

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 5

Customs Appeal No. 87685 of 2025

[Arising out of Order-in-Original No. 100/2025-26/COMMR/NS-V/CAC/JNCH dated 26.06.2025 passed by the Commissioner of Customs (NS-V), JNCH, Nhava Sheva.]

Baxter (India) Private Limited

5th Floor, Tower-A, Building No.9
DLF Cyber City, DLF Phase-III
Gurgaon, Haryana – 122 002.

.... Appellants

Versus

Commissioner of Customs (NS-V)

Nhava Sheva Customs Commissionerate-V

Jawaharlal Nehru Custom House (JNCH)
Nhava Sheva, Taluka Uran, District Raigad
Maharashtra – 400 707.

.... Respondent

Appearance:

Shri Shrinivas Kothi, Advocate for the Appellants

Shri Mahesh Patil, Authorized Representative for the Respondent

FINAL ORDER NO. A/85769/2026

Date of Hearing: 30.04.2026

Date of Decision: 23.06.2026

Per: M.M. PARTHIBAN

This appeal has been filed by M/s Baxter (India) Private Limited, Gurgaon (herein after, referred to as "the appellants", for short) assailing the Order-in-Original No. 100/2025-26/COMMR/NS-V/CAC/JNCH dated 26.06.2025 (herein after, referred to as "the impugned order") passed by the Commissioner of Customs (NS-V), Jawaharlal Nehru Custom House, Nhava Sheva.

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

2.2. The appellants herein in regular importer of medical, surgical and other equipment and their parts, accessories, components of such instruments and appliances used in medical, surgical, dental or veterinary sciences. Some of the medical equipment is PRISMAFLEX 8.1 – Continuous Renal Replacement Therapy (CRRT) machine and Home choice Claria Machine for Automated Peritoneal Dialysis (APD) for which they had

imported various parts viz., APD set with 4-prong cassette migrated; PRISMAFLEX M100 set kit; PRISMAFLEX TPE 2000 set CKT; PRISMAFLEX M60 set kit; OXIRIS set and ADSORBA 300C, for further use in the CRRT and APD machine. During the period 03.07.2018 to 10.11.2022, upon importation of the said goods, the appellants had filed various Bills of Entry (B/E) for self-assessment of customs duties, by declaring the goods as parts and components of medical, surgical and other equipment and classified these under various tariff items of Customs Tariff Heading (CTH) 9018 of the First Schedule to the Customs Tariff Act, 1975. In these imports, the appellants had paid the Integrated Goods and Services Tax (IGST) at the rate of 12% by availing concessional rate vide Serial No.218 of Schedule-II of Notification No.01/2017-IT (Rate) dated 28.06.2017. However, the department had interpreted that the IGST is payable on the imported goods at the rate of 18%, since these fall under the entry Serial No.423 of the said notification dated 28.06.2017. After issue of pre-notice consultation letter dated 04.05.2023, the department issued Show Cause Notice (SCN) dated 28.06.2023 proposing for re-classification of goods under CTH 9033 and for recovery of differential duty under Section 28(4) of the Customs Act, 1962 and for confiscation of the impugned goods for violations under Section 111(m), 111(o) *ibid* as well as for imposition of penalties on the appellants under Section 112(a)/114A *ibid*.

2.3 In adjudication In adjudication of the said SCN, the Commissioner of Customs (NS-V), Nhava Sheva passed Order-in-Original dated 26.06.2025 in confirming all proposals made in the SCN. Feeling aggrieved with the said order of the Commissioner of Customs (NS-V), which is impugned herein, the appellants have filed this appeal before the Tribunal.

3.1 Learned Counsel appearing for the appellants stated that the entire case of misclassification and resultant demand of IGST at a higher rate is arising from interpretation of the relevant entry under Notification No. 01/2017-IT (Rate) dated 28.06.2017 in which the impugned goods are to be covered. He further stated that the issue under dispute is no more *res integra*, as the department by referring to the above issued under dispute had clarified vide Circular No.113/32/2019-GST dated 11.10.2019 that the rate of IGST applicable on parts and accessories suitable for use solely or principally with a medical device and classifiable under 9018 is at 12%. However, since this aspect has not been specifically pleaded before him, the learned Commissioner could not consider the applicability of this

Circular. In support of the above plea, he relied upon the order of the Tribunal in the case of *Aloka Trivitron Medical Technologies Private Limited Vs. Commissioner of Customs, Imports, Chennai-II - 2020 (374) E.L.T. 93 (Tri. - Chennai)*, which was also upheld by the Hon'ble Supreme Court as reported in (2024) 16 Centax 383 (S.C.).

3.2 Learned Counsel also stated that there were certain errors in computation of duty demands in correlation of the B/Es filed for warehousing and subsequent home consumption clearance, and demand of duty determined on the basis of warehousing B/Es for an amount of Rs.32,79,949/- is not sustainable, as it is only during home consumption clearance the actual duty would be payable to the government exchequer. He further submitted that issue relates to interpretation of the entry in the exemption notification, and since the demand of customs duty is not sustainable based on the clarification issued by the department, consequential imposition of redemption fine and penalty on the appellants are also not sustainable. He also relied upon a number of case laws in support of their above stand as detailed in his written synopsis.

