CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85064 of 2025

[Arising out of Order-in-Original CAO No.CC-GSS/15/2024-25 Adj.(I) ACC dated 31.07.2024 passed by the Commissioner of Customs (Import), Air Cargo Complex, Sahar, Andheri (East), Mumbai.]

Commissioner of Customs (Import) **.... Appellant**
Air Cargo Complex (ACC), Sahar
Andheri (East), Mumbai – 400 099.

Versus

GOQii Technologies Private Limited **.... Respondent**
101, Satyam Towers, Sanghavi Corporate Park
Off. BKSD Marg, Deonar, Govandi (East),
Mumbai – 400 088.

APPEARANCE:

Shri Ram Kumar, Authorized Representative for the for the Appellant

Shri Gopal Mundhra a/w Ms. Samiksha Chatur, Advocates for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85553/2026

Date of Hearing: 15.12.2025
Date of Decision: 13.04.2026

Per: M.M. PARTHIBAN

This appeal has been filed by the Commissioner of Customs, Air Cargo Complex, Mumbai Customs Zone-III, Mumbai (herein after, referred to as 'the appellant') in pursuance of the Review Order No.08/2024-25 dated 14.11.2024 passed by the Committee of Chief Commissioners of Customs, assailing the Order-in-Original No. CAO No.CC-GSS/15/2024-25 Adj.(I) ACC dated 31.07.2024 (herein after referred to as 'the impugned order') passed by the Commissioner of Customs (Import), Air Cargo Complex (ACC), Sahar, Andheri (East), Mumbai.

2.1 The facts of the case, leading to this appeal, are summarized herein below:

2.2 The respondent herein had imported "Activity Trackers" (Fitness bands) from China through Air Cargo Complex (ACC), Mumbai and for this purpose have filed various Bills of Entry (B/Es) periodically during the disputed period from 20.11.2017 to 15.11.2019, by classifying the said goods under Customs Tariff Item (CTI) 9029 1090. In B/E Nos. 5440172 and 5434487 both dated 25.10.2019 filed for clearance of 'activity trackers', the respondent had self-assessed the customs duty payable thereon by classifying the imported goods at CTI 9029 1090 for which applicable Basic Customs Duty (BCD) is @ 7.5% *advalorem (adv.)*. During scrutiny of the said declarations, it was observed by the jurisdictional Customs officers that the goods were mis-declared and therefore the said goods were subjected to 100% physical examination by the Customs examination/shed officers. During such examination, it was also found that the imported goods are rightly classifiable under CTI 8517 6290 for which applicable rate of BCD is 20%/10% adv. Further, it was also found during such examination that said imported goods were not complying with the provisions of mandatory declarations that are required to be made by an importer, in terms of Notification RE-44 (RE-2000) 1997-2002 dated 24.11.2000 as amended issued by the Directorate General of Foreign Trade (DGFT). During the process of such inquiry, it was found that imported goods of the respondent, in another nine more B/Es were also found lying with the Customs for clearance. The respondent importer furnished the details of the product along with catalogues vide their letter dated 14.11.2019, but contested with the classification suggested by the department, seeking provisional release of the said imported consignments on execution of bond and bank guarantee. Furthermore, it was found during such inquiry that the customs officers at the port of import, in the past imported consignments by the respondent, had re-classified the goods under CTI 8517 6290 leviable to then applicable rate of 10% BCD and the respondent had also agreed to such revision, but subsequently they continued to mis-declare the classification of goods. Therefore, detailed investigation was conducted, and statements were also recorded from persons concerned with such modus operandi.

2.3 Further, DRI Lucknow had issued a Modus Operandi Circular explaining about the functionality of activity trackers/fitness bands in detail as follows: These are paired wirelessly to a smart phone or other internet-enabled device via a Bluetooth radio transceiver. In tum, the paired device communicates with servers to interpret and display the data received. The devices must be "set up" by pairing it with the smart device and entering the user's profile on the app. During set up, the user enters information in the GOQII App which

is necessary for the proper functioning of the device. The said app accordingly transfers the user's data for the coaching program run by the importer. The Activity Tracker tracks the data while affixed to the user's wrist. The device measures steps taken, distance travelled, calories burnt, active minutes, hourly activity stationary time and time slept. When paired with a smart phone, the device will display the number of incoming calls. Through the app, the device can be programmed with an alarm that will cause it to buzz at the appropriate time, the device adds heart-rate monitor functionality, which permits the user track exercise routine and speed. Most of the captured data can be viewed on the paired smart device after syncing wirelessly. The app lets the user and the online coach see the progress on-the go, and shows the detailed charts and graphs so that one can track his/her trends over time. In order for the data to be interpreted and properly displayed, the raw data collected by the Activity Tracker must be transmitted to servers for processing and then retransmitted back to the sport device for display. While some of the data is viewable on the fitness Band Tracker, all of the data that is collected and processed by servers is viewable from a single interface such as the user's dashboard on the GOQii app. Thus the Activity Tracker is comprised of several component articles that are prima facie classifiable under two or more headings viz., (i) sub-heading 8517 which describes the radio Bluetooth transceiver; (ii) sub-heading 9029 which describes the pedometer function; (iii) sub-heading 9031 that describes the accelerometer. The Activity Tracker is *prima facie* classifiable under more than one heading. General Rules for Interpretation to Customs Import Tariff (GRI) 3(b) directs that composite goods made up of different components shall be classified as if they consisted of the material or component that gives them their essential character. Thus, based on the meaning of "essential character" under GRI 3(b), it is found that the Activity Tracker is primarily used to wirelessly connect and communicate with a paired smart device to the Devices use an open wireless technology standard (Bluetooth), to transmit data to and from the wearable device. The Activity Tracker Devices requires a Bluetooth connection to be set up with the user's preferences out of the box. The Activity Tracker device itself uses internal components such as an accelerometer and pedometer to measure various metrics such as steps taken, calories burned, time spent sleeping. However, much of this information cannot actually be analyzed without first being transmitted to the paired smart device and subsequently through GOQII App, which processes and repackages the data so that it can be viewed on the paired device. The data can then be displayed manipulated and stored on the App. Additional functionality requires the

device to be actively paired with the smart device. For example, the phone number of incoming calls can only be displayed while the Fitness Band Tracker is paired. Consequently, it is the wireless Bluetooth transceiver that enables the user to fully access all of the Activity Tracker functionality. Therefore, the modus operandi circular of DRI, Lucknow alerted the field formations about such mis-classification of the activity trackers for its proper classification and assessment to import duty.

2.4 On the above basis, the Special Intelligence & Investigation Branch (SIIB) of ACC Customs Commissionerate had proceeded for revising the classification of imported goods in respect of 32 B/Es imported during the period 20.11.2017 to 15.11.2019. Accordingly, the department had initiated show cause proceedings upon completion of the investigation by issue of Show Cause Notice (SCN) No. 10/2020-21 dated 05.10.2020, for rejecting the classification of imported activity tracker under CTI 9029 1060 as declared by the respondent and for revising the classification under CTI 8517 6290; demanding differential duty of customs in respect of the subject B/Es during the disputed period covering 20.11.2017 to 15.11.2019, under Section 28(4) the Customs Act, 1962 along with interest, and proposing for confiscation of impugned goods and for imposition of penalties on the respondent under provisions the Customs Act, 1962. The said SCN was adjudicated by the learned Commissioner of Customs (Import) in the Order-in-Original No.CC/VA/03/22 Adj.(I) ACC dated 20.07.2021 by confirming all the proposals made in the SCN. Feeling aggrieved with the said order of the original authority dated 20.07.2021, the respondent had filed an appeal before the Tribunal, in the first round of litigation, and the same was disposed of vide Final Order No.85459/2024 dated 03.05.2024 in Customs Appeal No.86831 of 2021, by way of remanding the matter for a fresh decision on merits. In adjudication of the case, by way of remand proceedings, the learned Commissioner of Customs (Import) has passed the impugned order dated 31.07.2024 in dropping the proceedings initiated vide SCN dated 05.10.2020. Feeling aggrieved with the said impugned order, Revenue has filed this appeal before the Tribunal, in the second round of litigation.

