). It consists of Filter elements (e.g. resonators, capacitors, inductors) to perform the actual filtering of RF Signals, mechanical housing that supports and protects the sensitive filter components from environmental and mechanical housing stresses. Further, as per the brief write-up provided by the Customs (Preventive), the RF filter body assembly has connectors for integration it to a large RF communication system such as a base station. Hence it may be a part of a large RF Communication Systems. Further as per the product description detailed in the attached sheet, it has been mentioned that the product is a part of radio communication RRH. Accordingly, the product may lie under Notification item (h)(i) & (ii) of 85176990 of Circular No. 08/2023.”

5.3 Accordingly, Summons dated 10.12.2024 was issued to the importer to tender statement and submit import data for last 05 years. In response to it, the importer did not appear. Accordingly, another summons dated 19.12.2024 was issued to the importer for appearance on 30.12.2024.

5.4 Whereas, the importer appeared on 27.12.2024 and submitted letter dated 27.12.2024 regarding request for extension of personal hearing and to re-schedule the hearing on 10.01.2025 and also requested not to issue any further summons as they would voluntarily appear on the said date.

5.5 Whereas, the importer appeared on 10.01.2025 but did not tender any statement and again requested for extension of personal hearing and they would appear on 10.02.2025. Further, importer submitted a letter dated 10.01.2025 regarding reply in respect of Clarification (DOT-2-1/2024-IMP & TEP/TEC, dated 8th Nov 2024) wherein they have requested to issue a revised letter to DoT for clarification wherein they can again explain to them the product and technical details so that they (DoT) can submit a revised correct clarification.

5.6 Further, Summons dated 10.02.2025 was again issued to the importer for appearance on 17.02.2025 to tender statement and submit import data of last 05 years. The importer neither submitted requisite data nor appeared on the said date but again submitted a letter dated 25.02.2025 wherein they submitted technical drawings and copy of e-mail communication with the supplier and challenged clarification issued by the DoT.

5.7 Meanwhile, another email dated 16.01.2025 was received from the Assistant Director (T.S./IMP & TEP) Telecom Engineering Centre (TEC), DoT, New Delhi intimating that representation has been received from importer for review of TEC, DoT reply dated 08.11.2024.

5.8 Accordingly, on 04.03.2025 a meeting through video conferencing mode, and chaired by the Additional Commissioner of Customs (Preventive), Delhi was held with the officers of Department of Telecom (DoT) and representative of M/s Radio Design India Pvt. Ltd which included Sh. Gaurav Chauhan Managing Director, Sh. Deepak, Director F &A, & Sh. Mohit Verma, Manager.

5.8.1 Whereas, during meeting, Sh. Gaurav Chauhan presented the equipment RD0935-114-01-09 11 4T4R 'Filter Body Assembly' and demonstrated the product to all the participants and informed that it is an housing for assembly only and does not contain any electronic part such as capacitor etc. After watching the product, it was opined by the DoT Officials that it appears that the demonstrated product is RF Cavity Filter. It may not have capacitor/ inductor etc. attached but due to its design the product possesses the capability/characteristics of the RF filtering. The product also has silver lining having the property of 'electrical conduit'.

5.8.2 Furthermore, DoT officers emphasized that DoT provides responses to queries and clarifications based on the information and materials provided to them with the request. In the absence of any new material or facts, DoT upheld its clarification letter dated 08.11.2024, as it was issued after a thorough examination of the available materials and documents.

5.8.3 Whereas, Members from DOT re-iterated that their earlier clarification provided in the said letter that the imported goods are part of RRH. Based on that it was advised that it may fall under item (h) (i) & (ii) of CTH 85176990, as mentioned in Circular No. 08/2023.

5.8.4 Whereas, Shri Gaurav Chauhan also agreed with the findings of DoT that the imported goods i.e. equipment RD0935-114-01-09 11 4T4R 'Filter Body Assembly' is part of RRH (Remote Radio Head). However, he differed with the CTH 85176990 as advised by the DoT.

5.8.5 Whereas, it was clarified by the Chair and also by the DoT Officers that the opinion expressed by the DoT vide their letter dated 08.11.2024 is advisory /guiding in nature and Customs Authorities would decide the applicable CTH after considering all the relevant facts on the subject.

5.8.6 Further, Minutes of Meeting (MoM) held on 04.03.2025 (**RUD-V**) was provided to Shri Gaurav Chauhan, Managing Director, M/s Radio Design India Pvt. Ltd., however, Sh. Gaurav Chauhan received the same with the remarks "Minutes received but not agreed". Minutes of Meeting dated 04.03.2025 was also forwarded vide e-mail dated 26.03.2025 to Sh. Gaurav Chauhan on his email- id Gaurav.chauhan@radiodesign.in.

5.9 Further, Summons dated 04.04.2025 was once again issued to Sh. Gaurav Chauhan, Managing Director, M/s Radio Design India Pvt. Ltd. to tender statement and submit past import data for the last 05 years. In response to it, Sh. Gaurav Chauhan vide e-mail dated 07.04.2025 submitted that they are reviewing the draft minutes shared with them. A meeting with DoT on the minutes has been confirmed and scheduled for 09.04.2025. They will update the meeting outcome and will submit an extension request on the summons by next day. Further, M/s Radio Design India Pvt. Ltd. submitted a letter dated 08.04.2025 on 09.04.2025 wherein they again referred the scheduled meeting with DoT on 09.04.2025 and regretted their inability to attend the hearing and requested for postponement of the hearing.

5.10 Further, following the principal of natural justice, the importer was given one final opportunity by issuing another Summons dated 09.04.2025 to tender statement and submit import data of last 05 years in respect of import of the 'Filter Body Assembly'.

5.11 Whereas, in response to it, Sh. Gaurav Chauhan appeared in this office on 11.04.2025 but he did not tender the statement or provided any past import data of last 05 years, and submitted a letter dated 11.04.2025 requesting for adjournment against the Summons dated 09.04.2025 **as they are waiting action on their Annex-1 submitted** and he is travelling on 6th May, 2025 and from 12th May, 2025 to 16th May, 2025. Further, a letter dated 10.04.2025 on behalf of M/s Radio Design received in this office on 11.04.2025 marked as Annexure-1 on top of letter dated 10.04.2025 where they again re-iterated their earlier reason of scheduled meeting with DoT on 09.04.2025. In the said letter dated 10.04.2025 they mentioned that they had met with Mr. A.K. Tripathi, DDG-IP, DoT and physically shown the part. Further, they mentioned that they have requested DoT to consider a practical solution and suggested either:

- a. A joint in-person meeting to discuss the technical gaps, or
- b. Issuance of a revised clarification after a thorough physical inspection of the part

5.11.1 They also mentioned in the said letter dated 10.04.2025 that Mr. Tripathi agreed to in-person meeting at his office and to re-examine the part and to issue a revised clarification if the part is routed to DoT via Customs.

5.12 It is pertinent to mention here that no such formal communication has been received by this office from DoT. Further, in the instant matter, clarification was sought from DoT and Director (IMP & TEP) & Nodal Officer, Telecom Engineering Centre, DoT, New Delhi (which is a nodal office and expert body for dealing with Customs Queries relating to import/export of Telecom Equipment) who vide the clarification Email/letter dated 08.11.2024 offered their opinion as discussed supra wherein it was informed that *as per the brief write-up provided by the Customs (Preventive), the RF filter body assembly has connectors for integration it to a large RF communication*

system such as a base station. Hence it may be a part of a large RF Communication System. Further as per the product description detailed in the attached sheet, it has been mentioned that the product is a part of radio communication RRH. Accordingly, the product may lie under Notification item (h) (i) & (ii) of 85176990 of Circular No. 08/2023.”

5.13 However, the importer did not agree with the opinion of the DoT Official even though same being nodal office and expert body for dealing with Customs queries relating to import/export of Telecom equipment. Following principal of natural justice, a meeting was convened through video conference mode on 04.03.2025 which was attended by the official of this office, the officers of Department of Telecom (DoT) (via video conference) and representative of M/s Radio Design India Pvt. Ltd which included Sh. Gaurav Chauhan Managing Director, Sh. Deepak, Director F &A, & Sh. Mohit Verma, Manager.

5.13.1 During the said meeting dated 04.03.2025, following was discussed and agreed:

(i) After watching the product, it was opined by the DoT Officials that it appears that the demonstrated product is RF Cavity Filter. It may not have capacitor/ inductor etc. attached but due to its design the product possesses the capability/characteristics of the RF filtering. Also, the product has silver lining which possesses the property as electrical conduit.

(ii) In the absence of any new material or facts, it upholds its clarification letter dated 08.11.2024, as it was issued after a thorough examination of the materials and documents available at that time.

(iii) Members from DOT re-iterated their earlier clarification provided in the said letter that the imported goods are part of RRH. Based on that it was advised that it may fall under item (h)(i) & (ii) of CTH 85176990, as mentioned in Circular No. 08/2023.

(iv) Shri Gaurav Chauhan also agreed with the findings of DoT that the imported goods i.e. equipment RD0935-114-01-09 11 4T4R 'Filter Body Assembly' is part of RRH (Remote Radio Head). However, he differed with the CTH 85176990 as advised by the DoT.

5.13.2 However, when the Minutes of meeting (M.O.M) held on 04.03.2025 was provided to Sh. Gaurav Chauhan, Managing Director, M/s Radio Design India Pvt. Ltd. for ratification, the same was denied by him and M.O.M dated 04.03.2025 was received by him with the remark “Minutes received but not agreed” even though on 04.03.2025 Shri Guarav Chauhan agreed with the findings of DoT that the imported goods i.e. equipment RD0935-114-01-09 11 4T4R 'Filter Body Assembly' is part of RRH (Remote Radio Head) during the said meeting.

5.14 However, following the principal of natural justice, Summons dated 04.04.2025 & 09.04.2025 were issued to Sh. Gaurav Chauhan, Managing Director, M/s Radio Design India Pvt. Ltd. to tender statement and to submit past import data. But Sh. Gaurav Chauhan avoided to tender

statement every time by giving various reasons such as they are in process of arranging another meeting with DoT or he has prior engagement on the scheduled dates or he is travelling abroad etc.

5.15 Thus from the said action, it appears that the importer is trying to delay the conclusion of investigation by one or another reason and each & every time avoiding the opportunities being provided by the department vide issuance of Summons.

6. Classification:

6.1 Whereas, the imported goods as detailed in Table -A and Annexure-B & C (**details of goods imported in the past including Bill of Entry No. 9526176 dated 04.01.2024**) had been classified by the importer under CTH 85177990, paying BCD @ Nil, SWS @Nil and IGST @18% by availing benefit of Notification No. 57/2017 dated 30.06.2017, Sr. No. 5, which is reproduced as below:

8517 TELEPHONE SETS, INCLUDING SMARTPHONES AND OTHER TELEPHONES FOR CELLULAR NETWORKS OR FOR OTHER WIRELESS NET WORKS: 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):

851779 -- Other
85177990 --- Other

6.2 (i) Sh. Gaurav Chauhan, Director in M/s Radio Design India Pvt. Ltd. in his statement dated 31.01.2024 stated that item imported in Bill of Entry No. 9526176 dated 04.01.2024 is a filter body assembly to be integrated with a Base Station. The product will be used in the Telecom Network. The main function of the product is to pass on desired spectrum/frequency bands for which the Base Station has been designed and reject other frequency bands. The product 'RD 0935-H4-01-09 B1 4T4R Filter Body Assembly (Parts of Telecom Networking Switching Apparatus)' had been imported by them for their customer M/s Tejas Network Limited who is designing and manufacturing the final Base Stations for the BSNL 4G Network. Vide his statement dated 31.01.2024, he inter alia stated that:

A. *The item imported vide Bill of Entry No. 9526176 dated 04.01.2024 is a filter body assembly to be integrated with a Base Station.*

- B. The product will be used in the Telecom Network.
- C. The main function of the product is to pass on desired spectrum/frequency bands for which the Base Station has been designed and reject other frequency bands.
- D. The imported product 'RD 0935-H4-01-09 B1 4T4R Filter Body Assembly (Parts of Telecom Networking Switching Apparatus)' will be used in BSNL Network only.
- E. The product was imported for M/s Tejas Network Limited who is designing and manufacturing the final Base Stations for the BSNL 4G Network.
- F. Filter Body Assembly is not a complete product because standalone it cannot perform any function.
- G. The product 'RD 0935-H4-01-09 B1 4T4R Filter Body Assembly (Parts of Telecom Networking Switching Apparatus)' is passive and it do not have any active circuitry.
- H. On this product, further four functions are performed i.e. partial assembly, alignment, inter-modulation/testing and then final testing of the product.
- I. The product 'Filter Body Assembly' has four inputs from which RF signal will enter the product and has four output ports to which the RF Circuit of the Base Station is connected when the final Base Station will be manufactured.
- J. four functions are carried on this product i.e.
 - a. partial assembly, alignment, inter-modulation/testing and then final testing of the product. In partial assembly, nuts, screws, gaskets are assembled on this product.
 - b. On alignment, all the channels/cavities in the product will be tuned to an appropriate signal/frequency band.
 - c. in inter-modulation, signals interaction in the product are studied to ensure that the desired signals are not distorted and
 - d. The final testing of the product is done to ensure that the product performs at the designed level.
- K. The product itself does not generate any signal it only filters out undesired signals. The product will be used in a Base station after assembling with RF Circuits of the Base Stations.
- L. We sale this product after carrying out above mentioned operations to our customer (M/s Tejas Networks Limited) and assembling of RF Circuits will be carried out at the end of the customer and we donot have any role in that.
- M. input to Filter Body is a mixed Radio Frequency (RF) signal which passes through the cavities of the Filter Body Assembly and during this process only the wanted RF signal will be directed to the RF Circuitry of the Base Station.
- N. The input signals that will be fed to the Filter Body Assembly are passed on to the RF Circuitry of the Base Stations for analogue to Digital conversion and vice-versa. After processing in the Base Station, the signal is directed towards the antenna and vice-versa. The Base Station also perform the activity of amplifying the signal.

- O. RF signal fed to Filter Body Assembly is carrying unprocessed data in the form of RF energy and Filter Body Assembly will be filtering out unwanted data from the RF signal
- P. the description 'Parts of Telecom Networking Switching Apparatus' has been declared by the importer to relate the Filter Body Assembly with Base Stations which performs the switching function in the telecom network.

6.3 In this regard, clarification was sought from the Department of Telecommunication by forwarding the technical literature provided by the importer in respect of equipment Le. RD0935-H4-01-09 B1 4T4R Filter Body Assembly and was requested to issue following clarification:

"Whether the equipment 'Filter Body Assembly' is getting covered under definition of Other apparatus for transmission or reception of voice, images or other data including apparatus for communication in a wired or wireless network?"