4. Learned Authorised Representative (AR) reiterated the findings made by the Commissioner of Customs (NS-V) in the impugned order.

5. We have heard both the learned Advocate appearing for the appellants and the learned Authorized Representative of the Department and perused the case records and the synopsis given in the form of written submissions.

6. We find that the issue under dispute for consideration before us is as follows:

(i) determination of proper classification of the impugned goods, either under CTH 9018 as claimed by the appellants, or, under CTH 9033 as held in the impugned order, for the purpose of determining appropriate IGST payable thereon;

(ii) whether the confiscation of impugned goods and consequent imposition of redemption fine and penalty on the appellants are sustainable or otherwise.

7.1 As regards the issue of dispute in classification, in the case before us, the contending classification of imported goods discussed in the impugned order are either under CTH 9018 or CTH 9033 of the First Schedule to the Customs Tariff Act. Thus, it is clear that at the Chapter level, there is no difference of opinion among the department and the appellants. The

dispute in classification therefore lies in the narrow compass of analysis of the appropriate sub-headings and relevant entries 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. The relevant entries of the above two contending classification are as follows:

"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:

XXX 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.

XXX XXX XXX XXX XXX

Tariff Item	Description of goods
(1)	(2)
9018	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scientigraphic apparatus, other electromedical apparatus and sight-testing instruments
	- <i>Electro-diagnostic apparatus (including apparatus for functional exploratory examinations or for checking physiological parameters) :</i>
9018 1100	-- Electro-cardiographs
9018 12	-- <i>Ultrasonic scanning apparatus :</i>
9018 1210	--- Linear ultrasound scanner
9018 1290	--- Other
9018 1300	-- Magnetic resonance imaging apparatus
9018 1400	-- Scientigraphic apparatus
9018 19	-- <i>Other</i>
xxx	xxx
9018 2000	- Ultra-violet or infra-red ray apparatus
	- <i>Syringes, needles, catheters, cannulae and the like:</i>
9018 3100	-- Syringes, with or without needles
xxx	xxx

Tariff Item	Description of goods
9018 32	-- Tubular metal needles and needles for sutures :
xxx	xxx
9018 39	-- Other :
xxx	xxx
	- Other instruments and appliances, used in dental sciences :
9018 4100	-- Dental drill engines, whether or not combined on a single base with other dental equipment
9018 4900	-- Other
9018 50	- Other ophthalmic instruments and appliances :
xxx	xxx
9018 90	- Other instruments and appliances :
	--- Diagnostic instruments and apparatus :
9018 9011	---- Instrument and apparatus for measuring blood pressure
9018 9012	---- Stethoscopes
xxx	xxx
	--- Artificial kidney (dialysis) apparatus, blood transfusion apparatus :
9018 9031	---- Artificial kidney (dialysis) apparatus
9018 9032	---- Blood transfusion apparatus
xxx	xxx
	--- Other :
9018 9091	---- Hilarial or venous shunts
9018 9092	---- Baby incubators
xxx	xxx
9018 9099	---- Other

And

Tariff Item	Description of goods
(1)	(2)
9033 0000	Parts and accessories (not specified or included elsewhere in this chapter) for machines, appliances, instruments or apparatus of chapter 90

THE FIRST SCHEDULE – IMPORT TARIFF (Refer Section 2)

THE GENERAL RULES FOR THE INTERPRETATION OF IMPORT TARIFF

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:....”

7.2 On careful reading of the above tariff entries and by applying the General Interpretative Rules (GIR) particularly Rule 1, the position is made clear that Chapter Heading 9018 covers all types of instruments and appliances used in medical, surgical, dental or veterinary sciences along with its parts, under the respective entries of the relevant instrument or appliance itself; and the other non-specified instruments, appliances and other general parts under the residual entry of 'other', within its scope and ambit. Whereas the scope of tariff entry under CTH 9033 is the residual

entry for covering those parts and accessories, which are not specified or included elsewhere in this chapter 90, under the residuary entry of that chapter. This is also evident from the guidance provided under Chapter Note No.2 to Chapter 90 for proper classification of parts and accessories falling under this Chapter. Therefore, it is evident that the impugned goods being parts and accessories suitable for use in the kidney dialysis apparatus are classifiable under CTH 9018 and not under CTH 9033.

7.3 We also find that the Ministry of Finance vide Circular dated 11.10.2019 had clarified the applicability of IGST/GST rates on various goods including the items under dispute in the present case. The relevant extract of the said circular is given below:

Circular No. 113/32/2019-GST
F.No.354/131/2019-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Tax Research Unit

North Block, New Delhi
 Dated, 11th October, 2019

To,

Principal Chief Commissioners/ Principal Directors General,
 Chief Commissioners/ Directors General
 Principal Commissioners/ Commissioners
 of Central Tax and Customs

Madam/ Sir,

Subject: Clarification regarding GST rates & classification (goods)-reg.