3.1 Learned Authorized Representative (AR) appearing for the Revenue reiterated the grounds of appeal filed by the learned Commissioner on the basis of the Review order of the Committee of Chief Commissioners and stated the following:

(i) The impugned goods viz., activity trackers are paired wirelessly to

GOQii App downloaded on a smart phone or any other internet enabled devices via Bluetooth. The user's health data is captured by the activity tracker and transmitted to the smart phone through Bluetooth. The paired device (smart phone) sends the said data to the GOQii server. The server processes the data and sends back the processed data (graphs, charts, diagrams etc. which can be easily interpreted) to the GOQii App to be viewed by the user and the professional coaches/doctors for guiding the user accordingly. Some of the processed data can be viewed on the activity tracker also.

(ii) There are two competing entries i.e. 85176290 as proposed by the Department and 90291090 as claimed by the respondent. Hence, the basic issue to decide is which entry is more appropriate. In this regard, Section Note 3 to Section XVI is relevant as the said Note is applicable to Chapter 90 also by virtue of Chapter Note 3 to Chapter 90, which states that the provisions of Note 3 and 4 to Section XVI apply to this Chapter.

(iii) As per IIT, Mumbai Report, total 15 models of Activity Trackers were tested. The Commissioner has observed that classification of one device, namely, 'GOQii Stream' is not under dispute (para 47 at pages 64&65 of the O-in-O). In all the rest 14 models wherein, classification is under dispute; the components namely, Wi-Fi module, e-SIM or cellular module, speakers and microphones are absent. As per IIT, Mumbai Report, various hardware modules in 14 models of Activity Trackers are as under:

(Hardware Modules/Components and their classification)

Sr. no.	*Model*	*Hardware Modules/Components*						
		PPG	*Temp-peratue*	*Heart rate sensor*	*ECG Elect-rode*	*3-axis acceler-ometer*	*Bluetooth*	*GPS*
1	Smart Vital 2.0 Max	Yes	No	Yes	Yes	-	Yes	No
2	Vital 4/ JC-J080	Yes	Yes	Yes	No	Yes	Yes	No
3	Vital 2.0	No	No	Yes	No	-	Yes	No
4	Smart Vital Ultra	Yes	No	Yes	No	Yes	Yes	No
5	Run GPS	No	No	Yes	No	Yes	Yes	Yes
6	Smart Vital Junior/J080	Yes	Yes	Yes	No	Yes	Yes	No
7	GOQii Plus	No	No	Yes	No	Yes	Yes	No
8	Smart Vital /JC-J080	Yes	Yes	Yes	No	-	Yes	No
9	Smart Vital 2.0	Yes	No	Yes	Yes	Yes	Yes	No
10	Element / JC-080	No	No	No	No	Yes	Yes	No
11	Smart Vital Max	Yes	No	Yes	No	Yes	Yes	No
12	Vital 3/ JC-080	No	Yes	Yes	No	Yes	Yes	No
13	Smart Vital Lite	Yes	No	Yes	No	Yes	Yes	No
14	Smart Vital Plus JC-J080	Yes	Yes	Yes	No	Yes	Yes	No
Classification claimed by Revenue		**9018**	**9025**	**9018**	**9018**	**9031**	**851762**	**8526**

3.2 From above factual details, he claimed that no hardware module/ component falls under heading 9029. Hence, the question of classification under heading 9029 does not arise. Further, Bluetooth module is available in all the models which is classifiable under 8517 6290. The impugned activity tracker monitors a lot of health parameters through various components as detailed above. The said parameters/data cannot be analysed without first being transmitted to the paired smart device and subsequently through GOQii servers, which processes and repackages the data so that it can be viewed on the paired device. The data can then be displayed and stored on the GOQii App. Bluetooth connectivity is essential to analyse and store data in the smart phone. The Activity Tracker can store data for 24 hours only and after 24 hours, the data will be erased if not transmitted to the smart phone via Bluetooth. Thus, it is the Bluetooth transceiver that enables the user to fully access all of the Activity Tracker functionalities. Accordingly, he stated that in terms of Section Note 3 to Section XVI, the principal function is imparted by the hardware module/component namely, Bluetooth transceiver i.e. wireless transmission & reception of data (machine for reception, conversion and transmission of data). Thus, he submitted that in terms of GRI 1, the impugned goods are rightly classifiable under the CTI 8517 6290.

3.3 Further, learned AR stated that the impugned Activity Trackers are composite goods and they need to be classified vide Rule 3(b) of the GRI which states that '*Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable*'. The technical features have been detailed in the SCN. As per catalogue, the subject goods keep track of blood pressure, heart rate, calories burnt, distance covered, active hours and sleep patterns in an OLED display. It connects wirelessly via Bluetooth to GOQii IOS or Android app; the user can get WhatsApp, SMS, e-mail and call notifications. In technical terms, a wrist wearable device is a type of wearable technology that is worn on the wrist and can collect, analyse and transmit data. Examples are smart watches, fitness trackers and other wearable devices. Further, placing reliance on US CROSS Rulings read with Ruling decided in 55th Session on Classification Decisions/Rulings by WCO, the predominant function is imparted by its wireless communication (Bluetooth). The subject goods use accelerometer to measure various metrics such as steps taken, calories burnt, flights of stairs climbed, time spent sleeping etc. However, much of this information cannot actually be analysed without first

being transmitted to the paired smart device and subsequently through GOQii servers, which processes and re-packages the data so that it can be viewed on the paired device. The data can then be displayed, manipulated and stored on the GOQii App. The main goal of generation of such health data is to achieve health goals. The same is not possible without the storage and analysis of health data, which is not possible without the wireless communication capabilities of the impugned device. Accordingly, he asserted that the essential character of the impugned goods is imparted by its wireless communication capabilities, which are described under heading 8517 and therefore, the goods are correctly classifiable under 8517 6290. Thus, he submitted that the appeal preferred by Revenue is sustainable.

4.1 Learned Advocate appearing for the respondent, stated that the impugned goods viz., activity trackers/fitness bands, have been rightly classified by the respondent under CTI 9029 1090. He also stated that the dispute on classification of the impugned goods was initially heard by the Tribunal in the first round of litigation and the matter was remanded back to the original authority for a fresh decision independent of the modus operandi alert issued by DRI and the circular issued by the Central Board of Indirect Taxes & Customs (CBIC) on wrist wearable device/smart watches. In compliance with the said directions of the CESTAT and based on the expert opinion given by the Indian Institute of Technology Mumbai dated 13.08.2023, the learned Commissioner of Customs had passed the impugned order in their favour. Therefore, he pleaded that the appeal filed by the Revenue does not have any merit, by overlooking the expert opinion of IIT Mumbai.

4.2 Learned Advocate further submitted that the activity trackers are equipped with various medical grade sensors which in turn, depending upon their model, provide a range of features including the following: (i) tracking steps taken pace, calories burnt, heart rate, and duration providing a comprehensive overview of one’s physical activity; (ii) 24x7 Heart Rate and temperature monitoring; (iii) blood oxygen saturation level monitoring; (iv) sleep and stress analysis; (v) blood pressure monitoring and (vi) ECG screening. He stated that such activity trackers have a Bluetooth feature. However, it is an ancillary feature whereby GOQii App when connected, receives the data for the purpose of historic analysis. He also claimed that it is not under dispute that the key functionalities of the activity tracker do not require connection with a mobile or mobile application.

4.3 He further stated that as per GOQii buy page, various models of the impugned products are advertised with the common feature of health monitoring aspect. Furthermore, in all of them, it is only the GOQii Steam model has the calling functionality; As the activity trackers help users to keep track on their vital parameters, unlike other smart watches, which are marketed for their communication capabilities/functionality, the GOQii activity trackers are marketed as a fitness device; If the user takes the subscription to the mobile application, then it also provides with fitness coach and access to health content on the mobile app. He also stated that the respondent has been certified vide ISO/IEC 27001:2013 to have established in carrying out the activities of design, development and assembling of fitness trackers and weighing machines, confirming to the laid down ISO standards. Accordingly, they are also named as a partner of the FIT India movement, a campaign launched by the Hon'ble Prime Minister in achieving the mission of spreading awareness on fitness and in undertaking various physical activities that promote fitness through focused campaigns.

4.4 In submitting the grounds against the appeal filed by Revenue, he stated that US Cross Rulings cannot be relied upon to interpret the Indian Tariff structure; the notifications prescribing the rate of duty cannot be relied upon for classification of the product, and this is required to be done only as per mandate of customs tariff, relevant chapter notes and section notes. In support of their stand, the learned Advocate had relied upon the following judicial pronouncements:

(i) Skol Breweries Limited Vs. Commissioner of Central Excise– 2017 (7) GSTL 102 – (Tri.- Mum.)