6.3.1 Further, Letter dated 08.11.2024 was received from the, Director (IMP & TEP) & Nodal Officer, Telecom Engineering Centre, DoT, New Delhi regarding clarification i.r.o equipment i.e. RD0935-H4-01-09 B1 4T4R Filter Body Assembly. Following has been informed in the letter dated 08.11.2024:

"On the above cited subject, it is clarified that the RF filter body assembly is a mechanical and electronic structure designed to house and support an RF filter (which is used to selectively allow or block specific frequencies in a radio frequency (RF) spectrum). It consists of Filter elements (e.g. resonators, capacitors, inductors) to perform the actual filtering of RF Signals, mechanical housing that supports and protects the sensitive filter components from environmental and mechanical housing stresses. Further, as per the brief write-up provided by the Customs (Preventive), the RF filter body assembly has connectors for integration it to a large RF communication system such as a base station. Hence it may be a part of a large RF Communication Systems.

Further as per the product description detailed in the attached sheet, it has been mentioned that the product is a part of radio communication RRH. Accordingly, the product may lie under Notification item (h)(i) & (ii) of 85176990 of Circular No. 08/2023."

6.4 Whereas, as the importer did not agree with the opinion shared by DoT vide its letter dated 08.11.2024, the importer made its representation to DoT for review of DoT reply dated 08.11.2024.

6.5 Accordingly, following the principal of natural justice, a meeting was held on 04.03.2025 which was chaired by the Additional Commissioner of Customs (Preventive), Delhi with the officers of Department of Telecom (DoT) (via video conference) and representative of M/s Radio Design India Pvt. Ltd which included Sh. Gaurav Chauhan Managing Director, Sh. Deepak, Director F &A, & Sh. Mohit Verma, Manager.

6.5.1 During the meeting, Sh. Gaurav Chauhan presented the equipment RD0935-114-01-09 11 4T4R 'Filter Body Assembly' and demonstrated the product to all the participants and informed that it is a housing for assembly only and does not contain any electronic part such as capacitor etc. After watching the product, it was opined by the DoT Officials that it appears that the demonstrated product is RF Cavity Filter. It may not have capacitor/ inductor etc. attached but due to its design the product possesses the capability/characteristics of the RF filtering. Also, the product has silver lining which possesses the property as electrical conduit.

6.5.2 Furthermore, DoT officers emphasized that DoT provided response to queries and offered clarifications based on the information and materials received with the request. In the absence of any new material or facts, it continued to uphold its clarification letter dated 08.11.2024, as it was issued after a thorough examination of the materials and documents available with them.

6.5.3 Whereas, Members from DOT side re-iterated that their earlier clarification provided in the said letter that the imported goods are part of RRH. Based on that it was advised that it may fall under item (h)(i) &(ii) of CTH 85176990, as mentioned in Circular No. 08/2023.

6.5.4 Shri Gaurav Chauhan also agreed with the findings of DoT that the imported goods i.e. equipment RD0935-114-01-09 11 4T4R 'Filter Body Assembly' is part of RRH (Remote Radio Head). However, he differed with the CTH 85176990 as advised by the DoT.

6.6 Further, CBIC has issued Circular No. 08/2023 dated 13.03.2023 regarding Telecom equipment in the context of notification No. 02/2019-Customs dated 29-01-2019 amending notification No. 57/2017-Customs dated 30.06.2017. Relevant portion of the same is reproduced below:

" Attention of the field formations is invited to Notification No. 57/2017- Customs dated 30.06.2017 amended by Notification No. 02/2019-Customs dated 29.01.2019 which, against tariff items 8517 62 90 and 8517 69 90, gives descriptions of certain goods that are telecommunication products or equipment.

2. In this context, the Board was apprised that some of these technology related descriptions, specifically those at (b) to (h), amongst (a) to (h), in the notification, need to be better understood by all stakeholders for a more effective identification of products and equipment covered therein.

3. Accordingly, in order to make stakeholders more aware in the matter, and in consultation with the Department of Telecommunications (DoT) - (a) the identification of products/equipment covered thereunder, at (b) to (h) of the notification, is illustrated in Annexure - 1;....."

6.6.1 Whereas, in the said Circular No. 08/2023 dated 13.03.2023 the list of the products/equipments covered in Notification No. 57/2017-Customs dated 30.06.2017 has been identified in consultation with the Department of Telecommunication (DoT). The identification of the products/equipments covered thereunder, at (b) to (h) of the notification, is illustrated in Annexure-1. The relevant portion of Annexure-1 is reproduced below:

Notfn. item	Notification description	Identification of products/equipment covered
(b) and (d)	-----	-----
(c)	-----	-----
(e)	-----	-----
(f)	-----	-----
(g)	-----	-----
(h)	Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) products	The Machines/apparatus covered under these categories include i. 4G (LTE) products and their Elements, namely- e Node B, RRH, CU, DU, RU, BBU, EPC, MME, SGW, PGW, HSS, IMS, Network In a Box (NIB), 4G CPE, etc.; ii. 5G products and its Elements, namely- g Node B, RRH, CU, DU, RU, BBU, 5GC, IMS, Network In a Box (NIB), 5G CPE, etc.; iii. 4G and 5G enabled NB IoT devices; iv. Equipment incorporating technologies beyond 5G.

6.7 Whereas, as per DoT clarification dated 08.11.2024 read with minutes of meeting held on 04.03.2025, the subject goods is a part of radio communication RRH and may lie under Notification item (h) (i) & (ii) of 85176990 of Circular No. 08/2023 which pertains to items under the category of Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) and the machines/apparatus covered under these categories include RRH.

6.7.1 Whereas, CTH 85176990 is triple dash (---) entry with description "Other" which comes under double dash (--) entry of "Other" which comes under second single dash (-) entry for "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)" under heading 8517. Entries under second single dash (-) entry for "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)" is reproduced below:

Tariff Item		Description of goods	Unit	Rate of Duty	
				Standard	Preferential Areas
(1)		(2)	(3)	(4)	(5)
8517		Telephone Sets, Including Smartphones and Other 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)			
85176100	--	Base stations	u	20%	
851762	--	<i>Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:</i>			
85176250	---	PLCC equipment	u	Free	-
85176260	---	Voice frequency telegraphy	u	Free	-
85176230	---	Modems (modulators-demodulators) for xDSL based Wireline Telephony	u	Free	-
85176250	---	Digital loop carrier system(DLC)	u	Free	-
85176260	---	Synchronous digital hierarchy system(SDH)	u	Free	-
85176270	---	Multiplexers, statistical multiplexers for PDH based Wireline Telephony	u	Free	-
85176290	---	Other	u	20%	-
851769	--	Other:			
85176910	---	ISDN System	u	Free	-
85176920	---	ISDN terminal adaptor	u	Free	-
85176940	---	X 25 Pads	u	Free	-
85176960	---	Set top boxes for gaining access to internet for Wireline Telephony	u	Free	-
85176970	---	Attachments for telephones	u	Free	-
85176990	---	Other	u	20%	-

6.7.2 Hence, in view of the foregoing, it appears that the subject goods are classifiable under CTH 85176990, having Basic Customs Duty @20%, SWS@10% and IGST@18% is applicable on the subject goods.

6.7.3 Also, screenshot of CTH 85176990 is attached below for reference:

SECTION-XVI		1018	CHAPTER-88	
(1)	(2)	(3)	(4)	(5)
8517	TELEPHONE SETS, *SMARTPHONES AND OTHER 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			
	*TW # F01 01 2022			
8517 11	--- Line telephone sets with cordless handsets:			
8517 11 10	--- Push button type	0	Free	-
8517 11 90	--- Other	0	Free	-
*8517 13 00	--- Smartphones	0	20%	-
*8517 14 00	--- Other telephones for cellular networks or for other wireless networks	0	20%	-
8517 18	--- Telephones for cellular networks:			
8517 18 10	--- Other			
8517 18 90	--- Push button type	0	Free	-
	--- Other	0	Free	-
	--- 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 61 00	--- Base stations	0	**20%	-
8517 62	--- Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:			
8517 62 10	--- PLC C equipment	0	Free	-
8517 62 20	--- Voice frequency telegraphy	0	Free	-
*8517 62 30	--- Modems (modulators-demodulators) for ADSL based Wireline Telephony	0	Free	-
8517 62 50	--- omitted			
8517 62 60	--- Digital loop carrier system(DLC)	0	Free	-
8517 62 70	--- Synchronous digital hierarchy system(SDH)	0	Free	-
8517 62 90	--- Multiplexers, statistical multiplexers for PDH based Wireline Telephony	0	Free	-
8517 69	--- Other	0	20%	-
8517 69 10	--- ISDN System	0	Free	-
8517 69 20	--- ISDN terminal adapter	0	Free	-
8517 69 40	--- X 25 Pads	0	Free	-
8517 69 60	--- omitted			
8517 69 70	--- *Set top boxes for gaining access to internet for Wireline Telephony	0	Free	-
8517 69 90	--- Attachments for telephones	0	Free	-
	--- Other	0	20%	-
*8517 71 00	--- *Parts:	0	20%	-
	--- Aerials and aerial reflectors of all kinds:	0	20%	-
	*TW # F 1 1 2022			
	*TW # F 1 5 2022			

7. Valuation:

7.1 In support of the value of the goods, the importer has submitted the Purchase Order and the value declared by the importer appears to be fair.

7.2 Whereas, during investigation, it was found that the Importer had previously also imported the said goods with same description "B1 4T4R Filter Body Assembly" under CTH 85177990. Accordingly, past import data was downloaded from 'ADVAIT' portal. The details of goods with description "B1 4T4R Filter Body Assembly" imported under wrong CTH 85177990 in past and including Bill of Entry No. 9526176 dated 04.01.2024 and differential duty calculation is detailed in Annexure B (RUD-VI) (Bill of Entries filed at ACC Import, Delhi) and Annexure C (RUD-VII) (Bill of Entries filed at ICD Patli, Gurugram, Haryana). The differential duty (including IGST) calculated in respect of past Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) is Rs. 22,04,60,833/- (As detailed in Annexure-B & Annexure-C)

7.2.1 Summary of Duty short paid on Past imports of RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus) at ACC Import (detailed in Annexure-B) is tabulated below:

Table-B

Summary of Duty short paid on Past imports of RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus) at ACC Import								
Sr. No.	Port	Description of imported goods as Declared on BE	CTH declared	Assessable Value (INR)	Duty Paid			
					BCD (INR)	SWS (INR)	IGST @18% (INR)	Total Duty (including IGST)
1	ACC Import	RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus)	85177990	3,29,13,736	0	0	59,24,472	59,24,472
Re-determined CTH & Duty in respect of Past imports of RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus) at ACC Import								
			Redetermined CTH	Assessable Value (INR)	Duty Payable			
					BCD @ 20%	SWS @10%	IGST @18%	Total Duty
			85176990	3,29,13,736	65,82,747	6,58,275	72,27,856	1,44,68,878
Differential Duty short Paid					65,82,747	6,58,275	13,03,384	85,44,406

7.2.2 Summary of Duty short paid on Past imports of RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus) at ICD Patli, Gurugram, Haryana (detailed in Annexure-C) is tabulated below:

Table-C

Summary of Duty short paid on Past imports of RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus) at ICD Patli								
Sr. No.	Port	Description of imported goods as Declared on BE	CTH declared	Assessable Value (INR)	Duty Paid			
					BCD (INR)	SWS (INR)	IGST @18% (INR)	Total Duty (including IGST)
1	ICD Patli	RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus)	85177990	81,63,19,057	0	0	14,69,37,430	14,69,37,430
Re-determined CTH & Duty in respect of Past imports of RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus) at ICD Patli								
			Redetermined CTH	Assessable Value (INR)	Duty Payable			
					BCD @ 20%	SWS @10%	IGST @18%	Total Duty
			85176990	81,63,19,057	16,32,63,811	1,63,26,381	17,92,63,665	35,88,53,857
Differential Duty short Paid					16,32,63,811	1,63,26,381	3,23,26,235	21,19,16,427

8. FINDINGS OF INVESTIGATION

8.1. Findings of the investigations are hereunder:

(i) As per DoT clarification dated 08.11.2024 read with minutes of meeting held on 04.03.2025, the subject goods is a part of radio communication RRH and lies under Notification item (h) (i) & (ii) of 85176990 of Circular No. 08/2023 which pertains to items under the category of Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) and the machines/apparatus covered under these categories include RRH. Accordingly, as discussed supra, the goods i.e. RD0935-H4-01-09 B1 4T4R Filter Body Assembly (Part of Telecom Network Switching Apparatus" appears to be classifiable under CTH 85176990 and covered, under at item (h) (i) & (ii) of 85176990 of Circular No. 08/2023."

(ii) Therefore, effective rate of BCD leviable on the product appears to be 20%. Hence, the exemption of notification 57/2017-Customs dated 30.06.2017 (S. No. 5) amended by Notification No. 57/2021-Customs dated 29.12.2021 is not available to the subject goods and the goods are liable to be charged BCD@20%, SWS@ 10% and IGST @18% under CTH 85176990.

8.2. Further, DoT vide their letter dated 08.11.2024 issued vide F. No. 2-1/2024-IMP&TEC also clarified that:

the RF filter body assembly is a mechanical and electronic structure designed to house and support an RF filter (which is used to selectively allow or block specific frequencies in a radio frequency (RF) spectrum). It consists of Filter elements (e.g. resonators, capacitors, inductors) to perform the actual filtering of RF Signals, mechanical housing that supports and protects the sensitive filter components from environmental and mechanical housing stresses. Further, as per the brief write-up provided by the Customs (Preventive), the RF filter body assembly has connectors for integration it to a large RF communication system such as a base station. Hence it may be a part of a large RF Communication Systems.

Further as per the product description detailed in the attached sheet, it has been mentioned that the product is a part of radio communication RRH. Accordingly, the product may lie under Notification item (h)(i) & (ii) of 85176990 of Circular No. 08/2023."

8.3 Also, as per meeting held on 04.03.2025 and Minutes of meeting recorded following was clarified:

(i) It was opined by the DoT Officials that it appears that the demonstrated product is RF Cavity Filter. It may not have capacitor/ inductor etc. attached but due to its design the product possesses the capability/characteristics of the RF filtering. Also, the product has silver lining which possesses the property as electrical conduit.

(ii) Members from DOT re-iterated that their earlier clarification provided in the said letter that the imported goods are part of RRH. Based on that it was advised that it may fall under item (h)(i) &(ii) of CTH 85176990, as mentioned in Circular No. 08/2023.

(iii) Shri Gaurav Chauhan also agreed with the findings of DoT that the imported goods i.e. equipment RD0935-114-01-09 11 4T4R 'Filter Body Assembly' is part of RRH (Remote Radio Head).

8.4 In view of above, it appears that the importer has short paid duty (including IGST) calculated in respect of past Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) amounting to Rs. 22,04,60,833/- **(As detailed in Annexure-B & Annexure-C)**

8.5. **ADJUDICATING AUTHORITY**

8.5.1 As can be seen from the Table C & D above, the Importer has imported the goods in question at two different ports i.e. ICD Patli, Gurugram, Haryana & Air Cargo Complex (ACC) Import, Delhi. As per the provisions of Section 110AA of the Customs Act, 1962 read with Notification No.28/2022-Customs (N.T.) dated 31.03.2022, the Investigation Report (I.R.) was sent to ICD PPG and Other ICDs, Customs Commissionerate, Patparganj, New Delhi for issuance of SCN/ OIO, as the imports of the subject goods made at ICD, Patli involves highest amount of duty.

