IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2025

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.27259 of 2025 and W.M.P. Nos.30644 &30646 of 2025

BenQ India Private Limited,
rep. by its Authorised Signatory Rajiv Pal .. Petitioner

vs

1.The Commissioner of Customs,
(Appeals-II), Chennai,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.

2.Commissioner of Customs,
Chennai-II, Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

3.The Assistant Commissioner of Customs,
Chennai - II, Group - V,
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001. .. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order in Appeal Seaport.C.Cus.II No.360/2025 dated 24.03.2025 passed by the first respondent and quash the same.

For Petitioner : Mr.S.Ganesh Aravindh

For Respondents : Mr.Sai Srujan Tayi,
Senior Standing Counsel

ORDER

This writ petition has been filed, challenging the order dated 24.03.2025 passed by the first respondent in Appeal Seaport.C.Cus.II No.360/2025.

2.The petitioner is aggrieved by the wrong classification of the petitioner's imported goods under the Customs Tariff Act. The petitioner claims that erroneously by total non-application of mind to the earlier orders passed by the Commissioner of Customs Appeals as well as by the CESTAT, wherein the goods were rightly classified under CTI 8471 41 90, but in the impugned order, erroneously, without following the earlier orders passed by the Commissioner of Customs Appeals as well as the CESTAT, has classified the imported goods of the petitioner under CTI 8528 59 00. According to the petitioner, the classification of the petitioner's goods, when the appeal was pending before the first respondent, was no longer res integra as it has been settled by the Commissioner of Customs (Appeals) as well as by the CESTAT that the goods imported by the petitioner has to be classified under CTI 8471 41 90. In support of the petitioner's contention, they have filed the following orders passed both by the Commissioner of Customs (Appeals) as well as by the CESTAT:

a)Order-in-Appeal No.33-35 (Gr.V)/2023 (JNCH)/Appeals dated 31.01.2023 passed by the Commissioner of Customs (Appeals), Mumbai;

b)Cloudwalker Streaming Technologies Pvt. Ltd. vs. Commissioner of Customs (NS.V), Raigad reported in 2022 (1) TMI 1078 - CESTAT Mumbai;

c)M/s.Ingram Micro India Private Limited vs. Principal Commissioner of Customs (Import), New Delhi reported in 2022 (2) TMI 308 - CESTAT New Delhi.

3.Being a classification issue, the question of entertaining this writ petition, at this stage, when the petitioner is having a statutory appeal remedy available before the CESTAT, does not arise. Learned counsel for the petitioner, therefore, is not pressing this writ petition. He seeks for a direction to the CESTAT, as and when the appeal is filed by the petitioner, aggrieved by the impugned order dated 24.03.2025, to consider the aforementioned decisions, which according to the petitioner will make it clear that the petitioner's imported goods will only fall under the classification 8471 41 90 under the Customs Tariff Act. This Court is not expressing any opinion on the merits of the petitioner's contention. But, no prejudice would be caused to the respondents if such a direction is issued. Accordingly, this writ petition is dismissed as not pressed.

4.It is made clear that once an appeal is filed by the petitioner before the CESTAT, aggrieved by the impugned order dated 24.03.2025 passed by the first respondent in Appeal Seaport.C.Cus.II No.360/2025, the CESTAT shall consider the following decisions

a)Order-in-Appeal No.33-35 (Gr.V)/2023 (JNCH)/Appeals dated 31.01.2023 passed by the Commissioner of Customs (Appeals), Mumbai;

b)Cloudwalker Streaming Technologies Pvt. Ltd. vs. Commissioner of Customs (NS.V), Raigad reported in 2022 (1) TMI 1078 - CESTAT Mumbai;

c)M/s.Ingram Micro India Private Limited vs. Principal Commissioner of Customs (Import), New Delhi reported in 2022 (2) TMI 308 - CESTAT New Delhi which according to the petitioner makes it clear that the petitioner's imported goods will fall only under classification CTI 8471 41 90 under the Customs Tariff Act, while passing the final orders in the appeal to be filed by the petitioner, aggrieved by the impugned order dated 24.03.2025 passed by the first respondent in Appeal Seaport.C.Cus.II No.360/2025. The petitioner shall file the statutory appeal in terms of this order within a period of two weeks from the date of receipt of a copy of this order. No costs.

01.08.2025

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To

1.The Commissioner of Customs,
(Appeals-II), Chennai,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.

2.Commissioner of Customs,
Chennai-II, Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

3.The Assistant Commissioner of Customs,
Chennai - II, Group - V,
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

ABDUL QUDDHOSE, J.

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