(ii) Venugopal Engineering Pvt. Ltd. Vs. Commissioner of Customs,– 2001 (138) E.L.T. 1405 (Tri.-Mum.) affirmed by Hon'ble High Court of Bombay in 2009 (236) E.L.T. A20 (Bom.)

(iii) Pond's (India) Ltd. Vs. Commissioner of Central Excise – 2005 (190) E.L.T. 82 - (Tri.- Chennai.)

5. Heard both sides and perused the records of the case. We have also considered the additional written submissions given in the form of paper books by learned Advocates for the respondent as well as Authorised Representative for the Revenue, and the arguments advanced during the hearing of this case.

6. The issue for consideration before us is determination of the proper classification of imported goods, for deciding on the appropriate levy of

customs duty i.e., Basic Customs duty (BCD), leviable under Section 12 of the Customs Act, 1962, as specified under the First Schedule to the Customs Tariff Act, 1975; and, whether the demand of duty including confiscation of imported goods and redemption fine thereof, penalty imposable on the respondent, as proposed in the SCN dated 05.10.2020 and which was dropped in the impugned order is sustainable or not?. The period of dispute involved in the present case from 20.11.2017 to 15.11.2019.

7. In order to address the above issue of classification of imported goods, we would like to refer the relevant legal provisions contained in Section 12 of the Customs Act, 1962; relevant entries in the First Schedule to the Customs Tariff Act, 1975 and rules framed thereunder, for consideration of proper and appropriate classification of the subject goods under dispute.

*"**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 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.

(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government."

*"**Section 1. Short title, extent and commencement.** -*

(1) This Act may be called the Customs Tariff Act, 1975.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

***Section 2. Duties specified in the Schedules to be levied.** -*

The rates at which duties of customs shall be levied under the Customs Act, 1962 (52 of 1962), are specified in the First and Second Schedules.

xxx xxx xxx xxx

THE FIRST SCHEDULE – IMPORT TARIFF
(Refer Section 2)

THE GENERAL RULES FOR THE INTERPRETATION OF IMPORT TARIFF (GIR)

Classification of goods in this Schedule shall be governed by the following principles:

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 articles 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) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.
4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.
…
6. For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub headings and any related sub headings Notes and, mutatis mutandis, to the above rules, on the understanding that only sub headings at the same level are comparable. For the purposes of this rule the relative Section and Chapter Notes also apply, unless the context otherwise requires."

From plain reading of the above legal provisions, it transpires that in order to determine the appropriate duties of customs payable on any imported goods, one has to make an assessment of the imported goods for its correct classification under the First Schedule to Customs Tariff Act, 1975 in accordance with the provisions of the Customs Tariff Act by duly following the General Rules for Interpretation (GIR) and the General Explanatory notes (GEN) contained therein. The First Schedule to the Customs Tariff Act, 1975 specifies the various categories of imported goods in a systematic and well-considered manner, in accordance with an international scheme of classification of internationally traded goods, i.e., 'Harmonized Commodity

Description and Coding System' (HS). Accordingly, goods are to be classified taking into consideration the scope of headings / sub-headings, related Section Notes, Chapter Notes and the General Rules for the Interpretation (GIR) of the First Schedule to the Customs Tariff Act, 1975. Rule 1 of the GIR provides that the classification of goods shall be determined according to the terms of the headings of the tariff and any relative Section notes or Chapter notes and thus, gives precedence to this while classifying a product. Rules 2 to 6 provide general guidelines for classification of goods under the appropriate sub-heading. In the event of the goods cannot be classified solely on the basis of GIR 1, and if the headings and legal notes are not otherwise required, the remaining Rules 2 to 6 may then be applied in sequential order. Further, while classifying goods, the foremost consideration is the 'statutory definition', if any, provided in the Customs Tariff Act. In the absence of any statutory definition, or any guideline provided by HS explanatory notes, the trade parlance theory is to be adopted to ascertain as to how the goods are known in the common trade parlance for the purpose of dealing between the parties.

Further, in context with the case in hand, we note that the following are some of the important rules to be followed in the scheme of determining correct classification of imported goods:

(i) classification of goods shall be determined according to the terms of the headings and any relative Section or Chapter Notes; (GIR 1)

(ii) goods, which are in the nature of unfinished or incomplete articles and those which are mixtures or combinations of different materials, its classification shall be determined as provided under 2(a) (b) (GIR 2)

(iii) if the goods are found to be classifiable under two or more headings, then the classification shall be effected as per the rules provided under 3(a), 3(b) and 3(c) [GIR 3]

(iv) Goods which cannot be classified in accordance with the aforesaid rules, then the same shall be classified under the heading appropriate to the goods to which they are more akin. (GIR 4)

…

(vi) For legal purposes, the classification of goods in the sub-headings shall be determined according to the terms of those sub-headings and any related sub-heading Notes (GIR 6)

8. In the impugned order, the learned Commissioner has given the following findings in arriving at the conclusion of classification of the impugned goods under CTI 9029 1090. The relevant paragraphs of the said impugned order is extracted and given below:

"47. From the above, I find that the primary function of the activity trackers / fitness bands is to monitor the fitness parameters inter alia through a pedometer / accelerometer. The Function associated with the fitness parameter. Merely on account of Bluetooth feature, the goods cannot be treated as a communication machine as descried under the CTH 8517 62.

I also find that all devices, in question, do not have modules to directly receive voice, image, or other data through cellular networks and through LAN/WAN networks. It is only one devise, namely, "GOQii Stream" has the hardware and firmware for receiving or initiating calls by utilizing the cellular or Wi-Fi connectivity of the paired device. It is submitted that classification of "GOQii Stream" is not under dispute.

48. I find that the impugned goods i.e. Activity Tracker' having a composite function and made up of different components, hence prima facie classifiable under more than one heading. Reliance may be placed on Rule 3(b) of GRI which provides that mixtures, composite goods consisting of different materials or made up of different components which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character. The SCN has stated that the essential character of the goods in question are derived from the wireless Bluetooth transceiver.

I hereby find that the above opinion of IIT, Bombay, therefore, confirms that Bluetooth feature in the activity tracker in question is merely ancillary. The fact that the goods in question can be used as a standalone device (as demonstrated physically at the time of hearing) also shows that Bluetooth functionality is not the essential function. Bluetooth functionality is admittedly only to transfer data from the goods in question (i.e, the activity tracker) to the app so as to analyze the user history and solicit expert advice on fitness. The goods in question, in and by itself is meant only to count/measure movement. Thus, it can be said that Bluetooth functionality does not constitute for customers an aim in itself, but a means of better enjoying the principal function of counting movement.

49. Further I find that in terms of Rule 3(c) of the General Rules of Interpretation, wherever there is a dispute in classification under two or more chapter headings, the classification must be under that head which occurs last in numerical order. Accordingly, I find that the product in question merits classification under heading 9029 and cannot be under 8517.

50. I find that smart watch (like an apple watch) is capable of making and receiving calls and messages. Smart watches get connected wirelessly to a smartphone and can perform multiple functions. It can be classified under CTH 8517 due to its technical equipment with a display, processor, main memory etc which can perform several other functions, such as receiving, converting and sending or regenerating sounds, pictures or other data. It is also used to make phone calls, send messages, playing music, using apps, etc, when connected with the mobile. Thus, smart watches by their functions goes much beyond a mere activity tracker and the principal function was held to be of communication function between the smart watch and the connected mobile phone. Hence classifiable under CTH 8517. There is a significant difference between a smart watch and standalone activity trackers.

Smart watches get connected wirelessly to a smartphone and can perform multiple functions. It can be classified under CTH 8517 due to its ability to receive / make phone calls and send messages. Thus, smart watches by their functions goes much beyond a mere activity tracker and the principal function may be that of communication function. Further, the subject goods are capable of functioning on a stand-alone basis, independent of the mobile. The connection to the mobile, via Bluetooth, as the product literature shows, is meant only to store and access the user's history (on the server) and make fitness recommendations to the user based on that information. The readings / counting can be made even without the connection to the mobile. Further, none of the subject goods have the interface to provide any input like dialing numbers/characters or replying to messages, as well as hardware like microphone/speaker to assist with calls in the wearable devices.