9. **CONTRAVENTIONS OF PROVISIONS OF THE CUSTOMS ACT, 1962 AND RULES THEREOF:**

9.1 **Section 12. Dutiable goods. —**

(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the 1 [Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India.

9.2 **Section 46. Entry of goods on importation. —**

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be prescribed]:

[Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner: Provided further that] if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to

deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

[(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that a bill of entry may be presented [at any time not exceeding thirty days prior to] the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.]

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, 1 [and such other documents relating to the imported goods as may be prescribed].

(4A) The importer who presents a bill of entry shall ensure the following, namely:— (a) the accuracy and completeness of the information given therein; (b) the authenticity and validity of any document supporting it; and (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.”

9.3 Section 17. Assessment of duty—

An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, **self-assess the duty**, if any, leviable on such goods.

.....
(4) Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

9.4 During investigation it was observed that self-assessment was not done correctly. Scrutiny of import data it was found that the importer has wrongly availed exemption benefit of notification 57/2017-Customs dated

30.06.2017 (S. No. 20) amended by Notification No. 57/2021-Customs dated 29.12.2021, which were not available to them. Thus, the importer contravened the Section 17 by not doing self-assessment correctly.

9.5 **Section 28.** Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.—

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,—

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

9.6 **Section 28AA. Interest on delayed payment of duty—**

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section

(2), whether such payment is made voluntarily or after determination of the duty under that section. (2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

9.7 The importer appears to have suppressed facts by wrongly claiming the BCD exemption benefit of notification 57/2017-Customs dated 30.06.2017 (S. No. 20) amended by Notification No. 57/2021-Customs dated 29.12.2021; contravening the provisions of Section 46 of the Act, with an intention to evade the customs duty. Thus, the differential duty amounting to Rs.22,40,60,833/- in respect of past Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C ,appears to be demanded and recovered under Section 28(4) of the Customs Act along with interest under Section 28AA of the Customs Act, 1962.

9.8 **Section 114 A: Penalty for short-levy or non-levy of duty in certain cases. -**

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.

9.9 Further, it appeared that the importer wrongly availed BCD exemption benefit of notification 57/2017-Customs dated 30.06.2017 (S. No. 20) amended by Notification No. 57/2021-Customs dated 29.12.2021 and the goods mentioned in Bill of Entry are also misclassified with intent to evade the Customs duty. Thus, it is evident that the said importer had improperly imported the said goods and the importer has short paid duty (including IGST) calculated in respect of past Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) amounting to Rs. 22,04,60,833/- (as detailed in Annexure-B & Annexure-C). By the above acts of omission and commission, the said importer has rendered himself liable for penal action under Section 114A of the Customs Act, 1962 in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C.

10. Therefore, M/s Radio Design India Pvt. Ltd. (IEC - 0509026125, GSTIN - 06AAECR2580D1ZM) Plot No. 168, Sector 4, IMT Manesar, Gurugram, Haryana - 122052 was called upon to show cause to the Commissioner of Customs, ICD PPG & Other ICDs, Ghazipur, Delhi - 110096 within 30 days of receipt of this communication as to why:

- (i) The declared/assessed CTH 85177990 in respect of the goods imported vide Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) detailed in Annexure-B & Annexure-C should not be rejected and re-determined as CTH 85176990.
- (ii) The BCD exemption benefit of notification 57/2017-Customs dated 30.06.2017 (S. No. 20) as amended by Notification No. 57/2021-Customs dated 29.12.2021 availed by the importer should not be denied in respect of the goods imported vide Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) detailed in Annexure-B & Annexure-C.
- (iii) The differential duty amounting to Rs. 22, 40, 60,833/- (Twenty Two Crores Forty Lakh Sixty Thousand Eight Hundred and Thirty Three Only) in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C should not be demanded from the importer under Section 28(4) of the Customs Act along with interest under Section 28AA of the Customs Act, 1962.
- (iv) Penalty under Section 114A of the Customs Act 1962 in respect of in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B &

Annexure-C should not be imposed for acts and omission as discussed above.

11. RECORD OF PERSONAL HEARING:

11.1. Sh. Gaurav Chauhan, Managing Director, Radio Design India Pvt. Ltd., Sh. Deepak, Director, Finance & Compliance, Sh. B.L. Garg, Advocate/consultant and Sh. Ansh Mishra, Consultant appeared before me on 30.03.2026 on behalf of the noticee.

11.2. They reiterated the written submissions submitted earlier. They submitted that they are manufacturer of parts of Radio equipment which are further used in Telecom Equipment. They stated that they import the sub-parts i.e. Filter Body Assembly which is only a bare aluminium block/housing without any electrical/electronic equipment such capacitors, inductors or wiring etc, mounted on it.

11.3. They submitted that the imported goods i.e. Filter Body Assembly is only a "part" and not an "Equipment" and therefore the same are correctly classifiable under CTH 85177990 instead of the proposed CTH 85176990.

11.4. They also submitted that during the investigation carried out by the Department, the Department of Telecommunication (DoT) has also admitted that these goods are part of RRH (Remote Radio Head).

11.5. They further submitted that the assessment or determination of classification of any imported goods should be done in the condition as it is presented at the time of import. They stated that their plea is supported by various judicial decisions. They further stated that in various judicial pronouncements, the classification of similar goods has been determined under CTH 85177990.

11.6. They also stated that vide their written submission, they have submitted the details of some other importers importing the similar goods into India under the CTH 85177990 and availing the benefit of exemption notification No. 57/2017 dated 30.06.2017 (as amended).

They also presented a sample of Filter Body Assembly for inspection.

12. WRITTEN SUBMISSION OF THE NOTICEE:

12.1. THE ITEM IN QUESTION IS ONLY A MECHANICAL PART WITH NO ELECTRONICS - HENCE, IT CANNOT QUALIFY AS NETWORK EQUIPMENT/ APPARATUS:

12.1.1. The noticee submitted that the item in question i.e., 'Filter Body Assembly' which has been described as a mere 'RF Cavity Filter' by the Department of Telecom in their expert opinion provided to the Customs Preventive officers, Department of Revenue [para 5.13(i) of the impugned SCN], is a passive product, without having any electronic component or circuitry. Because of lack of electronic circuitry or components, the product

does not generate any signal; its limited functionality is that it helps in filtering out undesired signals once it is assembled and made into a complete RF Filter/ RRH Front End Assembly from the filter body assembly (imported part). This product is used in a Remote Radio Head (RRH)/ Base Station of a telecom Base station site after assembling with RF Circuits of the Remote Radio Head (RRH)/ Base Station.

12.1.2. The noticee also submitted that it is not a complete product because standalone, it cannot perform any function, even filtering out the undesired frequencies/ signals. Hence, it cannot but be treated as a telecom equipment/ apparatus with independent function.

12.1.3. The noticee submitted that structured with cavities: The product is having cavities on its surface and hence, it is also called 'Cavity Filter' as stated by the Department of Telecom in their written opinion [para 5.13(i) of the impugned SCN]; because of the presence of cavities of various sizes and shapes, the product acquires the property of passing on/accepting desired spectrum/frequency bands and rejecting other frequency bands once it is assembled and made into a complete RF Filter/ RRH Front End Assembly from the filter body assembly (imported part) and integrated into the RRH/ Base Station with 22 other parts. This particular property of passing on/accepting desired spectrum/ frequency bands and rejecting other frequency bands makes it an integral and important part of a Radio Remote Head/Base Station. The latter are used in the Telecom Network. When fitted in RRH/ Base Station, the 'filter body assembly' passes on desired spectrum/frequency bands for which the RRH/ Base Station has been designed and rejects other frequency bands. The imported product i.e., 'RD 0935-H4-01-09 B1 4T4R Filter Body Assembly' is meant to be used in BSNL Network. The said part is being imported and built into a RF Filter/RRH Front End Assembly for their customer, M/s Tejas Network Limited who is designing and manufacturing the final RRH/ Base Station for the BSNL 4G Network.

Further working required on the product to make it functional:

12.1.4. The noticee also submitted that the product in question i.e., 'filter body assembly' is not usable in the form it is imported. Four distinct processes are required to be undertaken on the product-

- (i) Partial assembly- wherein assembling of lids, nuts, screws, gaskets, connectors on the product takes place;
- (ii) Alignment- all the channels/ cavities in the product are tuned to an appropriate signal/ frequency band which is highly technical and takes 2-3 hours to complete;
- (iii) Inter-modulation/ testing- signals interaction in the product is studied to ensure that the desired signals are not distorted; and
- (iv) Final testing of the product- it is done to ensure that the product performs at the designed level.

12.1.5. The noticee submitted that the product 'Filter Body Assembly' after undergoing the above processes turns into a RF Filter/ RRH Front End Assembly which has four inputs from which RF signal will enter the product

once it gets assembled with the RRH/Base Station. The RF Circuit of the RRH / Base Station sends the RF signal to the input ports of the RF Filter/ RRH Front End Assembly. Further, it has four output ports to which the antenna ports at the Base Station Site get connected. It cannot function until it gets converted to an RF Filter/ RRH Front End Assembly and then gets connected/ assembled to the RRH/Base Station.

Inputs and outputs of the Filter Body Assembly:

12.1.6. The noticee submitted that Input to Filter Body Assembly after converting it to an RF Filter/ RRH Front End Assembly is a mixed Radio Frequency (RF) signal generated by the RRH/Base Station once it gets connected to the RRH/ Base Station. This signal generated by the RRH/ Base Station passes through the cavities of the Filter Body Assembly and during this process only the wanted RF signal is directed to the antenna ports at the Base Station site. The input signals that will be fed to the Filter Body Assembly are passed on to the antenna ports of the Base Station site and vice-versa. After processing in the RRH/ Base Station, the signal is directed towards the Base band unit at the Base Station site. The RRH/ Base Station also perform the activity of amplifying the signal and digital to analog conversion. The RF signal fed to Filter Body Assembly after converting it into an RF Filter/ RRH Front End Assembly is carrying unprocessed data in the form of RF energy and RF Filter/ RRH Front End Assembly filters out unwanted signals from the RF signal.

A Mechanical Part cannot be treated as an Electronic Equipment based on post-import fitments or modifications:

12.1.7. The noticee submitted that in this matter, the product in question i.e., 'filter body assembly' in the form it is imported, is merely a passive and mechanical structure, not having any electronic components/parts. However, after subsequently converting it into an RF Filter/ RRH Front End Assembly, it can be connected to RRH (Radio Remote Head)/ Base Station, which forms a part of the Base Station site.

12.1.8. The noticee submitted that the impugned SCN seeks to classify the impugned item on the basis of its functionality after becoming a part/attachment to the RRH/Base Station, which however is not permitted under customs classification principles. An imported item has to be classified in the form and state in which it has been imported. This averment is supported by the following judgment-

"Pioneer Embroideries Ltd. & Ors. vs Commissioner of Customs, Mumbai (Final Order No. A/407-410/WZB/2004/C-II, 11 June 2004, CESTAT).

In this case, the Tribunal rejected the importer's attempt to treat mechanical embroidery machines (imported with new Jacquard Control Devices) as "computerized embroidery machines" for purposes of exemption. It held that classification must be done on how the goods are presented at the point of import and that subsequent integration or usage of electronic components does not convert a mechanical machine into an electronic/computerized one when imported. The mechanical

part could not be treated as electronic equipment simply because an electronic device was later attached; exemption under the notification for computerized machines was denied."

The noticee also stated that the above judgment is affirmed by Hon'ble Supreme Court in the case of PIONEER EMBROIDERIES LTD. Versus COMMISSIONER OF CUSTOMS, MUMBAI 2015 (322) E.L.T. 602 (S.C.)(Civil Appeal No. 6341 of 2004, decided on 22-7-2015)

Embroidery machines - Computerised embroidery machines - Classification - Non-computerised second hand embroidery machines imported along with same quantity of Jacquard Control Devices Reading System to make them computerised by assembly after import - No infirmity in findings of CESTAT that impugned goods not classifiable as complete computerised embroidery machines, but require separate classification in terms of General Interpretative Rule 2(a) and HSN Note to said rule - Agreeing with Tribunal's findings, appeal of assessee dismissed there being no merit in it. [paras 6, 7]

Classification of imported goods - Essential character - Determination of - Essential character of imported goods to be determined for classification with reference to their state at time of importation and not with reference to purpose of import - Where complete machine imported in unassembled form that article must be complete or finished but presented in unassembled form for reasons of convenience of packing handling or transport and ready to assemble thereafter with simple fixing devices - No error in CESTAT's findings of absence of this aspect also in instant case - Appeal rightly dismissed by CESTAT. [paras 6, 7]

CTI 85176990 covers 'Other machines for the Reception, Conversion and Transmission or Regeneration of Voice, Images or other data, Switching or Routing Apparatus:

12.1.9. The noticee submitted that the impugned SCN proposes to classify the impugned goods under CTI 8517 69 90 which covers items namely- 'Other machines for the Reception, Conversion and Transmission or Regeneration of Voice, Images or other data, Switching or Routing Apparatus', as given below-

8517

Telephone sets, including smartphones and other 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
- Telephone sets, including smartphones and other

	<i>telephones for cellular networks or for other wireless networks :</i>
8517 11	-- <i>Line telephone sets with cordless handsets :</i>
.....

	- <i>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) :</i>
8517 61 00	-- Base stations
8517 62	-- <i>Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus :</i>
.....
.....
8517 69	--- <i>Other :</i>
8517 69 10	--- ISDN System
8517 69 20	--- ISDN terminal adaptor
8517 69 40	--- X 25 Pads
8517 69 60	--- Set top boxes for gaining access to internet for Wireline Telephony
8517 69 70	--- Attachments for telephones
8517 69 90	--- Other

Items other than electronic equipment cannot fall under CTI 85176990:

12.1.10. The noticee submitted that from perusal of the above-mentioned tariff entries, it is evident that Customs Tariff Item (CTI) 8517 69 90 of the Customs Tariff Act, 1975 covers 'other telecom machines or apparatus which are meant for the Reception, Conversion, Transmission or Regeneration of Voice, Images or other data including telecom Switching or Routing Apparatus'. Therefore, it is inconceivable that any item which is incapable of having switching or routing function or is devoid of features of reception/ conversion/ transmission/ regeneration of voice/ data etc. can be classified in the said CTI.

The noticee further stated that the product in question i.e., Filter Body Assembly is merely a passive product, without having electronic circuitry or parts/ components with semi-conductor devices therein. Therefore, it is completely incapable of exhibiting the telecom networking functions of reception, conversion, transmission or regeneration of voice, images or data, or displaying switching or routing function. For these reasons, the imported item can only be treated as a part of telecom equipment, falling under CTI 8517 79 90.