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

- (i) Classification of leguminous vegetables such as grams when subjected to mild heat treatment
- (ii) Almond Milk
- (iii) Applicable GST rate on Mechanical Sprayer
- (iv) Taxability of imported stores by the Indian Navy
- (v) Taxability of goods imported under lease.
- (vi) Applicable GST rate on parts for the manufacture solar water heater and system
- (vii) Applicable GST on parts and accessories suitable for use solely or principally with a medical device

2. The issue wise clarifications are discussed below:

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9. Applicability of GST on the parts and accessories suitable for use solely or principally with a medical device:

9.1 Representations have been received seeking clarification on applicability of GST on the parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment.

9.2 Briefly stated, medical equipment falling under HS 9018, 9019, 9021 and 9022 attract 12% GST. The imports of parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment, were being assessed at 12% GST by classifying it under heading 9018. However, objection has been raised by Comptroller and Auditor General of India (CAG) on the said practice, suggesting that since such goods were not specifically mentioned in the GST rate notification, they fall under tariff item 9033 00 00 [residual entry] and should be assessed at 18% IGST. In this background, representations have been received from trade and industry, seeking clarification in this matter

9.3 The matter has been examined. As per chapter note 2(b) of the Chapter 90, parts and accessories of the instruments used mainly and principally for the medical instrument of chapter 90 shall be classified with the machine only. Chapter note 2(b) (of Chapter 90) reads as below: -

“2 (b): other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instruments 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;”

9.4 Thus, as per chapter note 2(b), parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment should be classified with the ophthalmic equipment only and shall attract 12%.

9.5 In view of the above, it is clarified that 12% IGST would be applicable on the parts and accessories suitable for use solely or principally with a medical device falling under heading 9018, 9019, 9021 or 9022 in terms of chapter note 2 (b).

10. Difficulty, if any, may be brought to the notice of the Board immediately. Hindi version shall follow.

7.4 On plain reading of the aforesaid clarification issued by the department, it clearly transpires that the impugned goods being parts and accessories of kidney dialysis apparatus i.e., Continuous Renal Replacement Therapy (CRRT) machine and Home choice Claria Machine for Automated Peritoneal Dialysis (APD), are classifiable along with such apparatus and are chargeable to 12% IGST under Serial No.218 of the Schedule – II of the Notification No.01/2017 (IT) dated 28.06.2017. Further, we also note that this circular has been issued to all field

formations under the Central Board of Indirect Taxes & Customs (CBIC), including the Principal Commissioner of Customs. Further, the disputed issue of appropriate rate of IGST applicable on parts and accessories of medical, surgical, ophthalmic equipment or apparatus had arisen from the objection raised by the office of C&AG, and it was well within the knowledge of the department. Further, the clarification was issued in this specific context for resolving the issue, and the difficulty, if any, in implementation of the said circular was to be brought to the notice of the CBIC, by the field formations. Therefore, even if the appellants did not bring the circular dated 11.10.2019 to the notice of the Commissioner of Customs, it is binding on him as an officer of the department.

8.1 On examination of the factual matrix of the present case, we find the disputed issue involved in the present case before this Bench, is exactly the same as was held by the Co-ordinate Bench of the Tribunal in the case of *Aloka Trivitron Medical Technologies Limited* (supra). The relevant paragraph of the said order of the Tribunal is extracted and given below:

"5. Having considered the submissions from both sides and on perusal of record, we note that when the goods are presented in SKD condition, Revenue does not have authority of law to separate different parts and components and classify them differently in view of Rule 2(a) of General Rules for Interpretation of the Customs Tariff. If Revenue wants to remove certain parts from the SKD package and classify differently, then Revenue has to establish that remaining parts, if assembled together have essential character of final product. Revenue has not brought forward any such evidence. Further, CBIC issued clarification which is reproduced in foregoing paragraph. The said clarification relies on Chapter Note 2(b) to Chapter 90 and the same is binding on departmental officers. We, therefore, hold that both the impugned orders are not sustainable. Therefore, we set aside both the impugned orders and allow both the appeals. Appellants shall have consequential relief as per law."

8.2 In an appeal preferred by the department against the aforesaid order of the Tribunal vide Civil Appeal Nos. 1545-1546 of 2021, the Hon'ble Supreme Court by its judgement dated 15.03.2024 has dismissed the civil appeal of the department and observing that they are not inclined to interfere with the above order of the Tribunal. Further, as the appellants have paid the IGST at the appropriate rate of 12% *ad valorem*, there is no further payment of any additional IGST involved in the present case, in terms of the settled position of law, as per the Hon'ble Supreme Court's judgement dated 15.03.2024.

9. In view of the above discussions and analysis, and on the basis of the order passed by the Co-ordinate Bench of the Tribunal in the case of *Aloka Trivitron Medical Technologies Limited* (supra), which was upheld by the Hon'ble Supreme Court, we are of the considered opinion that the matter is no more *res integra*. Accordingly, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Order pronounced in open court on 23.06.2026)

(AJAY SHARMA)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)