51. I find that an activity tracker and a smart watch may have some overlapping features, but they serve very different purposes and have distinct functionalities. Here's a breakdown of the differences:

Activity Tracker:
Primary Function: *Focused on monitoring physical activity and fitness-related metrics.*

Features: *Commonly tracks steps, distance, calories burned, heart rate, sleep patterns, and sometimes features specific exercise modes.*

Display: *Generally has a simpler display, often showing just essential information (like time and activity stats).*

Battery Life: *Usually has a longer battery life compared to smart watches since they focus on basic sensors and notifications.*

Connectivity: *May connect to a smartphone app for more detailed analysis, but usually has limited capabilities beyond fitness tracking.*

Smart watch:

Primary Function: *A versatile device that not only tracks fitness but also functions as a wearable smartphone.*

Features: *Includes apps, notifications for calls, messages, emails, music control, GPS, and more. Some smart watches have health-tracking features similar to activity trackers.*

Display: *Often has a more advanced, touchscreen display with customizable watch faces and the ability to show detailed app notifications.*

Battery Life: *Generally shorter battery life due to more advanced features and functionalities.*

Connectivity: *Can connect to various apps and services, allowing for extensive customization and functionalities beyond just fitness.*

In summary, if the main goal is to track fitness and health metrics, an activity tracker may be sufficient. If anyone is looking for a device that combines fitness tracking with smartphone capabilities and app functionality, a smart watch is the better choice.

52. I find that the chapter heading 9029, counting devise such as a pedometer (and the like) is classifiable under CTH 9029 10 90. The said entries are as under:

(1)	*(2)*
9029	*REVOLUTION COUNTERS, PRODUCTION COUNTERS, TAXIMETERS, MILEOMETERS,*
	PEDOMETERS AND THE LIKE; *SPEED INDICATORS AND TACHOMETERS, OTHER THAN THOSE OF HEADING 9014 OR 9015; STROBOSCOPES*
9029 10	*- Revolution counters, production counters, taximeters, milometers,* ***pedometers and the like:***
9029 10 90	*--- Other*

I further find that the HSN Explanatory Notes to CTH 9029 clearly provides that pedometer is an instrument which has a watch like mechanism used for an approximate measurement of distances. The goods in question use internal components to track distance travelled. This shows that the goods in question (which is a watch like device) is capable of measuring distance travelled on a standalone basis without the necessity of Bluetooth functionality at all.

53. Thus, on a standalone basis, the goods in question are capable only of counting movement based on sensors embedded in them. In other words, it can only act as a "pedometer and the like" within the meaning of CTH 9029. Hence the merit classification of the impugned goods i.e. Activity Tracker" is under CTH 9029 10 90.

54. Whereas the entry under sub-heading 85176290 of the first schedule to the Customs Tariff Act, 1975 covers "machines for the reception, conversion and transmission or regeneration of voice images or other data".

Whereas para II (G) of HSN Explanatory Notes to the heading 8517 explains ***"other communication apparatus"*** *in the following manner:*

This group includes apparatus which allows for the connection to a wired or wireless communication network or the transmission or reception of speech or other sounds, images or other data within such a network.

Communication networks include, inter alia, carrier-current line systems, digital-line systems and combinations thereof They may be configured for example, as public switched telephone networks, Local Area Networks (LAN), Metropolitan Area Networks (MAN) and Wide Area Networks (WAN), whether proprietary or open architecture.
This group includes:

(1) Network interface cards (e.g. Ethernet interface curds).
(2) Modems (combined modulators-demodulators)
(3) Routers, bridges, hubs, repeaters and channel to channel adaptors
(4) Multiplexers and related line equipment (e.g. transmitters, receivers or electro- optical converters)
(5) Codecs (data compressors/ decompressors) which have the capability of transmission and reception of digital information.
(6) Pulse to tone converters which convert pulse dialled signals to tone signals.

I find that 'Activity Tracker' is not to be considered as communication device, hence cannot be classifiable under CTH 85176290."

9.1 In the case before us, the contending classification of imported goods discussed in the impugned order is either under CTI 8517 6290 or CTI 9029 1090 of the First Schedule to the Customs Tariff Act, 1975. Thus, it becomes clear that at the Chapter heading level itself, there is difference of opinion among the department and the respondent. The dispute in classification therefore lies in the narrow compass of analysis of the appropriate Headings under which the impugned goods are covered as per the Customs Tariff and then classifying the impugned product under the corresponding Sub-heading, Tariff Item. Now, we may closely examine the scope of the contending classification for determining correct classification of the imported goods. The relevant sub-headings and their tariff entries of contending classification of imported goods under Chapter headings 8517 and 9029 and the relevant Chapter notes, Heading/Sub-heading notes, if any, in the First Schedule to the Customs Tariff Act, 1975 are extracted and given below:

"SECTION XVI

MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS; AND PARTS AND ACCESSORIES OF SUCH ARTICLES

Notes :

1. This Section does not cover :

xxx xxx xxx xxx

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

4. Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

5. For the purposes of these Notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85.

xxx xxx xxx xxx

CHAPTER 85

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

Notes :

1. This Chapter does not cover :

xxx xxx xxx xxx

Tariff Item	Description of goods
(1)	(2)
8517	**Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528**
	- Telephone sets, including telephones for cellular networks or for other wireless networks :
8517 11	*-- Line telephone sets with cordless handsets :*
8517 1110	--- Push button type
8517 1190	--- Other
xxx	xxx
8517 12	*-- Telephones for cellular networks or for other wireless networks:*
xxx	xxx
	- 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) :
8517 6100	-- Line telephone sets with cordless handsets :
xxx	xxx
8517 62	*- Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus :*
8517 6210	--- PLCC equipment
8517 6220	--- Voice frequency telegraphy
8517 6230	--- Modems (modulators – demodulators)
8517 6240	--- High bit rate digital subscriber line system (HDSL)
8517 6250	--- Digital loop carrier system (DLC)
8517 6260	--- Synchronous digital hierarchy system (SDH)
8517 6270	--- Multiplexers, statistical multiplexers
8517 6290	**--- Other**
8517 69	--- *Other:*
xxx	xxx
8517 70	--- *Parts:*
xxx	xxx

And

SECTION XVIII

OPTICAL, PHOTOGRAPHIC, CINEMATOGRAPHIC, MEASURING, CHECKING, PRECISION, MEDICAL OR SURGICAL INSTRUMENTS AND APPARATUS; CLOCKS AND WATCHES; MUSICAL INSTRUMENTS; PARTS AND ACCESSORIES THEREOF

CHAPTER 90

Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof

Notes :

1. This Chapter does not cover :

xxx xxx xxx xxx

2. Subject to Note 1 above, parts and accessories for machines, apparatus, instruments or articles of this Chapter are to be classified according to the following rules :

(a) parts and accessories which are goods included in any of the headings of this Chapter or of Chapter 84, 85 or 91 (other than heading 8487, 8548 or 9033) are in all cases to be classified in their respective headings;

(b) other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instrument or apparatus, or with a number of machines, instruments or apparatus of the same heading (including a machine, instrument or apparatus of heading 9010, 9013 or 9031) are to be classified with the machines, instruments or apparatus of that kind;

(c) all other parts and accessories are to be classified in heading 9033.

3. The provisions of Notes 3 and 4 to Section XVI apply also to this Chapter.

xxx xxx xxx xxx

Tariff Item	**Description of goods**
(1)	(2)
9029	**Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading 9014 or 9015; stroboscopes**
9029 10	- *Revolution counters, production counters, taximeters, mileometers, pedometers and the like;*
9029 1010	--- Taximeters
9029 1090	**--- Others**
9029 20	- *Speed indicators and tachometers; stroboscopes :*
9029 2010	--- Tachometers, non-electrical
9029 2020	--- Speedometers, non-electrical
9029 2030	--- Stroboscopes
9029 2090	--- Other
9029 90	- Parts and accessories

On careful examination of the above entries in the two contending Chapter headings of 8517 and 9029, it is clear that at the Chapter heading level itself, there is difference of opinion in classification of impugned goods among the respondent and the department. The dispute in classification lies in the narrow compass of examining the scope of coverage of goods under two Chapter headings and their respective Sub-headings i.e., 8517 62 or 9029 10 as such sub-headings themselves contain the respective residual Tariff Items of 'other' i.e., 8517 6290 or 9029 1090, in one of which the impugned goods are required to be correctly classified. Now, we may also look at the HSN Explanatory notes of the World Customs Organization (WCO) for headings 8217 & 9029, which provides the basis for standardized classification under HS Nomenclature, based on which the members countries including India have update their respective Customs tariff, for proper understanding of the scope of coverage of products under the various Chapters, headings, sub-headings, as below:

85.17 - Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 84.43, 85.25, 85.27 or 85.28 (+).