There is a contradiction in treating the item as 'Part of RRH' and then terming it as equipment falling under CTI 85186990 and Board's Circular No.08/2023-Customs

12.1.11. The noticee submitted that there is a clear contradiction in the impugned SCN in the way it treats/ describes the impugned item i.e., 'Filter

Body Assembly' in different parts of the impugned SCN. At several places (para 5.2, page 7, para 5.8.4, page 8, para 5.12, page 9, para 5.13.1(iv), page 10, para 5.13.2, page 10, para 6.2(i), page 11, para 6.7, page 14, para 8.1(i), page 18), it treats the imported item i.e., 'Filter Body Assembly' as part of 'RRH (Remote Radio Head)' which itself is described as a part of Base Station. However, while concluding the SCN, it states that the imported item is an equipment/ apparatus falling in CTI 8517 69 90 which CTI does not cover 'parts of telecom equipment'.

Even categories (h) (i) & (h) (ii) of Board's Circular No.08/2023-Customs, dated 13.03.2023 do not cover the item in question but RRH:

12.1.12. The noticee submitted that categories (h) (i) & (h) (ii) of Board's Circular No.08/2023-Customs, dated 13.03.2023 covers the following items-

i. 4G(LTE) products and their Elements, namely- eNode B, RRH, CU, DU, RU, BBU, EPC, MME, SGW, PGW, HSS, IMS, Network In a Box (NIB), 4G CPE, etc.;

ii. 5G products and its Elements, namely- gNodeB, RRH, CU, DU, RU, BBU, 5GC, IMS, Network In a Box (NIB), 5G CPE, etc.;

Thus, whereas Board's Circular No.08/2023-Customs, dated 13.03.2023 covers 'RRH (Remote Radio Head)', there is no mention of 'Parts of RRH'. Therefore, any item qualifying as 'parts of RRH' does not fall within the purview of categories (h)(i) and (h)(ii) of Board's Circular No.08/2023-Customs; therefore, by corollary, parts of RRH fall beyond the purview of Customs Tariff Item 8517 62 90 or 8517 69 90.

Hence, 'parts of RRH' will fall in CTI 8517 79 90 as the appropriate classification entry for covering the impugned item which is merely a part of RRH.

12.2. IMPUGNED ITEM SQUARELY COVERED UNDER NOTIFICATION NO. 57/2017, DATED 30.06.2017 (SL. NO. 5):

12.2.1. The noticee submitted that the impugned SCN contends that the benefit of notification No. 57/2017-Customs dated 30.06.2017 (Sl. No.5) is not available on the impugned item. However, the same is not true.

The referred Sl. No.5 of notification No. 57/2017 dated 30.06.2017 reads as given below-

"5.	8517 71 00 or 8517 79 90]	(a)	All goods other than the parts of cellular mobile phones or wrist wearable devices (commonly known as smart watches)]	Nil
		(b)	Inputs or sub-parts for use in manufacture of parts mentioned at (a) above"	

Thus, Sl. No. 5 of notification No. 57/2017-Customs, dated 30.06.2017 covers the following goods falling in Customs Tariff Item (CTI in short) 8517 71 00 or 8517 79 90-

'All goods other than parts of cellular mobile phones or wrist wearable devices (commonly known as smart watches)'

12.2.2. The noticee submitted that in the instant matter, there is no allegation that the impugned goods are parts of cellular mobile phones or smart watches, hence, the only issue to be decided is whether the impugned goods are appropriately classifiable under CTI 8517 71 00/8517 79 90. For the reasons cited above in Part 'A', the impugned goods are squarely classifiable in CTI 8517 79 90.

The impugned goods have to be assessed in the form these have been imported for the purpose of classification/ notification:

12.2.3. The noticee submitted that it can be seen that the allegation in the impugned SCN proceeds on the assumption that the impugned goods are complete apparatus under CTI 8517 69 90, and not "parts" under CTI 8517 79 90. However, this assumption is fundamentally flawed. The law is well settled that the classification of an imported item or its eligibility under an exemption notification has to be decided based on the condition in which they are imported.

12.2.4. The noticee submitted that in the instant matter, item namely- 'Filter Body Assembly' and even sub-assemblies RF Filter / RRH Front End Assembly' is incapable of independent functioning, they need to be integrated and assembled with the RRH/ Base Station. Therefore, the imported item cannot be treated as a telecom assembly/ apparatus. The noticee submitted that the imported goods are mere passive part of RRH/ Base Station and are incapable of stand-alone use. They only operate after converting it into an RF Filter/ RRH Front End Assembly, and then connecting it to a RRH (Radio Remote Head)/ Base Station, which forms a part of the Base Station site. Hence, they squarely qualify for classification as "parts" under CTI 8517 79 90, which is eligible for benefit of notification No.57/2017-Customs (Sl. No.5), dated 30.06.2017; therefore, denial of the benefit is wholly unjustified.

12.2.5. The noticee submitted that the impugned SCN is devoid of merit, and change of classification as well denial of exemption under the Notification No. 57/2017-Cus. deserves to be set aside on this ground alone. The noticee submitted that this position is supported by the judgment of IBM India Pvt. Ltd. v. Commissioner of Customs (CESTAT Bangalore, Final Order No. 20063/2024, dated 22.04.2024):-

"The appellant contends that the goods are optical modules which can only work as part of routers/switches and are not independent apparatus. We agree. The goods merit classification as 'parts' under CTH 8517 70 90 (now 8517 7990) and accordingly, the benefit of Notification No. 57/2017-Cus. cannot be denied."

In view of the authoritative ruling of the Hon'ble CESTAT in case of IBM India, the denial of exemption under Notification No. 57/2017-Cus. is unsustainable and liable to be dropped (copy of CESTAT judgment in case of IBM India Pvt. Ltd. v. Commissioner of Customs marked and attached as Annexure A-1)

No claim made regarding benefit of notification No. 57/2017-Customs dated 30.06.2017 (Sl. No.20):

12.2.6. The noticee submitted that the impugned SCN incorrectly mentions in concluding paragraph 9.9 and operative part of the impugned SCN given in para 10 that the importer had availed of benefit of notification No. 57/2017-Customs dated 30.06.2017 (Sl. No.20). The said entry of the notification reads as given below-

20.	8517 62 90 or 8517 69 90	All goods other than the following goods, namely :-	10%
		<ul style="list-style-type: none"> (a) Wrist wearable devices ⁵[(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 controllers; ^{5a}[(g) Packet Transport Node (PTN) products, Multiprotocol Label Switching- Transport Profile (MPLS-TP) products;] ^{5b}[(h) Multiple Input/Multiple Output (MIMO) products; (i) Long Term Evolution (LTE) products] 	

12.2.7. The noticee submitted that unlike Sl. No.5 of notification No. 57/2017-Customs dated 30.06.2017 covering 'Parts' of goods other than parts of cellular mobile phones or wrist wearable devices' and their further sub-parts, Sl. No.20 covers specific equipment/ apparatus. Since the Noticee has claimed that the impugned goods are 'part of RRH' which itself is an 'integral part of telecom Base Station', therefore, there is no question of the impugned goods being declared as telecom equipment/ apparatus.

12.2.8. The noticee submitted that the contention made in the crucial/concluding paragraphs of the impugned SCN that the Noticee

themselves had claimed benefit of Sl. No. 20 of notification No. 57/2017-Customs dated 30.06.2017 or indirectly declared the goods as 'equipment/apparatus', is blatantly incorrect. The impugned SCN deserves to be set aside on this ground alone.

12.3. DOT OPINION AND MINUTES RECORDED BY INVESTIGATING OFFICERS SUBSEQUENTLY ARE CONTRADICTIONARY; THEREFORE, NO RELIANCE CAN BE PLACED ON DOT OPINION OBTAINED BY THE PREVENTIVE OFFICERS:

12.3.1. The noticee submitted that the impugned SCN lays a strong reliance on the purported opinion of Telecom Engineering Centre, Department of Telecom (DoT), dated 8th November, 2024. Opinion of DoT was sought by the Customs Preventive Officers by raising the following query-

"Whether the equipment Filler Body Assembly' is getting covered under definition of Other apparatus for transmission or reception of voice, images or other data including apparatus for communication in a wired or wireless network?"

The opinion of Telecom Engineering Centre, Department of Telecom (DoT), dated 8th November, 2024 as given in RUD-4 (para 5.2 of the impugned SCN), reads as given below-

"On the above cited subject, it is clarified that the RF filter body assembly is a mechanical and electronic structure designed to house and support an RF filter (which is used to selectively allow or block specific frequencies in a radio frequency (RF) spectrum). It consists of Filter elements (e.g. resonators, Capacitors, inductors) to perform the actual filtering of RF Signals, mechanical housing that supports and protects the sensitive filter components from environmental and mechanical housing stresses. Further, as per the brief write-up provided by the Customs (Preventive), the RF filter body assembly has connectors for integration it to a large RF communication system such as a base station. Hence it may be a part of a large RF Communication Systems.

Further as per the product description detailed in the attached sheet, it has been mentioned that the product is a part of radio communication RRH. Accordingly, the product may lie under Notification item (h)(i) & (ii) of 85176990 of Circular No. 08/2023."

Subsequent minutes of meeting held by Customs Preventive with DOT and the Noticee contradict the previous DOT Findings:

12.3.2. The noticee submitted that it is on record in paragraph 5.7 of the impugned SCN that subsequent to obtaining of opinion of Telecom Engineering Centre, DOT, by the Preventive Officers, the Noticee made a representation to DOT (dated 10th January, 2025, copy attached as Annexure A-2), pointing out some additional information and requesting for a review of the earlier opinion given by them. DOT after considering the aforesaid representation of the Noticee, sent an email dated 16th January, 2025 to Customs Preventive officers.

12.3.3. The noticee submitted that based on the said email dated 16th January, 2025 of DOT, a meeting took place on 04.03.2025 through video conferencing mode which was chaired by the Additional Commissioner of Customs (Preventive), Delhi wherein the officers of Department of Telecom (DoT) and representatives of M/s Radio Design India Pvt. Ltd were also present.

12.3.4. The noticee submitted that as per paragraph 5.8.1 of the impugned SCN, during meeting with DOT officers, Sh. Gaurav Chauhan presented the equipment 'RDO935-1 14-01-09 11 4T4R Fitter Body Assembly' and demonstrated the product to all the participants and informed that it was a housing for assembly only and did not contain any electronic part such as capacitor etc. After watching the product, it was opined by the DoT Officials that it appeared that the demonstrated product is RF Cavity Filter; it may not have capacitor/ inductor etc. attached but due to its design the product possesses the capability/ characteristics of the RF filtering; the product also had silver lining having the property of 'electrical conduit'.

12.3.5. The noticee submitted that as per paragraph 5.8.5 of the impugned SCN, it was clarified by the Chair and also by the DoT Officers that the opinion expressed by the DoT vide their letter dated 08.11.2024 is advisory /guiding in nature and Customs Authorities would decide the applicable CTH after considering all the relevant facts on the subject.

Stark contradictions in the DOT opinion dated 8th November, 2024 vis-à-vis subsequent observations come to the fore:

12.4. The noticee submitted that from perusal of the above material wherein initially, an opinion was given by Telecom Engineering Centre/Deptt. of Telecom regarding the functioning as well as classification/ coverage under Customs Circular of the product under consideration. It is on record that in the aforesaid opinion dated 08.11.2024, Telecom Engineering Centre (TEC), DOT affirmed the contention of Customs Preventive officers as to classification (85176990) as well as non-availability of benefit of the notification on the imported product (coverage under CBIC Circular No.08/2023).

12.4.1. The noticee submitted that the said opinion of DOT body had been elicited from DOT without sending them the physical product for consideration of views/ submission of the Noticee; the Noticee had not submitted their views to DOT at the initial stage in the mistaken belief that the issue had already been closed by Customs Authorities (para 5.1.1 of the impugned SCN refers).

12.4.2. The noticee submitted that upon coming to know of the one-sided purported opinion given by the DOT, the Noticee strongly took up the issue with DOT vide representations dated 10th January, 2025 (copy attached as Annexure A-2), and requested the concerned officials to reconsider and review the earlier opinion given which was based on incomplete information.

12.4.3. The noticee submitted that the DOT substantially revised the opinion and made clear observations which however contradicted the previous opinion given by them. Following contradictions in the previous opinion given by DOT and subsequent observations recorded in the minutes dated 04.03.2025 in the presence of officials of DOT, the Noticee and the Customs Preventive officers clearly come out-

- (i) Para 5.8.1: In the minutes dated 04.03.2025, it is recorded that *'after watching the product, it was opined by the DoT Officials that it appeared that the demonstrated product is RF Cavity Filter; it may not have capacitor/ inductor etc. attached but due to its design the product possesses the capability/ characteristics of the RF filtering'*;

The above-cited observation of DOT is in clear contradiction to their previous opinion dated 8th November, 2024 wherein they had recorded that - *'On the above cited subject, it is clarified that the RF filter body assembly is amechanical and electronic structure designed to house and support an RF filter It consists of Filter elements (e.g. resonators, Capacitors, inductors).....'*

- (ii) Paragraph 5.8.5: In the minutes dated 04.03.2025, it is recorded that *'it was clarified by the Chair and also by the DoT Officers that the opinion expressed by the DoT vide their letter dated 08.11.2024 is advisory /guiding in nature and Customs Authorities would decide the applicable CTH after considering all the relevant facts on the subject.*

This observation of DOT is in clear contradiction to their previous opinion dated 8th November, 2024 wherein they had recorded that - *'as per the product description detailed in the attached sheet, it has been mentioned that the product is a part of radio communication RRH. Accordingly, the product may lie under Notification item (h)(i) & (ii) of 85176990 of Circular No. 08/2023.'*

12.4.4. The noticee submitted that no reliance can be placed on the aforesaid opinion of Department of Telecom in view of clear and glaring contradictions in their technical opinion dated 8th November 2024 and the observations recorded by them on 4th March, 2025. The noticee submitted that this averment is supported by the judgment of ADANI WILMAR LTD. *Versus* COMMISSIONER OF CUSTOMS, KANDLA 2008 (231) E.L.T. 545 (Tri. - Ahmd.):-

"Oil - Hydrogenated Vegetable Oil (HVO) or Refined palm oil - Classification of - Goods not tallying with specific standards of RPO laid down in PFA - Presence of nickel, sesame oil and Vitamin A, proved that goods in question nothing but HVO - Revenue failed to prove that no hydrogenation was undertaken at foreign supplier's end and therefore, goods are not HVO, while appellants have established to the contrary that goods imported by them are HVO and not RPO - Expert's opinion relied by Revenue that presence of linoleic acid indicates that goods are not partially hydrogenated, not acceptable in the face of admitted position that samples found to contain nickel, sesame oil and Vitamin A and also conform to standards of PFA rules for vanaspati - Classifiable under Heading 15.16 of Customs Tariff Act, 1975 and not under

Heading 15.11 *ibid.* [Majority per : Ms. Jyoti Balasundaram, Vice-President and Ms. Archana Wadhwa, Member (J)]. [paras 11, 35, 36, 37]

[Contra per : Shri M. Veeraiyan, Member (T)]. - Commissioner's finding that items should be classified as Refined Palm Oil (RPO) falling under Heading 1511 90 10 of Customs Tariff Act, 1975 that the value should be enhanced, that the differential duty shall be payable, that the goods are liable to confiscation and penalty is imposable are sustainable. [para 20]

Expert's opinion - When expert knowledge is questioned and expert opinion also contain anomalies which the expert himself was unable to explain satisfactorily, it is all the more necessary to have his opinion supported by technical authorities and more so, when technical evidence and material produced by appellants does not support conclusion of expert. [para 30]

Expert's opinion - Contradiction - Where more than one test report of Government laboratories was available on record showing different result, it is not possible to accept only one of them which is in favour of Department. [para 31]"

Further, the noticee also relied upon the judgment of 2004 CESTAT, SOUTH ZONAL BENCH, CHENNAI in the case of WATERBASE LTD. *Versus* COMMISSIONER OF CUSTOMS, CHENNAI (177) E.L.T. 299 (Tri. - Chennai):-

"Stay/Dispensation of pre-deposit - Demand - Ascorbyl Polyphosphate imported - Concessional rate of duty provided under Notification No. 23/98-Cus. on the basis of expert opinion of Departmental Chemical Examiner - Report based on technical literature supplied by appellants, not identified the compound by name and only stated as compound of phosphorus - Such expert opinions are not reliable, hence prima facie case for appellants - Pre-deposit waived and recovery stayed - Section 129E of Customs Act, 1962. [para 2]"

CUSTOMS CLASSIFICATION & AVAILABILITY OF BENEFIT OF A NOTIFICATION CANNOT BE DECIDED BY A TECHNICAL EXPERT; IT CAN ONLY BE DONE BY CUSTOMS OFFICERS BASED ON ESTABLISHED CLASSIFICATION PRINCIPLES:

12.5. The noticee submitted that the impugned SCN relies entirely on the opinion given by the Telecom Engineering Centre, Department of Telecom (DoT), dated 8th November, 2024 to whom the following query was raised by the concerned investigating officers-

"Whether the equipment Filler Body Assembly' is getting covered under definition of Other apparatus for transmission or reception of voice, images or other data including apparatus for communication in a wired or wireless network?"

