IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-08-2025

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

WP No. 20069 of 2025

and

WMP No.22634 of 2025

Nokia Solutions And Networks India Pvt. Ltd.
Plot No.Oz-8, 19, 20, 21 Hi-tech Sipcot Industrial
Partk, Oragadam, Chennai-602 105. Rep. By Its
Power Of Attorney, Mr. Raja R.

..Petitioner(s)

Vs

Commissioner Of Customs (appeals -i), Chennai
Office Of The Commissioner Of Customs (appeal-i),
3rd Floor, New Custom House, Gst Road,
Meenambakkam, Chennai-600 016.

..Respondent(s)

to call for the records relating to the Impugned Order-in-Appeal No.C.Cus..I/75-110/2025 dated 18.02.2025 passed by the Respondent and quash the same, and to consequently direct the Respondent, and anyone acting under or through the Respondent to permit the Petitioner to classify the Small Form Factor Pluggable imported by them under CTH 85177990 and to grant the applicable refund of the basic customs duty and Social Welfare Charge paid thereon by the Petitioner

For Petitioner(s): MR KARTHIK SUNDRAM

MR MANIKANDA PRABHU

For Respondent(s): M/S. J. VASU, JPC
FOR RESPONDENT

ORDER

This writ petition has been filed challenging the impugned order dated 18.02.2025 passed by the respondent. The petitioner's request for classification of their imported goods viz., small form factor pluggable under CTH 8517 79 90 and to grant the applicable refund of the basic customs duty and social welfare charges paid by the petitioner has been rejected under the impugned order.

2. The petitioner has challenged the impugned order in original on the following grounds:

a) By total non application of mind to the submission made by the petitioner before the original authority that an appeal has been filed as against the order relied upon by the original authority before the Delhi High Court, the impugned order came to be passed by the appellate authority;

b) Subsequent to the passing of the impugned order in appeal, the Delhi High Court in the appeal filed by the petitioner, challenging the advanced

Ruling Authority, has also satisfied the order of the advanced ruling authority and the Delhi High Court has decided the conclusion issue in favour of the petitioner by holding that the conclusion of the goods will fall under 8517 79 90;

3. The Delhi High Court has also held, in the appeal filed by the petitioner, that the petitioner is also entitled for the applicable exemptions. The operative portion of the impugned order passed by the appellate authority is reproduced hereunder:

5.1.1 On perusal of the above, I find that any order passed by the Customs Authority of Advance Rulings (CAAR) is applicable and binding on the respective applicant and in the instant case the Order No. 1328 to 1333 dated 26.09.2024 issued by the CAAR, New Delhi in Application No. 53/2024-Delhi Dated 05.07.2024 against which the appellant has filed the appeal in High Court, New Delhi was issued in case of the applicant M/s Nokia Solutions and Networks India Pvt. Ltd only and therefore the said order of the CAAR, New Delhi is binding on the appellant. The appellant has classified the subject goods under CTH 8517 6290 following the decision of CAAR, New Delhi, which is binding on the appellant. The submissions in the instant appeals and case laws quoted in the instant appeals were also quoted by the appellant before the CAAR, New Delhi, who has passed the said order after considering all the submissions made by the appellant. I find that when the assessments in all the 36 Bills of entry in the instant case were done in accordance with the orders of the CAAR New Delhi and also since the appellant has filed appeal before Hon'ble High Court of New Delhi against the said orders of CAAR New Delh making the matter sub judice, the actions of the appellant by filing the instant appeals on the same issue before this forum against the assessments in the 36 Bills of entry is not justified. Accordingly I am of the considered opinion that the instant appeals cannot be entertained and needs to be rejected.

4. As seen from the operative portion of the impugned order, the appellate authority has taken note of the fact that an appeal has been preferred by the petitioner before the Delhi High Court against the order passed by CAAR, New Delhi (Advanced Ruling Authority) making the matter sub-judice and based on the said observations, the appellate authority has held in the impugned order that the action of the petitioner by filing the appeals before the Commissioner appeals is not justified.

5. The respondent has filed a counter before this Court. In the counter filed before this Court, the respondent has admitted that the advanced ruling authority's order (CAAR's Order), which was challenged by the petitioner before the Delhi High Court has been set aside by the Delhi High Court and they have also admitted that the CAAR order has no binding effect and it no longer survives. In view of the subsequent development viz., the quashing of the CAAR order dated 26.09.2024 (Advanced Ruling Authority's Order) by the Delhi High Court, necessarily the matter has to be remanded back to the respondent for fresh consideration.

6. After giving due consideration to the order of the Delhi High Court passed in CUSAA/40/2025 and CUSAA/41/2025 dated 27.01.2025, the respondent shall pass final orders by adhering to the principles of natural justice by affording a personal hearing to the petitioner within a period of three months from the date of receipt of a copy of this order.

7. With the aforesaid directions, this writ petition is disposed of. No Costs.

01-08-2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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ABDUL QUDDHOSE, J.

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To

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