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

8517.11 - - Line telephone sets with cordless handsets

8517.12 - - Telephones for cellular networks or for other wireless networks

8517.18 - - Other

- 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 - - Base stations

8517.62 - - Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus

8517.69 - - Other

8517.70 - Parts

This heading covers apparatus for the transmission or reception of speech or other sounds, images or other data between two points by variation of an electric current or optical wave flowing in a wired network or by electro-magnetic waves in a wireless network. The signal may be analogue or digital. The networks, which may be interconnected, include telephony, telegraphy, radio-telephony, radio-telegraphy, local and wide area networks.

(I) TELEPHONE SETS, INCLUDING TELEPHONES FOR CELLULARNETWORKS OR FOR OTHER WIRELESS NETWORKS

This group includes :

(A) **Line telephone sets.**

Line telephone sets are communication apparatus that convert voice into signals for transmission to another device. Upon receipt of a signal, a line telephone set will convert the signal back to voice. They consist of :

(1) The **transmitter**, a microphone which converts sound waves into a modulated current.

(2) The **receiver** (headphone or earphone), which reconverts the modulated current into sound waves. In most cases, the transmitter and receiver are incorporated in a single moulding known as a hand-set. In other cases the transmitter and receiver are a combined headphone and microphone, designed to be worn on the user`s head.

xxx xxx xxx xxx

(II) 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)

(A) **Base stations.**

The most common types of base stations are those for cellular networks, which receive and transmit radio waves to and from cellular telephones or to other wired or wireless networks. Each base station covers a geographical area (a cell). If the user moves from one cell to another while telephoning, the call is automatically transferred from one cell to another without interruption.

(B) **Entry-phone systems.**

These systems usually consist of a telephone handset and keypad or a loudspeaker, a microphone and keys. These systems are usually mounted at the entrance of buildings housing a number of tenants. With these systems, visitors can call certain tenants, by pressing the appropriate keys and talk to them.

(C) **Videophones.**

Videophones for buildings, which are a combination consisting principally of a telephone set for line telephony, a television camera and a television receiver (transmission by line).

(D) **Apparatus for telegraphic communication other than facsimile machines of heading 84.43.**

These apparatus are essentially designed for converting characters, graphics, images or other data into appropriate electrical impulses, for transmitting those impulses, and at the receiving end, receiving these impulses and converting them either into conventional symbols or indications representing the characters, graphics, images or other data or into the characters, graphics, images or other data themselves.

Examples are :

(1) **Apparatus for transmitting messages**, such as dial or keyboard transmitters and automatic transmitters (e.g., teleprinter or teletypewriter transmitters).

(2) **Apparatus for receiving messages** (e.g., teletypewriter receivers). In some cases the receiver and the transmitter apparatus are combined into one receiver-transmitter.

(3) **Picture telegraphic apparatus**. The ancillary photographic equipment used with this apparatus (e.g., developing equipment) falls in **Chapter 90**.

(E) **Telephonic or Telegraphic Switching Apparatus**.

(1) **Automatic switchboards and exchanges**.

These are of many types. The key feature of a switching system is the ability to provide, in response to coded signals, an automatic connection between users. Automatic switchboards and exchanges may operate by means of circuit switching, message switching or packet switching which utilize microprocessors to connect users by electronic means. Many automatic switchboards and exchanges incorporate analogue to digital converters, digital to analogue converters, data compression/ decompression devices (codecs), modems, multiplexors, automatic data processing machines and other devices that permit the simultaneous transmission of both analogue and digital signals over the network, which enables the integrated transmission of speech, other sounds, characters, graphics, images or other data.

Some types of automatic switchboards and exchanges consist essentially of **selectors**, which select the line corresponding to the impulses received from the calling sets and establish the connection. They are operated automatically, either directly by the impulses from the calling set or via auxiliary apparatus such as **directors**.

The different types of selectors (pre-selectors, intermediate selectors, final selectors) and, where used, the directors, are often assembled in series and in groups of the same type on chassis which are then incorporated into the exchange on metal racks. Particularly in smaller-sized installations they may, however, all be mounted on a single rack to form a self-contained automatic exchange.

Automatic switchboards and exchanges may also incorporate such facilities as abbreviated dialling, call waiting, call forwarding, multi-party calling, voice mail, etc. These facilities are accessed from the user's telephone set through the telephone network.

They are used for the public network or for private networks that utilise a private branch exchange (PBX) which is connected to the public network. Automatic switchboards and exchanges may also be equipped with consoles similar to telephone sets for when intervention or service by an operator is required.

(2) **Non-automatic switchboards and exchanges**.

These consist of a frame on which are mounted the various manual switching devices. They require an operator to manually connect each call received by the switchboard or exchange. They comprise "call" or "clear" indicators for signalling that a call is being made or is completed; operators' telephone sets (sometimes specially mounted); switching devices (mounted jacks or sockets and plugs connected to a cord); and key switches electrically connected to the plugs and cords to enable the operator to answer the caller, supervise the progress of the call and note its completion.

(F) **Transmitting and receiving apparatus for radio-telephony and radio-telegraphy**.

This group includes :

(1) Fixed apparatus for radio-telephony and radio-telegraphy (transmitters, receivers and transmitter-receivers). Certain types, used mainly in large installations, include special devices such as secrecy devices (e.g., spectrum inverters), multiplex devices (used for sending more than two messages simultaneously) and certain receivers, termed "diversity receivers", using multiple receiver technique to overcome fading.

(2) Radio transmitters and radio receivers for simultaneous interpretation at multilingual conferences.

(3) Automatic transmitters and special receivers for distress signals from ships, aircraft, etc.

(4) Transmitters, receivers or transmitter/receivers of telemetric signals.

(5) Radio-telephony apparatus, including radio-telephony receivers, for motor vehicles, ships, aircraft, trains, etc.

(6) Portable receivers, usually battery operated, for example, portable receivers for calling, alerting or paging.

(G) **Other communication apparatus**.

This group includes apparatus which allows for the connection to a wired or wireless communication network or the transmission or reception of speech or other sounds, images or other data within such a network.

Communication networks include, *inter alia*, carrier-current line systems, digital-line systems and combinations thereof. They may be configured, for example, as public switched telephone networks, Local Area Networks (LAN), Metropolitan Area Networks (MAN) and Wide Area Networks (WAN), whether proprietary or open architecture.
This group includes :

(1) Network interface cards (e.g., Ethernet interface cards).

(2) Modems (combined modulators-demodulators).

(3) Routers, bridges, hubs, repeaters and channel to channel adaptors.

(4) Multiplexers and related line equipment (e.g., transmitters, receivers or electro-optical converters).

(5) Codecs (data compressors/decompressors) which have the capability of transmission and reception of digital information.

(6) Pulse to tone converters which convert pulse dialled signals to tone signals.

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the apparatus of this heading are also classified here.

*
* *

90.29 - Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading 90.14 or 90.15; stroboscopes.

9029.10 - Revolution counters, production counters, taximeters, mileometers, pedometers and the like

9029.20 - Speed indicators and tachometers; stroboscopes

9029.90 - Parts and accessories

This heading includes :

(A) Counters indicating a total number of units of any kind (revolutions, items, length, etc.), or an amount to be paid. But the heading **excludes** totalling devices of a kind falling in **heading 84.73**, the gas, liquid or electricity supply or production meters of **heading 90.28**, and opisometers or planimeters of **heading 90.17** or **90.31**.

(B) Apparatus indicating a speed of revolution or a linear speed in relation to a time factor (tachometers and speed indicators), **other than** those of **heading 90.14** or **90.15**.

(C) Stroboscopes of all kinds.

Such apparatus and instruments remain classified here whether or not they incorporate a clockwork recording device, and whether or not they are fitted with simple mechanical or electric devices for bringing a signalling apparatus, machine controls, brakes, etc., into action.

(A) COUNTING DEVICES

(1) **Revolution counters.**

These instruments count the number of revolutions of a mechanical part (e.g., machine shaft). They consist mainly of a driving spindle geared to pointer or drum indicators. They usually have a device for re-setting the counter to zero. The counters may be coupled to the revolving part either directly (in some cases the part drives the gearing itself) or by remote control. The driving spindle may be operated by a rotary, alternating or pulsating movement of the turning part (e.g., encoders).

It should, however, be noted that the heading **excludes** yarn grading winding reels, torsiometers and similar testing or checking apparatus incorporating revolution counters (**heading 90.31**).