12.5.1. The noticee submitted that while raising the query to Telecom Engineering Centre, DOT, the investigating officers used the exact language

as given in heading 8517 of the Customs Tariff Act, 1975, which covered sub-headings 8517 61, 8517 62 and 8517 69, which reads as given below-

“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):”

12.5.2. The noticee submitted that the investigating officers asked the officials of Telecom Engineering Centre, Department of Telecom (DoT) whether the goods in question complied with the requirement of specified telecom equipment or apparatus which was not in the nature of ‘parts of telecom equipment’.

Telecom Engineering Centre, DoT opined on classification as well as scope of the impugned item:

12.6. The noticee submitted that it is on record in paragraph 5.2 of the impugned SCN that Telecom Engineering Centre, DoT gave the following opinion vide their communication dated 8th November, 2024 as given in RUD-4, reads as given below-

“On the above cited subject, it is clarified that the RF filter body assembly is a mechanical and electronic structure.....”

Further as per the product description detailed in the attached sheet, it has been mentioned that the product is a part of radio communication RRH. Accordingly, the product may lie under Notification item (h)(i) & (i) of 85176990 of Circular No. 08/2023.”

12.6.1. The noticee submitted that it is on record that the Deptt. of Telecom had not only given their specific opinion regarding classification of the impugned item declared as ‘Filter Body Assembly’ but also opined with regard to coverage of the impugned item in notification No.57/2017-Customs whose scope is expounded/ explained by Board’s Circular No.08/2023-Customs, dated 13.03.2023.

12.7. Technical experts cannot decide Customs Classification:

12.7.1. The noticee submitted that any technical expert cannot decide customs classification of any imported/export item. The same has to be decided by the jurisdictional Customs authorities based on Customs Tariff Act including rules of interpretation, HSN notes, chapter and section notes and terms of the tariff headings. The noticee submitted that this averment is supported by judgment of Samsung India Electronics Pvt. Ltd. Versus Deputy Commissioner of Customs by Hon’ble CESTAT New Delhi :-

“43. It also needs to be remembered that classification and assessment under the Customs Act and interpretation of an Exemption Notification falls within the domain and jurisdiction of the Customs Authorities and the Tribunals and the Courts. MEITY cannot have any role in interpreting the Customs Exemption Notification. In this connection, reliance can be placed on the decision of the Tribunal in M/s. Samsung India Electronics Pvt. Ltd. vs. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi. The relevant paragraph is reproduced below:

'23. To sum up, the power to assess duty lies with the importer and the proper officer. Classification, valuation and applying an exemption notification, are all part of the process of this assessment. Hence, the power to decide the classification lies with the importer during self-assessment, with the proper officer during re-assessment and while issuing an SCN under Section 28 and while adjudicating, with the Adjudicating Authority and with any appellate authority in the judicial hierarchy who deals with the appeals. Classification cannot be decided by anybody else (such as a MeiTY in this case) for two reasons. First, they do not have the authority to assess under Section 17 nor have any appellate powers to modify the assessment. Second, their orders, letters, notifications, etc. are executive actions performed at the discretion of the government and are not quasi-judicial or appealable decisions. Therefore, any HSN code indicated against any goods in any policy of MeiTY or any other Ministry cannot determine the classification of the goods under the Customs Tariff. Of the three grounds on which the classification is proposed to be changed in the SCN, the policy of MeiTY as a ground cannot, therefore, be sustained.'" (emphasis supplied)

44. This view of the Tribunal was subsequently followed in *Commissioner of Customs (Port), Kolkata vs. Chirag Corporation*. The relevant paragraph is reproduced below:

"14. We have gone through the letter/memo of the Ministry of Agriculture relied upon by the first appellate authority in the impugned order. This only mentions that the benefit of Notification No. 12/2012-Cus. (supra) available to Rotary Tiller, may also be extended to power tiller and requested the Under Secretary of their own Department, to take up the matter with the Finance Ministry in regard to eligibility of exemption notification or classification. We also note that the Ministry of Agriculture is not expert in classification of goods under the Customs Act, valuation, determination of duty or availability of benefit of exemption notification. They have rightly applied their mind from their point of view and felt that the exemption notification must be available to power tiller also. This view of the Ministry of Agriculture, cannot determine the eligibility or otherwise of the exemption notification to power tiller. It must be determined solely based on the way exemption notification as it is drafted. A bare perusal of the exemption notification, shows that it is available, inter alia, to rotary tiller/weeder. It does not suggest directly or indirectly that it is available to power tillers also. Therefore, in our considered view, the benefit of exemption notification is not available to the power tillers imported by the appellant." (emphasis supplied).

.....

49. The order dated 23.12.2021 passed by the Commissioner (Appeals) that has been assailed in Customs Appeal No. 51162 of 2022, therefore, cannot be sustained. The order dated 31.10.2022 passed by the Commissioner (Appeals) in the remaining 25 Customs Appeals cannot also be sustained. 50. The two orders dated 23.12.2021 and 31.10.2022 passed by the Commissioner (Appeals) are, accordingly, set aside and all the 26 appeals are allowed with consequential reliefs, if any."

(copy of CESTAT judgment in case of Samsung India Electronics Pvt. Ltd. marked and attached as Annexure A-3)

12.8. INVOCATION OF EXTENDED PERIOD UNDER SECTION 28(4) NOT VALID IN THE ABSENCE OF ANY SUPPRESSION OR DELIBERATE MISSTATEMENT:

12.8.1. The noticee submitted that the impugned SCN invokes provisions of Section 28(4) of the Customs Act, 1962 relating to extended period of limitation for recovery of duty allegedly not paid or short-paid. However, the said provision of law is applicable only where there is a collusion, willful mis-statement or suppression of facts by the importer or his agent, as seen from the perusal of Section 28(4) given below-

"(4) Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, —

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice."

12.8.2. The noticee submitted that there is absolutely no evidence of deliberate misstatement by the Noticee since correct and complete item description concerning the imported item had been made in all Bills of Entry mentioned in Annexure B and Annexure C. Further, there has been no suppression of facts in the Bills of Entry as no particular or feature of the impugned product has been suppressed/ hidden from the Assessing Officers.

12.8.3. The noticee submitted that the only contentions raised in the impugned SCN is with regard to declared classification code, stating that the importer had incorrectly declared classification under CTI 85177990 instead of CTI 85176990, and based on the declared classification, had incorrectly availed of benefit of a notification.

12.8.4. The noticee submitted that it has been held in a catena of latest judgments that mere change of classification code based on detailed

investigations or denial of benefit of a notification when the Assessing Officers have been accepting declared classification and granting benefit of the notification, cannot result in invocation of extended period of limitation.

12.8.5. The noticee submitted that invocation of Section 28(4) of the Customs Act, 1962 or extended period of limitation for confirmation of duty demand against the importer is totally unjustified and invalid. Due to unsustainability of invocation of Section 28(4) of the Customs Act, 1962, the demand should have been raised in terms of Section 28(1) of the Customs Act, 1962, without invoking penal liability.

12.9. PENALTY NOT ATTRACTED IN TERMS OF SECTION 114A OF THE CUSTOMS ACT, 1962:

12.9.1. The noticee submitted that invocation of Section 28(4) of the Customs Act, 1962 is not justified in the instant matter for raising the demand of duty. For the same reasons, penalty under Section 114A is also unsustainable against the importer, keeping in view that the wording employed in sections 28(4) and 114A is similar, as given below-

"Section 114A. Penalty for short-levy or non-levy of duty in certain cases-

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under³ [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined."

The noticee submitted that it is supported by the judgment of Navakar Impex Pvt. Ltd. Versus Commissioner of Customs, Chennai (2024) 25 Centax 66 (Tri.-Mad)

Customs : Clear Float Glass with absorbent and non-reflective metal layer on tin side was classifiable under Tariff Item 7005 10 90 and not under Tariff Item 7005 29 90, and eligible to benefit under ASEAN India Free Trade Area Agreement.

Customs :Where Revenue knew issue as identical imports were assessed provisionally and finally, importer had not suppressed or mis-declared any fact, and proposal to re-classify was based on CRA's objection, not for importer's fault, importer's bona fide classification could not be equated with misdeclaration, and invocation of extended period was not sustainable.

Demand and recovery - Limitation period - Extension of time - Show cause notice dated 15-6-2022 was issued for period from 1-8-2017 to 2-12-2021 - Clear Float Glass (CFG) was being imported for many years with classification under Tariff Item 7005 10 90 of Customs Tariff - Show cause notice issued was based on Customs Revenue Audit (CRA) objection that CFG did not merit classification under Tariff Item 7005 10 90 ibid - HELD : Revenue knew issue as identical CFG imports were initially assessed provisionally - Importer bona fide

adopting classification could not be equated with misdeclaration as they were not expected to be fully conversant with Customs Tariff Act, 1975 - After finalisation of assessments for over 5 years, Revenue could not invoke larger limitation period - Assessments had undergone rigours of provisional and final assessments for same product and reason - Importer had not suppressed or mis-declared any fact - Proposal to re-classify was based only on interpretation in CRA objection and not for any fault of importer - Hence, invocation of extended period was not sustainable - Section 28 of Customs Act, 1962. [paras 11.1, 11.2]

The noticee also placed reliance on the judgment of

- a. Swastik Glass Traders Versus Commissioner of Customs (2024) 23 Centax 228 (Tri.-Mad)
- b. K.B. Autosys India Pvt. Versus Commissioner of Customs, Chennai (2025) 28 Centax 438 (Tri.-Mad)

12.10. ISSUE SQUARELY COVERED BY HON'BLE CESTAT JUDGMENT IN CASE OF RELIANCE JIO INFOCOM LTD.:

12.10.1. The noticee submitted that it is on record in paragraph 4.7 of the impugned SCN that the Noticee had submitted a letter dated 06.03.2024 enclosing therein the technical literature about Filter Body Assembly, along with a legal opinion obtained by them from an independent law firm and copy of judgment in the matter of Mumbai (Air Cargo Import) vs. Reliance Jio Infocom Ltd., gist of which is that the issue under consideration was classification of 'Antenna to be used with Base Transmission Station (BTS)'; in addition, the issue examined by Hon'ble CESTAT was whether the antenna stand-alone can be considered as a 'machine', attracting classification under sub-heading 8517 62 of Customs Tariff Act, 1975.' The observations made by CESTAT in paragraphs 45, 50 and 51 of the said judgment are reproduced below -

"45. In the present case, the manufacturer of antenna as well as the chartered engineer's certificate, in clear terms clarified that the antenna in question transmits and receives only signals and not performing any other function like conversion or regeneration of voice, images or other data signals and switching/routing of signals. Therefore, the antenna stand alone cannot be considered as a 'machine', attracting classification under Heading 8517.62. Consequently, the observation of the department in the circular dated 15-1-2018 that the Antenna itself is a complete device and has capability of functioning on its own of conversion of electrical signals into electromagnetic waves and vice versa in a wireless communication system cannot be applied to the present goods as it would be complete only when connected to a base station. In the event if the antenna so designed, instead of working as a passive element, besides the above function, it also performs some more functions as in the case of other entries under the same category, its classification under sub-heading 8517 62 may be attracted considering the same as an independent of 'machine'.

50. Revenue vehemently opposed to the said opinion of HS Committee stating that it is not binding on the department. We do not find merits in the argument of the Revenue in view of the principle of law laid down by the Hon'ble Delhi High Court in *Manisha Pharma Plasto Pvt. Ltd.'s case (supra)*, whereunder it is held that the opinion of Harmonized Systems Committee has lot of weight and should ordinarily be taken as binding. Similar view has been expressed by the Tribunal in the case of *CCE, Pune-I v. Telco Ltd. 2002 (143) E.L.T. 548 (Tri.-Mum.)*, later upheld by the Supreme Court reported at 2003 (152) E.L.T. A259. Also, the literature relating to the classification of the antenna of different countries placed by the respondent indicates that the antenna is classified as part of base station under sub-heading 8517 70.

51. In the result, the correct classification of the antenna for base station is under sub-heading 8517 70 90 as "parts". Since, the main issue of classification has been addressed, the other ancillary/alternative submission/issues on the eligibility of various exemption notifications issued in support of the classification of the said goods, becomes more academic, hence not analysed. Consequently, the Revenue's appeals are being devoid of merits accordingly rejected."

(copy of the above referred CESTAT judgment is marked and attached as Annexure A-4)

The above-cited judgment of Hon'ble CESTAT is squarely applicable in the instant matter since the issue involved is the same i.e., whether 'Filter Body Assembly' which is to be used with Radio Remote Head/Base Transmission Station (BTS) can qualify as a 'machine/equipment', attracting classification under sub-heading 8517 69 of Customs Tariff Act, 1975' or 'whether it is a part of telecom equipment, falling under CTI 8517 79 90.'