(2) **Production counters.**

These are similar in construction to revolution counters. They are used, in particular, for measuring lengths (e.g., on spinning or twisting machines); for counting the movements of a machine (an automatic balance, a pump, the picks of a spinning machine, etc.); or for counting a number of articles (printed sheets delivered by a rotary press, articles carried by a conveyor belt, bank notes, etc.). In practice, the appliances used for these purposes are generally revolution counters which have been adapted to indicate the length or number of units in terms of the revolutions of the driving spindle.

Electronic production counters. The articles to be counted interrupt a beam falling on a photoelectric cell. A recording apparatus then computes the number of articles which have passed through the beam.

This group also covers multiple counters (e.g., those used to check the output of several operators working on the same machine).

This group also includes the electro-magnetic counters used in automatic telephone exchanges to count the number of telephone calls made by a subscriber; they usually incorporate an electro-magnet which moves the recording mechanism (cyclometer-type rollers, etc.) one position each time a pulse of electric current is passed through its winding.

(3) **Counters for indicating the working hours of machines, motors, etc., (time or hour meters).**

In practice, these are revolution counters calibrated in working hours.

(4) **Entry counters.**

These counters are operated by turnstiles or other appliances placed at the entrances of museums, parks, sports grounds, etc., where they record the number of visitors or spectators.

(5) **Billiards meters.**

These are mechanical counters (roller-type and the like), usually hand-operated, for recording the score.

The heading **excludes** meters which employ a clock movement to indicate the time in play or the amount payable based on that time (**heading 91.06**). Billiard markers, ball or slide type, fall in **heading 95.04**.

(6) **Instruments and apparatus for measuring short time intervals** by counting, and which, not having a movement of the watch or clock type (including synchronous movements), **do not** fall in Chapter 91. The heading also covers **electronic impulse counters (scalers)** (e.g., passenger counters on motor coaches, trains, etc.).

(7) **Taximeters.**

These usually have a clock movement. They indicate the fare payable in relation to time **and** to the distance covered.

(8) **Mileometers.**

These are revolution counters for vehicles, and are usually graduated in linear units (miles, kilometres, etc.). Most mileometers are combined with speed indicators.

(9) **Pedometers.**

These instruments have a watch type mechanism and are used for an approximate measurement of distances. They contain a pendulum which, at each step, advances the train of wheels by one unit. The distance covered is calculated from the number of steps taken and their length.

(10) **Hand-held counters.**

These counters usually read no more than four numbers in fixed categories. The user depresses a button in the category being counted to activate the display.

(B) SPEED INDICATORS AND TACHOMETERS

These instruments differ from the revolution counters and production counters of Part (A) above in that they indicate the number of revolutions, speed, output, etc., **per unit of time** (e.g., revolutions per minute, miles per hour, kilometres per hour, metres per minute). They are usually mounted on vehicles (cars, motorcycles, bicycles, locomotives, etc.) or machines (motors, turbines, paper-making machines, printing machinery, textile machinery, etc.).

The speed indicators and tachometers classified here normally function on one of the following principles :

(1) **Chronometric system.**

The measuring mechanism is combined with a clock or watch movement. Sometimes the time is measured by means of a separate chronograph; in this case, the two instruments are classified in their appropriate headings.

(2) **Centrifugal system.**

A vertical governor arm, held by a spring, rotates with the driving spindle. A pair of weights carried by the governor arm are thrown outwards by centrifugal force, so that the distance the governor arm is displaced is proportional to the speed. This displacement is transmitted to the instrument pointer.

(3) **Vibration system.**

This type is used for high speed machines such as steam turbines, pumps, compressors, electric motors, etc. The mechanical resonance of vibrations of the frame or bearings of the machine cause graduated reeds to oscillate at a rate corresponding to the number of revolutions of the machine.

(4) **Magnetic (induction) system.**

A system of permanent magnets rotating with the driving spindle generates eddy-currents in a disc of copper or aluminium placed in the magnetic field. This current is proportional to the rotating speed of the magnets. The disc is thus "dragged" or pulled round, but its rotation is retarded by a restraining spring. The disc is connected to a pointer indicating the speed.

(5) **Electrical systems.**

These are either fitted with a photoelectric cell or operated by an impulse generator mounted on the machine.

Speed indicators and tachometers of this heading may be fixed or portable, simple or multi-function (e.g., maximum or minimum), differential (in which case they give the difference between two speeds as a percentage), combined with an adding counter or a time meter or graphical recording device, etc. The heading also covers certain instruments which simultaneously record speed, mileage, time in motion and at a standstill, etc.

(C) STROBOSCOPES

Stroboscopes enable machines in operation to be observed as though they were moving slowly or were stationary; they can also be used to measure the speed of rotating or reciprocating movements. In the latter case, they are known more particularly as **stroboscopic tachometers**. Stroboscopes operate on the principle of producing apparent immobility or reduced speed in the mechanism to be observed, by means of successive glimpses (flashes) at fixed intervals. The mechanism under observation may be permanently illuminated for examination through an optical instrument (a disc with one or more radial slots or "windows") which interrupts the line of sight; or the mechanism may be placed in the dark and illuminated periodically for very short periods (flashes). The speed of the rotating or reciprocating mechanism under observation can be ascertained by adapting the speed of the disc or the frequency of the flashes until the impression of immobility is obtained.

Stroboscopes based on the principle of **permanent illumination** consist essentially of a clockwork driven with one or more windows, a speed regulator, an eyepiece and a graduated drum (usually graduated in revolutions per minute).

Stroboscopes functioning on the principle of **periodic illumination** differ appreciably according to the device producing the light flashes. The most simple types consist of an ordinary lamp, a motor with a speed regulator controlling the frequency of the flashes, and a graduated dial. The flashes may also be produced by a gas discharge lamp. These gas discharge stroboscopes are much more complex in structure and can be used for taking photographs or making films; they are sometimes mounted on castors or rollers. The flashes required for the observation of a rotating or reciprocating mechanism may be controlled by the mechanism itself. Synchronisation is achieved by means of a spring-type interrupter, a photoelectric cell, an electro-magnetic relay, etc.

Except when permanently incorporated in stroboscopes, the photographic or cinematographic cameras fall in their appropriate heading.

Stroboscopes are used, in particular, for observing or measuring the speed of motors, transmission gear, textile machinery (parts such as spindles, winders, cards, shuttles), paper-making machines, printing machinery or machine-tools. They are also used in medicine for examination of the vibration of the vocal chords.

PARTS AND ACCESSORIES

Subject to the provisions of Notes 1 and 2 to this Chapter (see the General Explanatory Note), separately presented parts and accessories of apparatus or appliances of this heading remain classified here.

9.2 It could be seen that by applying the GIR 1 - rule at (i) above, the position is made clear that Chapter heading 8517 covers within its scope and ambit, mainly of three broad categories of goods for ascertaining proper classification:

(i) first category is about all types of telephone sets including those for cellular networks, wireless networks etc. which are included in sub-headings 851711, 851712 and 851718;

(ii) second category covers apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (LAN or WAN), but other than the telephones of the first category mentioned above (all communication apparatus other than telephone sets) which are included in sub-heading 851762, more specifically under CTI 8517 6210, 8517 6220, 8517 6230, 8517 6240, 8517 6250, 8517 6260, 8517 6270 and 8517 6290; and

(iii) third category is other residual goods, which are not covered by the list of goods at (ii) above and parts of above goods, included in sub-heading 851769 and 851770.

9.3 Similarly, by applying the GIR 1 - rule at (i) above, Chapter heading 9029 covers within its scope and ambit, mainly of four broad categories of goods for ascertaining proper classification:

(i) first category is about specific goods used for measuring any kind of counters indicating the total number of revolutions, items, length or other units of any kind, but excluding totaling devices of chapter heading 8473, which are included in CTI 9029 1010 and 9029 1090;

(ii) second category covers apparatus for measurement of speed of revolution over a linear level in relation to a time factor i.e., Kilometer per hour that are included under CTI 9029 2010 and 9029 2020;

(iii) third category of items cover stroboscope of all kinds, which are used for measuring or observing the speed of motors, transmission, gears etc. in various machines, included under CTI 9029 2030;

(iv) Other residual goods of chapter heading 9029, other than the above covered by (i) to (iii) included in CTI 9029 2090, Parts and accessories of above goods as well as goods included in sub-heading 9029 90.

9.4 The impugned goods are described as ‘activity trackers’ related to promotion of fitness of persons, consisting of wearable device with display screen, Bluetooth connectivity. It also works in conjunction with certain applications in a mobile phone/device, by syncing the data tracked for prescribing various fitness programs viz., preventive medical care, wellness training, weight management, endurance and strength training, marathon training, yoga and stress management, illness control and other individualized training in the form of coaching program. Hence, there is a

need to examine the functionality of the imported goods in order to determine its appropriate classification.

9.5 From the scope of coverage of goods under sub-heading 902910, though various types of counters were included in the scope of this heading, goods of the nature such as revolution counters, production counters, entry counters, billiard meters, taximeters, mileometers are not relevant for consideration, as these are not in the nature of the goods in dispute in the present case. However, since 'Pedometers' are instruments consisting of a watch type mechanism used for measurement of distances, this need to be examined closely to see whether the impugned goods are covered under the scope of this tariff entry. 'Pedometers' are instruments which are used for an approximate measurement of distances; they contain a pendulum which, at each step, advances the train of wheels by one unit; and the distance covered is calculated from the number of steps taken and their length. The various types of such apparatus are mechanical or spring-levered type pedometers, Piezoelectric, electronic pedometers. Essential function of all pedometers are that when a person takes each step, a mechanism like swinging pendulum to one side and then back again or swinging hammer touches metal contact to complete an electrical circuit to measure each of such step, in measuring the distance travelled by a person. Thus, it can be concluded that all type of pedometers can be classifiable under sub-heading 902910 and more specifically under CTI 9029 1090, as it is covered by specific description of such goods at the heading and sub-heading level.

9.6 In the details submitted by the Respondent about GOQii products and services portfolio, official website information of their company it is stated that they provide a digital health and fitness subscription service that combines one-on-one mobile personal coaching and fitness tracking technology to help one shift to a healthier lifestyle and reach their fitness goals. The solution provided by the Respondent company is described as a solution to the problem of missing elements of ongoing engagement, motivation and accountability, by connecting individual activity tracker or smartwatch to professional health and fitness coach of one's choice via the GOQii app. available on iOS and android devices/mobile phones. The various products offered to the customers include *SMART Vital 2.0/Vital 2.0 max* for recording single lead ECG to detect serious heart conditions like arterial fibrillation; *SMART Vital Ultra* to monitor vitals, activities, sleep; *STREAM* with calling watch with built-in speaker and microphone; *SMART Vital Plus* for health tracking with enhanced features to monitor vital health parameters

and for tracking activities; *RUN GPS* fitness tracker with GPS and heartrate monitor; *VITAL ECG* fitness tracker with ECG and heart rate monitor; *VITAL 4.0* body temperature monitor to detect early symptom of Covid-19 infection etc. These products combine the use of fitness tracker or wearing device/band collecting the tracking data and syncing it with applications such as GOQii Coach, for interpretation of the tracking data by a roaster of expert coaches such as nutritionists, personal trainers, wellness experts of varying specialties. Once the activity tracker/fitness band or smart watch is synced with GOQii application, the regular activity data and sleep data, tracked automatically and manually, will be visible to the coaches, who will in turn give daily support, resources, motivation and interpretation of the tracking data to help individual wearer to stay on track so as to reach individual fitness goals. In this program the individual can also log specific activities, water consumption and food intake besides the regular tracking activity. Further, the GOQii fitness coach will text the individual persons to the application to set up an introductory call, where the individual wearing the activity tracker//fitness band or smart watch along with the coach will together establish their short and long-term goals. GOQii activity tracker/smartwatch tracks steps, sleep and active time. It also tells time and has remainder alarms and features a touch-screen OLED display with a battery life of up to 7 days and the 360° motion sensor. The tracker includes Bluetooth low energy, remote Hi-5 and a Vibra Humm Alarm. The tracker is sweat-proof and water resistant. Thus, it clearly transpires from the above that the impugned goods are not a mere pedometer like apparatus/ instrument as it performs vide range of functions besides counting the number of steps and/or the distance travelled by a person during walking/ running.

9.7 It is also important to note that wrist-watches, pocket-watches and other watches, including stop-watches, with case of precious metal or of metal clad with precious metal or all other type of watches and similar instruments or apparatus for measuring, recording or otherwise indicating intervals of time, are classifiable under various tariff entries of Chapter 91. The impugned goods, though indicate the time along with other details, is not essentially remain as watch for enabling classification under chapter 91. Similarly, the impugned goods although display various fitness parameters by working in conjunction with GOQii mobile phone application, does not by itself function as measuring or checking instruments, appliances or machines which are used in various fields such medical science, optometry, laboratories, photography, cinematography etc., in order to qualify for classification under the respective headings of Chapter 90.

9.8 In this regard, the learned AR had captured the various features of the impugned goods of different model/variants in a summary data table as given in paragraph 4.1 above. Further, during the testing/evaluation and analysis conducted by the Indian Institute of Technology Bombay, on different devices imported by the respondent, the various features of the product have also been captured in their report dated 18.08.2023. In the said report, it is stated that the primary function of the activity trackers/fitness bands as a wearable device is tracking, monitoring of vital parameters. The extract of the said portion of the report under paragraph B, C are as below:

"B. Technical response to the questions:

xxx xxx xxx xxx

(a) Whether the primary function of the activity trackers/fitness bands is to monitor the fitness parameter through the following functions: (i) Pedometer; (ii) Oximeter; (iii) Heart rate monitor; (iv) Blookd Pressure Monitor; (v) Sleeping trackers; and (vi) ECG.

Based on the testing performed on all 15 models, the core functionality of the wearable device is activity tracking/monitoring and/or vital parameters monitoring. In the models evaluated by us, it was observed that information processing from the sensor modules was the main activity of the core processor. The following sensor modules were found:

- *3-axis Accelerometer for activity tracking,*
- *Optical Pulse plethysmography (PPG) module using Red and IR LED for SpO2 monitoring,*
- *Optical heart rate monitoring using a similar principle of PPG but using green LED,*
- *Temperature sensor, and*
- *ECG module with electrodes to sense electric signals for extracting single lead ECG (on-demand type).*

This amalgamation of sensor modules serves as the foundational basis from which auxiliary measurements are derived, including parameters such as sleep stage/quality and blood pressure (BP). The user interface on the wearable device is designed to monitor and visualize various fitness or vital parameters. The interface concurrently provides alerts to the user based on the information derived from the various sensor modules. From the synergistic combination of sensor modules and user interface design, it is apparent that the principal function across all devices is activity or vital parameter monitoring, complemented by alerting mechanisms.

Further, most of the data generation, processing & visualization, with exceptions of ECG and BP measurement, are performed by wearable device independently, and does not need any calibration inputs or processing by the paired device application. Further, GPS module also requires crucial weekly update through the paired device to correctly monitor the distance/route. This GPS receiver module is only present in GoQii Run GPS (Device No. 6).

The alerts on the device and the paired application helps the user stay motivated to adopt healthy lifestyle, based on the information from the wearable device and additional health/lifestyle-related information provided by the user. Building upon our technical evaluation and subsequent interfacing

with the application on the paired device, we conclude that the primary function of all the 15 devices with/without pairing to the supporting application, is to monitor fitness/activity using the sensor modules and provide appropriate alerts.

(b) ***Whether the function associated with Bluetooth feature is an ancillary function to the primary function of monitoring the fitness parameters?***
Yes, the Bluetooth feature is an ancillary function to the primary function of activity or fitness or vital parameters tracking. From the perspective of core functionality, it helps keep the historical data log of various measurements in the smartphone application. Bluetooth connectivity also provides the local connectivity to the paired device, for monitoring more parameters, which require calibration or additional inputs. If the user wants to observe just the real-time data of all the basic parameters or wants to check the recent-past data stored in the memory of the wearable device, they do not need the Bluetooth feature. Bluetooth feature is essential for viewing the ECG, creating/sharing calibration files for BP/GPS, or for other health-related activity like women's health tracking for menstrual cycle and ovulation cycle tracking as the data is entered by user in the paired application and not directly into the wearable device. Bluetooth connectivity also provides additional convenience of getting other notifications from the paired device. In some devices, bluetooth feature assist user to provide inputs from their wearable device for controlling the music played on the paired device. As smartphone have become an integral part of everyone, Bluetooth provides the connection with the GoQii application on the paired device to get further information/control/convenience to the user. This is similar to the Bluetooth module available on various consumer devices, which provides extra information or alerts, and is an ancillary feature to the devices.