12.10.2. The noticee submitted that just like the telecom antenna, Filter Body Assembly is a passive device, which is to be fitted as a part of Radio Remote Head which itself is a part of Base Station. Hence, it is evident that the item in question i.e., Filter Body Assembly cannot exhibit its functionality by itself, unless connected to RRH/Base Station. For the said reason, Filter Body Assembly cannot but be treated as a part of telecom equipment falling in CTI 8517 79 90, as declared by the Noticee.

12.11. ISSUE OF CLASSIFICATION OF TELECOM PASSIVE PARTS BEARING ELECTRONIC COMPONENTS ALSO DECIDED AS PARTS AND NOT AS EQUIPMENT:

12.11.1. The noticee submitted that the impugned SCN has been issued to the Noticee based on allegation that the goods imported by the Noticee are independent communication apparatus falling under CTI 8517 69 90 and not parts under CTI 8517 79 90. However, this conclusion is fundamentally flawed. It is settled law that classification has to be made with reference to the goods in the form in which they are imported, and not based on their potential post-importation usage or integration. Thus, the allegation in the impugned SCN is based on an improper interpretation of the Tariff and contrary to consistent judicial pronouncements.

The Hon'ble S.C., High Courts as well as Hon'ble Tribunals have consistently held that transceivers, SFP modules, and communication modules are parts of telecom/networking equipment classifiable under CTI 8517 79 90 and are not equipment under CTI 8517 62 90.

12.11.2. The noticee submitted that this averment is supported by the following binding precedents -

i. JUNIPER NETWORKS SOLUTION INDIA PVT. LTD. *Versus* COMMISSIONER OF CUSTOMS, BENGALURU (2025) 26 Centax 238 (Tri.-Bang) :-

Customs: Small Form Pluggable optical transceivers to facilitate communication of networking equipment with other equipment through fiber optic cables, were classifiable under Tariff Item 8517 70 90 as parts of networking equipment, and not under Tariff Item 8517 6290 as networking equipment.

Customs : Full secured routers, network services platform to integrate routing, switching and security functions on single platform that optimizes usage of system resources, were not eligible for exemption under Sl. No. 13N of Notification No. 24/2005-Cus., dated 1-3-2005 that was meant for simplicity routers and not for "full secured router" with multifunctional features.

Customs: Modular Interface Cards, capable of providing physical connections to networks and media types, were functional as network interface cards classifiable under Tariff Item 8517 62 90, and not under Tariff Item 8517 70 90.

Customs: Mini Physical interface module used in connecting any network equipment, was network interface card classifiable under Tariff Item 8517 62 90 and not under Tariff Item 8517 70 90.

Optical transceivers - Networking equipment spares - Telephones and apparatus for transmission and reception of voice, images or data - Tariff Heading 8517 - Small Form Pluggable transceivers which facilitated communication of networking equipment with other equipment through fiber optic cables - Importer claimed transceivers were classifiable under Tariff Item 8517 70 90 of Customs Tariff as parts of networking equipment, whereas department claimed Tariff Item 8517 62 90 ibid as networking equipment - HELD : In view of Tribunal decision in Reliance Jio Infocomm Ltd. [(2023) 3 Centax 96 (Tri.-Mum.)] being upheld by Supreme Court in Reliance Jio Infocomm Ltd. [(2024) 16 Centax 287 (S.C.) = 2024 (388) E.L.T. 269 (S.C.)], transceivers were classifiable under Tariff Item 8517 70 90 ibid as parts of network equipment - Section 2 of Customs Tariff Act, 1975. [paras 5.1 to 5.3, 10]

Appeals decided partly in favour of department

ii. Vodafone Idea Ltd. *Versus* Principal Commissioner of Customs, ACC (Import) New Delhi (2025) 28 Centax 387 (Tri.-Del) Final Order No. 55949/2024 in Appeal No. C/51166/2020, decided on 1-7-2024:-

Customs: Transponder, Muxponder and Optical Splitter Cards imported through separate Bills of Entry and not collectively, being in nature of PCBs and to be used in optical transport network equipment, were to be

classified under Customs Tariff Entry 8517 70 90 as parts and not under Customs Tariff Entry 8517 62 90 as Network Interface Cards.

Transponder, Muxponder and Optical Splitter Cards - Telephone including smartphones and cellular/wireless network phones, etc. - Tariff Heading 8517 - Classification - Period 28-11-2017 to 4-12-2017 - Transponder, Muxponder and Optical Splitter cards are passive components which simply did conversion between electrical and optical mediums but no conversion of voice/images/other data being carried on signal was done by them - Said cards were to be used in OTN equipment that consisted of a modular chassis with dedicated slots for various populated printed circuit boards (PCBs) - There was no dispute that they were in nature of PCB assembly and different from NIC cards - They could not function on a standalone basis without being fitted in dedicated slots in chassis of OTN equipment for drawing power and intelligence - Since subject cards were solely usable for pre-determined purposes i.e., usage with OTN equipment and were not cross compatible with devices of other manufacturers, they could not be considered as complete communication apparatus having an independent function such as machines mentioned under heading 'Other Communication Apparatus' in HSN Explanatory Notes to Tariff Heading 8517 of Customs Tariff - Hence, these cards (hybrid/pure matrix cards) which were in nature of populated PCBs, being tailor-made for main equipment i.e. OTN equipment falling under Tariff Entry 8517 62 90 *ibid* and in contrast to NIC cards and very much essential for main equipment to operate, were to be classified as 'parts' under Tariff Entry 8517 70 90 by virtue of Section Note 2(b) of Section XVI of Customs Tariff Act, 1975 - Since these cards had no capability to function on a standalone basis and imported through separate Bills of Entry and not collectively, Rule 2(a) of General Rules of Interpretation of Act *ibid* relied upon by adjudicating authority could not be applied - As regards Note 3 to Section XVI *ibid* relied upon by adjudicating authority, same was not applicable as main equipment did not consist of two or more machines nor did it consist of machines designed to perform two or more complementary or alternative functions - Section 2 read with Section Note 2(b) of Section XVI, of Customs Tariff Act, 1975. [paras 1, 9 to 35]

Appeal allowed in favour of assessee

iii. Principal Commissioner of Customs Versus Vodafone Idea Ltd.(2025) 28 Centax 388 (S.C.) Civil Appeal No. 245 of 2025, decided on 6-1-2025:-

"Customs : Supreme Court, after condonation of delay, dismisses appeal against order of CESTAT holding that Transponder, Muxponder and Optical Splitter Cards imported through separate Bills of Entry and not collectively, being in nature of PCBs and to be used in optical transport network equipment, were to be classified under Customs Tariff Entry 8517 70 90 as parts and not under Customs Tariff Entry 8517 62 90 as Network Interface Cards.

Transponder, Muxponder and Optical Splitter Cards - Telephone sets including smartphones and cellular/wireless network phones, etc. - Tariff Heading 8517 of Customs Tariff - Classification - Period 28-11-2017 to 4-12-2017 - CESTAT in impugned order had held that Transponder, Muxponder and Optical Splitter cards, which were in

nature of Populated printed Circuit Boards and to be used in optical transport network equipment, having been imported through separate Bills of Entry and not collectively were to be classified under Tariff Entry 8517 70 90 as parts and not under Tariff Entry 8517 62 90 ibid as Network Interface Cards, by virtue of Section Note 2(b) of Section XVI of Customs Tariff Act, 1975 - Such impugned order could not be interfered and appeal filed thereagainst was to be dismissed after condonation of delay - Section 2 read with Section Note 2(b) of Section XVI of Customs Tariff Act, 1975. [paras 1 to 4]"
Appeal dismissed in favour of assessee

iv. *Secure Meters Ltd. Versus Principal Commissioner of Customs (Import), New Delhi (2025) 28 Centax 209 (Tri.-Del) Final Order Nos. 50093-50094/2025 in Appeal Nos. C/51041, 51137 of 2020, decided on 28-1-2025:-*

Communication modules/network interface cards - Telephones and apparatus for transmission and reception of voice, images or data - Tariff Heading 8517 - Classification of imported goods, being part of assessment as defined under Section 2(2)(a) of Customs Act, 1962, must be determined in form in which they are imported and cleared - There was no dispute that imported goods viz. communication modules/network interface cards were essential part of communication hubs which were an electronic communication device by themselves and deserved to be classified under sub-heading 8517 62 of Customs Tariff as machines for reception, conversion and transmission of data - Moreover, classification adopted by importers on export of communication hubs under Heading 8517 ibid was accepted by Revenue without any objection - Since communication modules were imported as such and not as a part of either communication hubs or as a part of smart meters, they should be classified as such - Hence in view of Note 2(a) to Section XVI of Customs Tariff Act, 1975, communication modules, being part of communication hubs, were to be classified under Tariff Item 8517 70 90 instead of Tariff Item 9028 90 10/Tariff Item 9028 90 90 ibid - Note 2(b) to Chapter 90 ibid relied upon by Revenue was not applicable as communication modules, being part of goods of Heading 85 were not covered under expression 'other parts' in said Note 2(b) - As regards, Note 3 to Section XVI as made applicable to Chapter 90 and relied upon by Revenue, same was irrelevant to subject case as it has dealt with composite machines - Section 2 of Customs Tariff Act, 1975. [paras 2, 6, 16 to 38, 48, 49]

Communication modules/communication hubs - Telephones, apparatus for transmission or reception of voice, images or data communication apparatus - Tariff Heading 8517 of Customs Tariff - Classification - Communication modules have their own identity as parts of communication hubs but if they are fitted in and become part of communication hubs, they will not be classifiable separately but will become part and parcel of communication hubs and they should be classified as such - Further, if communication hubs having communication modules in them are fitted in smart electricity meters, they would become part of smart meters and would not be classifiable separately - Entire structure, primary function of which is measuring of

electricity consumption, must be classified as such and communication module will be its child part - However, if communication hubs are imported separately, they should be classified as communication hubs - Section 2 of Customs Tariff Act, 1975 - Sections 2(2)(a) and 12 of Customs Act, 1962. [paras 25, 26]

Import of goods - Levy of Customs duty - As per Section 12 of Customs Act, 1962, charge of Customs duty is only on goods imported into India and not on what they become after their import - Section 12 of Customs Act, 1962. [paras 16, 28, 30, 48]

Assessment (Customs) - Imported goods - Customs duty must be assessed on goods in form in which they are imported and modification of assessment of duty under Section 28 of Customs Act, 1962 or in appeal, etc. can only be of goods as they are imported - Section 17 read with Section 28 of Customs Act, 1962. [paras 19, 21, 48]

Appeals decided in favour of assessee.

12.12. TECHNICAL OPINION OF EXPERTS & SUPPLIER ADDUCED IN SUPPORT OF DECLARED NATURE OF THE IMPUGNED ITEM:

12.12.1. The noticee also submitted that in support of the declared nature, description and classification of Filter Body Assembly as a part, the Noticee hereby submits the technical and expert opinion from three persons who are renowned in the field of electronics and telecommunication. These opinions are described below-

- (i) Professor Ian Hunter, BSc, Ph.D., CEng, FREng., FIET, FIEEE, at School of Electronic and Electrical Engineering, University of Leeds, U.K.- He has given the following opinion on the nature of 'Filter Body Assembly'-

"The filter body assembly in question is by no means an electronic device or system. It is merely an aluminum cast mechanical part which meets stringent mechanical and thermal requirements. It contains no electronic components of any kind. This part would join a production line, where, with the addition of numerous other mechanical parts, a passive RF filter assembly would be produced."

- (ii) Mr. Patrick Geraghty, BEng (Hons), CEng, MIET, Chartered Engineer, a member of the Engineering Council, U.K. - He has given the following opinion on the nature of Filter Body Assembly-

"This component is an aluminum alloy casting that forms the passive mechanical base of a filter body assembly. It is not an electronic part and contains no active elements such as inductors, capacitors or resistors.

Manufactured as a precision cast aluminum block, it incorporates multiple cavities and circular posts. The block is lightweight, robust, and dimensionally stable, with a silver plated and powder - coated surface finish. Its purpose is to serve as the foundation for an RF cavity filter.

Being a fully passive part, it has no electrical or functional role on its own and cannot be powered. Instead, it acts purely as a

- structural housing element, providing the base on which RF cavity manufacturers carry out subsequent assembly operations.”*
- (iii) M/s Suzhou Henghui Technology Company Ltd., a manufacturer of the impugned item and many other similar products. They have given the following technical write-up on the nature of Filter Body Assembly-

“The component is an aluminum alloy casting that serves as a passive mechanical block in the form of a filter body assembly.

The part is designed as a precision-cast aluminum block featuring multiple cavities and circular posts arranged in a dense grid pattern, with well-defined channels, partitions and recessed features access its surface. A peripheral flange with mounting provisions is integrated into the casting to facilitate further assembly.

The block is lightweight, rigid and dimensionally stable, featuring plated and powder coated surface finishing. It functions as a base casting block for the manufacturing of an RF cavity filter. The component itself is entirely passive with no independent function of its own, serving solely as the structural housing element for downstream operation and final assembly.”

(copies of the above-referred documents covering expert opinion are marked and attached as Annexures A-5, A-6 and A-7, respectively)

12.13. THE DECLARED CLASSIFICATION IS IN LINE WITH THE INDUSTRY PRACTICE FOR THE SAME PRODUCT IN INDIA:

12.13.1. The noticee submitted that on perusal of data relevant to the product in question i.e., Filter Body Assembly, shows that this item is regularly imported by various importers under CTI 8517 79 90. A copy of some relevant data pertaining to import of Filter Body Assembly is attached as Annexure A-8.

12.14. NOTE 2(b) OF SECTION XVI INTERPRETED INCORRECTLY IN THE IMPUGNED SCN:

12.14.1. The noticee submitted that in paragraph 4.2 of the impugned SCN, while recording statement of Sh. Gaurav Chauhan, M.D. of the Noticee company, a question was asked regarding applicability of Section Note 2(b) of Section XVI to the Customs Tariff Act, 1975, for classification of the impugned item. The said question is reproduced below-

“Q10. At the time of filing Bill of Entry No. 9526176 dated 04.01.2024, you have classified item Filter Body Assembly (Parts of Telecom Networking Switching Apparatus) under CTH 85177990 and claimed exemption under Notification No. 57/2017 dated 30.06.2017, which is a entry for ‘Others’ under CTH 8517, however, as per Section Note 2 of Section XVI of the Customs Tariff Act, 1975 other parts, if suitable for use solely or principally with a particular kind of machine, or with number of machines of the same heading..... are to be classified with the machines of that kind...” as stated earlier

Filter Body Assembly is a part of Base Station and Base station is specifically defined under CTH 85176100 and thus merits classification under CTH 85 176100, please explain?"

From the above question, it appears that the impugned SCN has taken the view that by application of Section Note 2(b) of Section XVI of the Customs Tarff Act, 1975, parts such as 'Filter Body Assembly' which is suitable for use solely or principally with RRH/Base Station, should be classified with the RRH/Base Station under CTI 8517 61 00, on the ground that the Base Station itself specifically falls under CTI 8517 61 00.

12.14.2. The noticee submitted that Section Note 2(b) of Section XVI of the Customs Tarff Act, 1975 has been mis-interpreted in as much as the said note does not state that parts which are suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading are to be classified in the same tariff item at 8-digit level, rather it means to say that such parts will remain classified in the same heading along with the machines.

12.14.3. The noticee submitted that 'Filter Body Assembly' which is suitable for use solely or principally with RRH/Base Station, would fall in the same heading as RRH/Base Station i.e., heading 8517. Further, since the said heading 8517 has specific tariff items covering parts, hence, any identifiable parts of machines/ equipment of heading 8517 would fall in CTI 8517 79 10 (mounted PCBs) or 8517 79 90 (other). The item in the instant matter not being a populated PCB, would appropriately fall in CTI 8517 79 90, which is the declared tariff entry. Hence, the declared classification of 'Filter Body Assembly' under CTI 8517 79 90 is correct and justified.

13. DISCUSSION AND FINDINGS:

I have carefully gone through the facts of the case, allegations levelled in the Show Cause Notice against the Noticee, the Relied upon documents, the written replies filed by the Noticee and the submissions made by the legal representatives of the Noticee during personal hearing, the legal provisions relevant to the case and the case laws relied upon by the Noticee in support of their defence.

13.1. The following issues raised under the SCN are required to be discussed and decided in the present matter:

- (i) Whether, the declared/assessed CTH 85177990 in respect of the goods imported vide Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) detailed in Annexure-B & Annexure-C to the SCN is appropriate or liable to be rejected and re-determined as CTH 85176990.
- (ii) Whether, the BCD exemption benefit of notification 57/2017-Customs dated 30.06.2017 (S. No. 20) as amended by Notification No. 57/2021-Customs dated 29.12.2021 is liable to be denied in respect of the

goods imported vide Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) detailed in Annexure-B & Annexure-C to the SCN.

(iii) Whether, the differential duty amounting to Rs.22,40,60,833/- in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C to the SCN is liable to be demanded from the importer under Section 28(4) of the Customs Act along with interest under Section 28AA of the Customs Act, 1962.

(iv) Whether, the penalty under Section 114A of the Customs Act 1962 in respect of in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C to the SCN is imposable upon the noticee.

I will be discussing these issues one by one in coming paras.

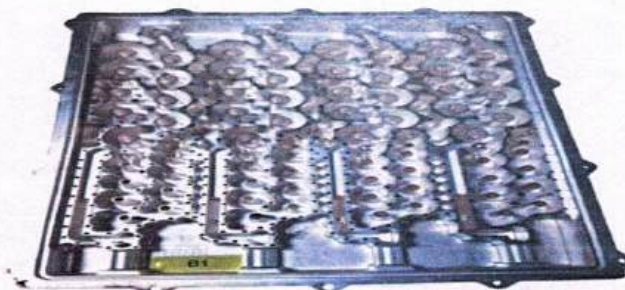
13.2. Issue.1. Whether, the declared/assessed CTH 85177990 in respect of the goods imported vide Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) detailed in Annexure-B & Annexure-C to the SCN is appropriate or liable to be rejected and re-determined as CTH 85176990.

13.2.1. I note that the noticee has inter alia submitted that the imported product is a "Filter Body Assembly", which is not a complete functional apparatus. As per their submissions:- The product is merely a housing/structural component used in the manufacture of RF Filters / RRH Front End Assemblies. It does not contain active electronic components such as capacitors, inductors, etc. at the time of import. The item is not usable in the form in which it is imported and acquires functionality only after integration with multiple other components. The goods are supplied for further use in RRH/Base Station equipment being manufactured by M/s Tejas Networks Ltd. for telecom networks (BSNL 4G).

Visual representation of Filter Body Assembly (In condition- As imported, after processing/working and after installation in RRH i.e. Remote Radio Head)

Pic-1 (Impugned Imported Goods which are subject to SCN)

1 - Filter Body Assembly (Part Imported)



Pic-2 Finished Product after installation of electrical/electronic attachment (to be used in the manufacturing of RRH)

6 – RF Passive Cavity Filter / RRH Front End Assembly

(Ready to Ship To Customer)



Pic-3 (Complete Filter Body Assy installed in RRH)



**RRH – Remote Radio Head
Manufactured by Tata (Tejas)
using Filter and 20+ other BOM
Parts**

13.2.2. The noticee during the personal hearing, has presented the sample of the impugned goods. I find that as per sample inspection, product literature, and submissions, the impugned item has cavities of specific dimensions. Due to such cavities and design, the product is also referred to as a “Cavity Filter Body”. The presence of cavities enables the selection (passing) of desired frequency bands and rejection of undesired frequencies, *once assembled into a complete RF filter system.*

13.2.3. However, it is also observed from inspection of the sample and other technical literature that at the time of import, it is only a partially manufactured structure/housing. It is not capable of independently performing transmission/reception of signals. It requires integration with several other components to become part of a functioning RRH/Base Station. Thus, it is observed that the imported item lacks independent functional identity as a telecom apparatus.

13.2.4. Further, I also note that the impugned SCN relies heavily on DoT opinion dated 08.11.2024. However, I find that vide the Initial Opinion dated 08.11.2024, DoT stated that the product is a structure to house RF filter components, It May be a part of a large RF communication system and suggested possible coverage under 85176990 based on limited description.

The relevant portion of the opinion is reproduced below:-

Ref. Letter no. VIII (SB) 10/ Cus.Prev./GR-III-A/07/2023-24/19435 dated 17.10.2024.

On the above cited subject, it is clarified that the RF filter body assembly is a mechanical and electronic structure designed to house and support an RF filter (which is used to selectively allow or block specific frequencies in a radio frequency (RF) spectrum). It consists of Filter elements (e.g. resonators, capacitors, inductors) to perform the actual filtering of RF signals, mechanical housing that supports and protects the sensitive filter components from environmental and mechanical stresses. Further, as per the brief write-up provided by Customs (Preventive), the RF filter body assembly has connectors for integration it to a large RF communication system such as a base stations. Hence it may be a part of a large RF Communication System.

Further as per the product description detailed in the attached sheet, it has been mentioned that the product is a part of radio communication RRH. Accordingly the product may lie under Notification item (t) (i) & (ii) of 85176990 of circular no. 03/2023.

13.2.5. I note that the Noticee made a representation to DoT, pointing out some additional information and requesting for a review of the earlier opinion given by them. DOT after considering the aforesaid representation of

the Noticee, sent an email dated 16th January, 2025 to Customs Preventive officers. Based on the said email dated 16th January, 2025 of DOT, a meeting took place on 04.03.2025 through video conferencing mode which was chaired by the Additional Commissioner of Customs (Preventive), Delhi wherein the officers of Department of Telecom (DoT) and representatives of M/s Radio Design India Pvt. Ltd were also present. During meeting with DoT officers, Sh. Gaurav Chauhan, Managing Director of the noticee firm presented the equipment 'RDO935-1 14-01-09 11 4T4R Fitter Body Assembly' and demonstrated the product to all the participants and informed that it was a housing for assembly only and did not contain any electronic part such as capacitor etc. Upon demonstration of the actual product, in the minutes of meeting (MoM) dated 04.03.2025, DoT officials observed that the product may not contain capacitors/inductors and it is essentially a cavity-based structure with filtering characteristics due to design.

The relevant portion of the opinion is reproduced below:-

3. Further, as per the brief write-up provided by M/s Radio Design India Pvt. Ltd. and forwarded by the Customs (Preventive) Commissionerate Delhi, the RF filter body assembly has connectors for integration to a large RF communication system such as a base station. Hence it may be a part of a large RF Communication Systems. Further as per the product description in the attached sheet, it has been mentioned that the products are a part of radio communication RRH. Accordingly, the product may lie under Notification Item (h) (i) & (ii) of 85176990 of Circular No. 08/2023.
4. During the meeting, Sh. Gaurav Chauhan presented the equipment RDO935-114-01-09 11 4T4R 'Filter Body Assembly' and demonstrated the product to all the participants and informed that it is an housing for assembly only and does not contain any electronic part such as capacitor etc.. After watching the product, it appears that the demonstrated product is RF Cavity Filter. It may not have capacitor/ inductor etc. attached but due to its design the product possesses the capability/characteristics of the RF filtering. Also, the product has silver lining which possesses the property as electrical conduit.
5. Furthermore, DoT officers emphasized that DoT provides responses to queries and clarifications based on the information and materials received with the request. In the absence of any new material or facts, it upholds its clarification letter dated 08.11.2024, as it was issued after a thorough examination of the materials and documents available at that time.
6. Members from DOT re-iterated that their earlier clarification provided in the said letter that the imported goods are part of RRH. Based on that it was advised that it may fall under Item (h)(i) & h(ii) of CTH 85176990, as mentioned in Circular No. 08/2023.
7. Shri Gaurav Chauhan also agreed with the findings of DoT that the imported goods i.e. equipment RDO935-114-01-09 11 4T4R 'Filter Body Assembly' is part of RRH (Remote Radio Head). However, he differed with the CTH 85176990 as advised by the DoT.
8. It was clarified by the Chair and also by the DoT Officers that the opinion expressed by the DoT vides their letter dated 08.11.2024 is not a binding in nature and Customs (Preventive) Commissionerate may decide the applicable CTH after considering all the relevant facts on the subject.

It is important to note here that the first opinion was given without examination/inspection of the sample of goods and was based on the technical literature of the impugned goods whereas the second opinion is based upon the inspection of the impugned goods. Crucially, it was clarified that the earlier DoT opinion is "advisory/guiding in nature" and Final classification is to be decided by Customs Authorities.

In both the opinions of DoT, I observe grave contradictions. The initial opinion given without inspecting the impugned goods presumed presence of electronic components. The later observation provided after examining the actual goods acknowledges absence of such components and recognizes the item as part of RF system / RRH. Thus, the later technical clarification significantly dilutes the evidentiary value of the earlier opinion relied upon in the SCN.

13.2.6. I note from, these opinions, that the DoT itself has admitted that the imported goods are "parts of RRH (Remote Radio Head)". The noticee has also agreed upon the observation of the DoT that the impugned goods are part of RRH. I observe that the imported product is a cavity-based component possessing specific structural features that enable it to function as a "Cavity Filter". Due to the presence of cavities of varying sizes and shapes, the product, upon assembly into a complete RF Filter/RRH Front End Assembly and integration with other components in a Radio Remote Head (RRH)/Base Station, acquires the essential property of selectively passing desired frequency bands and rejecting undesired ones. This functionality makes the product suitable as a part of RRH/Base Stations used in telecom networks. The noticee has also submitted that the said imported component is specifically intended for use in the BSNL 4G network and is supplied to M/s Tejas Networks Limited for incorporation into RRH/Base Stations designed and manufactured by them.

Remote Radio Head is a telecom equipment and appropriately classifiable under CTH 85176990, as evident from the CBIC Circular No. 08/2023 dated 13.03.2023 (regarding Telecom equipment in the context of notification No. 02/2019- Customs dated 29-01-2019 amending notification No. 57/2017- Customs dated 30.06.3017). Since, the DoT has itself found that the impugned item is 'part' of RRH (Remote Radio Head, which is a telecom equipment), the impugned goods i.e. "Filter Body Assembly" should be classified under the CTH applicable for Parts of apparatus of heading 8517.

13.2.7. The noticee also challenged the CTH suggested by the DoT and argued that any technical expert cannot decide customs classification of any imported/export item. The same has to be decided by the jurisdictional Customs authorities based on Customs Tariff Act including rules of interpretation, HSN notes, chapter and section notes and terms of the tariff

headings. The noticee relied upon several case laws in support of their contention. However, I note that this contention is not factually correct, as I note that the DoT has only suggested the classification of the impugned goods which is advisory in nature but the determination of classification is finalized by the Customs Department itself.

13.2.8. Further, regarding the differing opinions provided by the DoT, I observe that the same cannot be accepted for deciding the classification of the impugned goods. It is also pertinent to mention that DoT itself clarified that their opinion is only advisory in nature. I place reliance upon the decision of Hon'ble CESTAT in the matter of ABHAY INDUSTRIES Versus COMMISSIONER OF C. EX. & SERVICE TAX, DAMAN [2015 (329) E.L.T. 884 (Tri. - Ahmd.)], wherein it was held that:

Once the same person is giving contradictory opinion then none of these opinions is acceptable. Adjudicating authority should have only restricted to the calculations submitted by the appellant, as per remand directions (without giving any credence to the contradictory opinion given by the same person).

Further, reliance is also placed upon the decision in the matter of Veekay Connectors Pvt. Ltd. Versus Commissioner of Customs, New Delhi [(2023) 7 Centax 4 (Tri.-Del) / 2023 (385) E.L.T. 419 (Tri. - Del.)], wherein it was held that:

10. The appellant had also obtained an expert opinion from Dr. Y.K. Prajapati, Assistant Professor, Department of Electronics and Communication Engineering, Motilal Nehru National Institute of Technology, Allahabad but the authenticity of the sample sent for testing was not there, as it was not sure that it pertained to the same consignment and therefore no reliance could be placed on it. However, we feel that when two contradictory expert opinion were on record, the proper course for the authorities below was to send the sample for a third report, which could have conclusively decided the issue. The failure to do so is improper which could not be rectified at this late stage.

13.2.9. I note that Noticee has also submitted the technical and expert opinion from three persons regarding the nature and description of Filter Body Assembly as a part of Telecom Equipment. These opinions in brief are reproduced below-

13.2.9.1. Professor Ian Hunter: BSc, Ph.D., CEng, FREng., FIET, FIEEE, at School of Electronic and Electrical Engineering, University of Leeds, U.K.-

"The filter body assembly in question is by no means an electronic device or system. It is merely an aluminum cast mechanical part which meets stringent mechanical and thermal requirements. It contains no electronic components of any kind. This part would join a production line, where, with the addition of numerous other mechanical parts, a passive RF filter assembly would be produced."

13.2.9.2. Mr. Patrick Geraghty, BEng (Hons), CEng, MIET, Chartered Engineer, a member of the Engineering Council, U.K. -

"This component is an aluminum alloy casting that forms the passive mechanical base of a filter body assembly. It is not an electronic part and contains no active elements such as inductors, capacitors or resistors.

Manufactured as a precision cast aluminum block, it incorporates multiple cavities and circular posts. The block is lightweight, robust, and dimensionally stable, with a silver plated and powder – coated surface finish. Its purpose is to serve as the foundation for an RF cavity filter.

Being a fully passive part, it has no electrical or functional role on its own and cannot be powered. Instead, it acts purely as a structural housing element, providing the base on which RF cavity manufacturers carry out subsequent assembly operations."

13.2.9.3. M/s Suzhou Henghui Technology Company Ltd., a manufacturer of the impugned item and many other similar products.

"The component is an aluminum alloy casting that serves as a passive mechanical block in the form of a filter body assembly.