(c) ***Whether on account of Bluetooth feature, the goods can be treated as a communication machine as described under the Tariff heading 851762?***

xxx *xxx* *xxx* *xxx*

As discussed in (b), this activity is an ancillary support to the core functionality of tracking the activity/fitness/variations in vital parameters. The core functionality or principal use of the device is activity/fitness monitoring, primarily steps counting (pedometers) and distance covered, which is the only common monitoring option in all the 15 GoQii devices evaluated by us. So, even though the Bluetooth module provides the facility of transmission and reception of data, it is an ancillary feature and not the core feature of the devices. Also, Bluetooth connectivity can be used for transmitting and receiving audio data from the wearable device to the paired smartphone, similar to wireless speakers/sound bars. This feature is not a default option but requires the intervention of the user to pair it with the smartphone for calls or for listening to music. Only GoQii Stream model (Device No. 1) has a microphone, speaker and digital keypad, to make use of audio transmission and reception feature of Bluetooth. The remaining 14 devices do not have either microphone or speakers nor user interface for dialing/receiving calls. Hence, based on the evaluation and information provided in the appropriate section, all the devices excluding GoQii Stream model (Device No. 1) are not a communication machine.

(d) ***Whether the activity trackers/fitness bands imported by the Company perform all the following three functions in respect of voice, images or other data?***

As explained in (c), the 15 devices do not have modules to directly receive

voice, image or other data through cellular networks and through LAN/WAN networks. As the devices have an ancillary Bluetooth module, it can support short distance transmission/reception capabilities. If the wearable devices are paired with Bluetooth connectivity to any device like smartphone, the data /audio/ image transmission is feasible amongst them.

xxx xxx xxx xxx

In summary about the impugned product, IIT Bombay have stated the following:

C. SUMMARY:

All 15 devices have activity/fitness monitoring as the core functionality, irrespective whether it is used standalone or paired with the GoQii application. They cannot connect directly to cellular networks, LAN/WAN, or similar large/complex networks. The devices are a standalone non-communicative device for monitoring activity like steps and fitness by tracking various activity and measuring vital parameters. With the Bluetooth module, these devices can act as peripheral Bluetooth devices and have a point-to-point network with a single paired device. Hence, it cannot independently transmit or receive data without pairing with a parent/master device. Therefore, their communication architecture is centralized.

xxx xxx xxx xxx"

Learned AR has also produced copy of the Burau of Indian Standards (BIS) Registration/CRS 2022-2767/R-41248894 dated 16.02.2023 for GOQii models "Smart Vital 2.0; Smart Vital 2.0 Max., Smart Vital Plus" and Registration/CRS 2022-2767/R-41229600 dated 21.02.2023 for "Smart O2; Smart Vital Max., Smart Vital Life", respectively, having been registered under the product category "smart watches". We also find that such certificate is supportive of the stand that the impugned goods are not simple 'pedometer' or activity tracker apparatus and due to its multifarious features offered to the wearer, by way of communication of data/ messages, it is more appropriately classifiable as 'other communication apparatus' having the facility of activity tracker offering various fitness programs or healthy life style solution.

9.9 On careful perusal of the above documents, it transpires that the impugned goods are used for tracking vital parameters in order to enable healthy lifestyle or to enhance the health of individuals by overcoming concerns of health such as diabetes, over-weight, high blood pressure etc. As mentioned in the said report, the information processing from the sensor modules having core processor is the main activity of such trackers; further, the tracking data being communicated to the expert coaches and their interpretation or comments on automatic or manual mode, and on periodical basis forms the complete function of the activity tracker/fitness band. It is also evidential that the impugned goods are marketed in the trade as activity tracker for fitness and also forms part of FIT India movement. Therefore, the stand taken in the IIT Mumbai report that the impugned goods are standalone

devices for tracing various activities as non-communicable device, and thus connectivity to mobile devices or GOQii applications through LAN/WAN providing the services of GOQii coach etc., are not impacting the core functionality of such goods are factually not correct. Apart from the fact that the expert evidence of IIT Mumbai is weak, as neither the same has been done with the knowledge and consent of the department, nor the sample were drawn/collected by the department. The activity tracker/wrist band is fully functional and provides the intended use/benefits to the person wearing it, only when the tracing activities are communicated to the expert coaches for their view or for further processing, and the results sent back in the form of reading of vital parameters with suitable messages, advice/ comments from expert coaches. Therefore, in our considered opinion the impugned goods can be categorized as apparatus having the facility for tracking vital parameters including the pedometer function and the tracking data transmitted and/or received in the form of data or voice or images, which are appropriately covered under the scope of sub-heading 851762. Further, as the impugned goods are not covered under specific apparatus given in the tariff items 8517 6210 to 8517 6270 viz., PLCC equipment, Voice frequency telegraphy, Modems (modulators – demodulators), High bit rate digital subscriber line system (HDSL), Digital loop carrier system (DLC), Synchronous digital hierarchy system (SDH), Multiplexers, statistical multiplexers, these are appropriately classifiable under the residual entry of CTI 8517 6290 as "other apparatus of sub-heading 851762".

10. In view of the foregoing discussions and analysis of the legal provisions of the First Schedule to the Customs Tariff Act, 1975 and the explanation of coverage of products given in the Explanatory notes of HS of the WCO, we are of the considered opinion, that the impugned goods are appropriately classifiable under CTI 8517 6290 as done by the department, and not under CTI 9029 1090 as declared by the respondent importer. Therefore, the impugned order dated 31.07.2024 passed by the learned Commissioner of Customs (Import) in classifying the goods under CTI 9029 1090 cannot stand the scrutiny of law.

11.1 From the facts of the case, it is also indicated that the respondent had classified the impugned goods accepting the classification adopted by the department under CTI 8517 6290 in respect of 21 B/Es filed earlier and have paid the differential duty. However, in the B/Es No.5440172 and 5434487 both dated 25.10.2019 and in subsequent 9 B/Es, they contested the classification under CTI 8517 6290 and have paid the differential duty under

protest. In all these B/Es, the subject matter of dispute in classification of imported goods was well within the knowledge of the department and that the goods covered under the two B/Es dated 25.10.2019 and the other 9 B/Es were under the control of customs Commissionerate and that these were subjected to examination by the customs shed examination officers; further, there was ambiguity in classification of 'smart watches' and similar goods for which CBIC had issued Circular No. 08/2023 dated 13.03.2023 for identification of products/equipment under 85176290 and 85176990. Therefore, in the above context we are of the considered view there are no grounds for invoking the elements of collusion, suppression of facts, wilful mis-statement, fraud etc., for demand of differential/short paid duty of customs by invoking extended period of limitation. However, the differential customs duty arising on account of determination of appropriate classification of the impugned goods under CTI 8517 6290 along with applicable interest for the normal period, dating back to two years from the date of issue of SCN on 05.10.2020, alone is sustainable. To such an extent of the adjudged demands for the normal period that was dropped in the impugned order is set aside and the differential duty payable on account of appropriate classification of impugned goods under CTI 8517 6290 for normal period is sustained. Further, action initiated in the SCN dated 05.10.2020 for confiscation of imported goods and imposition of redemption fine in lieu of confiscation on respondents is not proper and justified for the extended period. Consequently, Provisional Duty Bond dated 04.12.2019 executed by the respondent and the bank guarantee dated 29.11.2019 for an amount of Rs. 1,00,00,000/- submitted by them before the jurisdictional Customs Commissionerate, if any still available, could be adjusted as per extant rules in force.

11.2 As regards the issue of non-compliance reported with respect to DGFT Notification No. 44 (RE-2000)/1997-2002 dated 24.11.2000, we find that these relate to mandatory details to be declared on the packaged products, which are subject to provisions of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, when produced/packed/sold in domestic market. DGFT mandates that all pre-packaged commodities imported into India must comply with specific labelling and Maximum Retail Price (MRP) declaration rules **before** the consignment is cleared by Customs for home consumption. Therefore, such compliance requirements could be well accomplished before the imported goods are cleared from Customs control. Thus, we do not find this as a sufficient reason to sustain imposition of penalty or for taking any penal action on the respondent importer.

12. In the result, the impugned order dated 31.07.2024 passed by the learned Commissioner of Customs (Import) is modified and the appeal filed by Revenue is partly allowed to the extent mentioned in paragraph 11.1 above.

(Order pronounced in the open court on 13.04.2026)

(M.M. Parthiban)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Sinha