The part is designed as a precision-cast aluminum block featuring multiple cavities and circular posts arranged in a dense grid pattern, with well-defined channels, partitions and recessed features access its surface. A peripheral flange with mounting provisions is integrated into the casting to facilitate further assembly.

The block is lightweight, rigid and dimensionally stable, featuring plated and powder coated surface finishing. It functions as a base casting block for the manufacturing of an RF cavity filter. The component itself is entirely passive with no independent function of its own, serving solely as the structural housing element for downstream operation and final assembly."

13.2.10. Upon careful examination of the technical literature and expert opinions produced before me, I observe that the impugned goods are not complete telecom apparatus, but structural/mechanical parts used in RF filter assemblies. The goods are not independently functional. They are not

capable of transmission or reception of signals on their own. The DoT, in its clarified position, has itself indicated that the demonstrated product is RF Cavity Filter. It may not have capacitor/ inductor etc. attached but due to its design the product possesses the capability/characteristics of the RF filtering. Also, the product has silver lining which possesses the property as electrical conduit. I find that the item is part of a larger RF communication system / RRH. The reliance placed in the SCN on the earlier DoT opinion is misplaced, as it was based on incomplete facts and without examination/inspection of actual goods. It stands materially clarified by subsequent proceedings.

13.2.11. Further, I have also to examine the applicability of General Rules for Interpretation (GRI) for determining the correct classification of the impugned goods. The relevant portion of the GRI is extracted below:

GENERAL RULES FOR THE INTERPRETATION OF THE HARMONIZED SYSTEM

1. The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions :

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

(b).....

From, the above, I note that as per GRI 1, classification is determined according to heading terms. As per GRI 2(a) and settled jurisprudence, Incomplete or unfinished articles are classified as complete articles only if they have essential character of the finished product.

13.2.12. In the present case, I find that the impugned goods do not perform telecom transmission/reception. They are not capable of independent use. They require substantial further processing and integration. Hence, they do not possess the essential character of a complete apparatus.

Relevant Tariff Entries:

The scope of CTH 8517 is given below for reference:-

TELECOMM EQUIPMENT AND DEVICES

8517		TELEPHONE SETS, INCLUDING SMARTPHONES AND OTHER 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
	-	<i>Telephone sets, including smartphones and other telephones for cellular networks or for other wireless networks:</i>
8517 11	-	Line telephone sets with cordless handsets:
8517 11 10	---	Push button type
8517 11 90	---	Other
8517 13 00	---	Smartphones
8517 14 00	---	Other telephones for cellular networks or for other wireless networks
8517-12	-	<i>Telephones for cellular networks or for other wireless networks:</i>
8517-12-10	---	Push-button type
8517-12-90	---	Other
	-	<i>Telephones for cellular networks:</i>
8517-12-11	---	Mobile phones, other than push-button type
8517-12-10	---	Mobile phones, push-button type
8517-12-90	---	Telephones for other wireless networks
8517 18	---	Other:
8517 18 10	---	Push button type
8517 18 90	---	Other
	-	<i>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):</i>
8517 61 00	---	Base stations
8517 62	---	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:
8517 62 10	---	PLCC equipment
8517 62 20	---	Voice frequency telegraphy
8517 62 30	---	Modems (modulators-demodulators) for xDSL based Wireline Telephony
8517 62 40	---	High bit rate digital subscriber line system (HDSL)
8517 62 50	---	Digital loop carrier system (DLC)
8517 62 60	---	Synchronous digital hierarchy system (SDH)
8517 62 70	---	Multiplexers, statistical multiplexers for PDH based Wireline Telephony
8517 62 90	---	Other
8517 69	---	Other:
8517 69 10	---	ISDN System
8517 69 20	---	ISDN terminal adapters
8517 69 30	---	Routers
8517 69 40	---	X25 pads
8517 69 50	---	Subscriber end equipment
8517 69 60	---	Set top boxes for gaining access to internet for Wireline Telephony
8517 69 70	---	Attachments for telephones
8517 69 90	---	Other
	-	<i>Parts:</i>
8517 71 00	---	Aerials and aerial reflectors of all kinds; parts suitable for use therewith
8517 79	---	Other:
8517 79 10	---	Populated, loaded or stuffed printed circuit boards
8517 79 90	---	Other

I note from the perusal of the above and as per the scheme of classification under CTH 8517 that CTIs from 85176100 to 85176990 cover "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)", whereas, CTIs from 85177100 to 85177990 cover parts of items covered under CTH 8517 based upon their nature and function. Further, in the category of parts CTI 85177100 covers

Aerials and aerial reflectors of all kinds; parts suitable for use therewith, CTI 85177970 covers Populated, loaded or stuffed printed circuit boards and CTI 85177990 covers remaining parts of items under CTH 8517.

The competing tariff entries for classification of the impugned goods are as below:

- **CTH 85176990:** Covers complete apparatus for transmission/reception of data.
- **CTH 85177990:** Covers "**Parts**" suitable for use solely or principally with apparatus of heading 8517.

Since, it has been established that the impugned imported goods are "**Parts**" suitable for use solely or principally with RRH (Remote Radio Head) apparatus of heading 85176990. I am of the view that the classification of the impugned goods should be based upon their condition at the time of import and not upon their further use after processing/working. Therefore, I find that the appropriate classification of these goods will be under CTH 85177990 as parts of telecom equipment in terms of GRI-1.

13.2.13. I place reliance upon decision of Hon'ble Supreme Court of India in the case of DUNLOP INDIA LTD. & MADRAS RUBBER FACTORY LTD. Versus UNION OF INDIA AND OTHERS 1983 (13) E.L.T. 1566 (S.C.) (Annexure G) wherein, it was held that the Condition of the article at the time of importing is a material factor for the purpose of classification as to under what head, duty will be leviable. The relevant para of the Order is reproduced below:-

"30. The relevant taxing event is the importing into or exporting from India. Condition of the article at the time of importing is a material factor for the purpose of classification as to under what head, duty will be leviable. The reason given by the authority that V.P. Latex when coagulated as solid rubber cannot be commercially used as an economic proposition, as even admitted by the appellants, is an extraneous consideration in dealing with the matter. We are, therefore, not required to consider the history and chemistry of synthetic rubber and V.P. Latex as a component of SBR with regard to which extensive arguments were addressed by both sides by quoting from different texts and authorities."

13.2.14. The noticee has also argued that the department in the impugned SCN has wrongly taken the view that by application of Section Note 2(b) of Section XVI of the Customs Tariff Act, 1975, parts such as 'Filter Body Assembly' which is suitable for use solely or principally with RRH/Base Station, should be classified with the RRH/Base Station under CTI 8517 61

00, on the ground that the Base Station itself specifically falls under CTI 8517 61 00.

13.2.15. In this regard, I note that Section Note 2(b) of Section XVI of the Customs Tarff Act, 1975 has not been relied upon by the department in the SCN and it finds mention only in statement dated 31.01.2024 of Sh. Gaurav Chauhan, Director of the noticee firm. However, I find that reasoning adopted by the department without formally relying upon Section Note 2(b) is somehow based upon application of Section Note 2(b) of Section XVI of the Customs Tarff Act, 1975. I find it necessary to examine the true scope and intent of Section Note 2(b) of Section XVI. The said Note provides that parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading, are to be classified with the machines of that kind. A plain reading of the provision indicates that the Note operates at the level of "heading" and not at the level of specific tariff items (sub-headings or 8-digit entries). Therefore, the interpretation adopted in the SCN that parts of RRH must necessarily be classified under the same 8-digit tariff item (CTI 8517 69 90) as RRH, is found to be a misreading of the statutory provision. The Note does not mandate that parts should be classified under the exact tariff item applicable to the complete machine; rather, it requires that such parts be classified within the same heading as applicable for the machine, i.e., Heading 8517 in the present case.

13.2.16. Having established that the impugned goods are to be classified within Heading 8517, the next step is to determine the appropriate tariff item within the said heading. I find that Heading 8517 itself provides specific tariff entries for "parts", namely:

- 8517 71 00 - Aerials and aerial reflectors of all kinds; parts suitable for use therewith
- 8517 79 10 – for populated/loaded printed circuit boards (PCBs), and
- 8517 79 90 – for other parts.

In the present case, it is an undisputed fact that the impugned "Filter Body Assembly" is neither an aerial and aerial reflector nor populated PCB. It is a structural/mechanical component, albeit designed with specific cavities and characteristics for use in RF filtering systems, and is intended for integration into RRH/Base Station assemblies. Accordingly, once the goods are held to be "parts" of equipment falling under Heading 8517, and in the absence of any more specific entry covering the same, they are appropriately classifiable under the residual parts category, i.e., CTI 8517 79 90.

13.2.17. In view of the above discussion, I hold that the declared classification of the impugned goods i.e. Filter Body Assembly under CTH

85177990 is appropriate and reject the proposed classification under CTH 85176990.

13.3. Issue.2. Whether, the BCD exemption benefit of notification 57/2017-Customs dated 30.06.2017 (S. No. 20) as amended by Notification No. 57/2021-Customs dated 29.12.2021 allegedly availed by the noticee is liable to be denied in respect of the goods imported vide Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) detailed in Annexure-B & Annexure-C to the SCN.

13.3.1. I find that in the impugned SCN, it has been proposed that the benefit of Basic Customs Duty (BCD) exemption under Notification No. 57/2017-Customs dated 30.06.2017 (S. No. 20), as amended by Notification No. 57/2021-Customs dated 29.12.2021, availed by the importer "should not be denied" in respect of the impugned goods. At the same time, I observe that the entire case of the department, as brought out in the body of the SCN, is fundamentally based upon the allegation that the noticee has wrongly availed the benefit of S. No. 5 of Notification No. 57/2017-Customs, and that the impugned goods merit reclassification under CTH 85176990, which would consequently render the goods ineligible for the said exemption.

13.3.2. On a harmonious reading of the SCN, I find an apparent inconsistency between the proposal portion and the substantive allegations. While the proposal states that the benefit under S. No. 20 should not be denied, the detailed narration and reasoning in the SCN clearly proceed on the premise that the exemption benefits claimed by the importer are not admissible. It thus appears that the reference to S. No. 20 in the proposal portion of the SCN is a result of inadvertent drafting error, and the intended proposal of the department was that upon denial of the benefit under S. No. 5 and reclassification of the impugned goods under CTH 85176990, the benefit under S. No. 20 would also not be admissible. However, I note that once the classification of the impugned goods under CTH 85177990 is upheld, it follows that the benefit of exemption under S. No. 5 of Notification No. 57/2017-Customs, as claimed by the noticee, is rightly admissible.

13.3.3. In view of the above findings, the very foundation of the SCN, namely, the allegation of **wrong availment of exemption under S. No. 5**, fails. Consequently, the proposed reclassification under CTH 85176990 also does not sustain. Once it is held that the classification declared by the noticee is correct; and the benefit under S. No. 5 of Notification No. 57/2017-Customs is rightly available, the question of examining the admissibility or otherwise of exemption under S. No. 20 of the said notification does not arise at all, as the same was only consequential to the proposed reclassification and denial of benefit under S. No. 5.

13.3.4. Therefore, I hold that the apparent contradiction in the SCN regarding S. No. 20 is of no consequence in the present case, as the primary allegation itself is not sustainable. The benefit of exemption as claimed by the noticee under S. No. 5 of Notification No. 57/2017-Customs is admissible, and no further question remains for consideration regarding S. No. 20. Accordingly, the allegations in the SCN fail on merits and are liable to be set aside.

13.4. Issue.3. Whether, the differential duty amounting to Rs.22,40,60,833/- in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C to the SCN is liable to be demanded from the importer under Section 28(4) of the Customs Act along with interest under Section 28AA of the Customs Act, 1962.

13.4.1. Since, the classification declared by the noticee under CTH 85177990 is upheld, and the re-classification proposed in the Show Cause Notice under CTH 85176990 is rejected, consequently, the demand of differential customs duty along with interest proposed in the Show Cause Notice fails on merits and is hereby dropped *in toto*.

13.5. Issue.4. Whether, the penalty under Section 114A of the Customs Act 1962 in respect of in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C to the SCN is imposable upon the noticee.

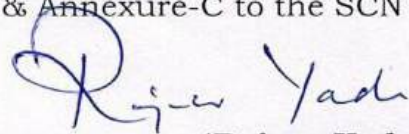
13.5.1. Since the charge of misclassification or mis-declaration does not survive and no contravention of the Customs Act is established, the question of imposition of any penalty under Section 114A also does not arise. No evidence has been brought on record to indicate conscious knowledge or intention to evade duty. Accordingly, I hold that no penalty is imposable upon the noticee.

ORDER

14. In view of the above, I proceed to order as under:

- i) I accept the declared/assessed CTH 85177990 by the importer i.e. M/s Radio Design India Pvt. Ltd. in respect of the impugned goods i.e. Filter Body Assembly imported vide Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) detailed in Annexure-B & Annexure-C to the SCN and reject the proposed re-determined CTH 85176990.
- ii) I allow the BCD exemption benefit of notification 57/2017-Customs dated 30.06.2017(S.No. 5) and I reject the proposal of denial of BCD exemption benefit of notification 57/2017-Customs dated 30.06.2017 (S. No. 20) [as amended by Notification No. 57/2021-Customs dated 29.12.2021] in respect of the goods imported vide Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) detailed in Annexure-B & Annexure-C to the SCN.

- iii) I drop the demand of differential duty amounting to Rs. 22,40,60,833/- (Twenty Two Crores Forty Lakh Sixty Thousand Eight Hundred and Thirty Three Only) against the importer M/s Radio Design India Pvt. Ltd. in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C to the SCN under Section 28(4) of the Customs Act, 1962 along with applicable Interest under Section 28AA of the act *ibid*.
- iv) I refrain from imposing penalty under Section 114A of the Customs Act 1962 upon the importer M/s Radio Design India Pvt. Ltd. in respect of Bills of Entry (including Bill of Entry No. 9526176 dated 04.01.2024) as detailed in Annexure-B & Annexure-C to the SCN



(Rajeev Yadav)

**Principal Commissioner of Customs
ICD PPG & Other ICDs New Delhi**

By Speed Post A.D. / E-mail

To,

M/s Radio Design India Pvt. Ltd. (IEC – 0509026125, GSTIN - 06AAECR2580D1ZM)
Plot No. 168, Sector 4, IMT Manesar,
Gurugram, Haryana – 122052

Copy to:

1. The Chief Commissioner of Customs (DZ), NCH, Near IGI Airport, New Delhi-110037.
2. The Deputy/Assistant Commissioner of Customs, Customs Preventive Group-III, New Customs House, Terminal-3 road, Delhi- 110037.
3. The Deputy/Assistant Commissioner of Customs, ACC Import, New Customs House, Terminal-3 road, Delhi- 110037.
4. The Deputy/Assistant Commissioner of Customs, ICD-Patli, Gurugram, Haryana - 122506 for information and necessary action.
5. Notice Board.
6. Guard File.



(MALIK VISHESH)

Superintendent (Adjudication)
ICD PPG & Other ICDs, Delhi

MC