IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Customs Appeal No. 40705 of 2024

(Arising out of Order-in-Original No.107613/2024 dated 18.06.2024 passed by Commissioner of Customs, (Imports), Chennai – II)

M/s. Roche Diagnostics India Pvt Ltd **Appellant**
APC Warehouse, Survey No.78/2B,
Orakkadu Road, Sholavaram,
Ponneri Taluk, Thiruvallur Dist.,
Tamil Nadu – 600 067.

Vs.

Commissioner of Customs **Respondent**
Chennai II Import Commissionerate
Custom House, No. 60, Rajaji Salai
Chennai – 600 001.

<u>APPEARANCE :</u>

Shri E. Ramesh, Advocate for the Appellant
Shri Anoop Singh, Authorised Representative for the Respondent

CORAM

Hon'ble Shri P. Dinesha, Member (Judicial)
Hon'ble Shri M. Ajit Kumar, Member (Technical)

FINAL ORDER No. 41061/2026

Date of Hearing: 09.07.2026
Date of Decision: 25.09.2026

Per: M. Ajit Kumar,

This appeal is filed by the appellant against Order in Original No. 107613/2024 dated 19.06.2024 passed by the Commissioner of Customs – II, Chennai.

Brief Facts

The appellant, M/s. Roche Diagnostics India Pvt. Ltd., imported goods described as "INTEGRA MICROCUVETTEN, MICRO CUVETTE SEGMENT" and other allied items under Bill of Entry No. 9264810 dated 15.12.2018, out-of-charge being dated 28.12.2018. Identical goods were also cleared under 361 other Bills of Entry. The goods were self-assessed under CTH

9027 9090 and duty paid. The total assessable value of the goods was Rs.25,38,87,397/-. During Post Clearance Audit, the Department observed that the imported goods were cuvettes of a consumable/disposable nature and, therefore it appeared that it could not be treated as parts or instruments falling under **CTH 9027 9090**. It was alleged that the goods were more appropriately classifiable under CTI 3926 9099, attracting BCD of 15%, SWS of 10% and IGST of 18%. An Audit Consultative Letter dated 22.09.2023 was accordingly issued proposing payment of differential duty of Rs.2,49,79,413/-. The appellant, in its reply dated 19.10.2023, contended that the impugned cuvettes were essential and integral apparatus used in 'in-vitro diagnostic' (**IVD**) applications and were specifically designed for use with the 'Cobas c111 Analyser' (**Analyser**), which could not perform the intended analysis without the cuvettes. In vitro diagnosis tests can detect diseases, conditions and infections. In vitro simply means in glass, meaning these tests are typically conducted in test tubes and similar equipment, as opposed to in vivo tests, which are conducted in the body itself. It was contended that the goods were appropriately classifiable under CTH 9027 as parts of instruments and apparatus for physical or chemical analysis, relying upon the HSN Explanatory Notes to Heading 9027. Alternatively, classification under CTH 9033 0000 was claimed as parts and accessories of Chapter 90. The appellant disputed classification under Chapter 39 on the ground that Heading 3926 was a residuary entry and could not cover specialised scientific apparatus appropriately classifiable elsewhere. The Department, however, maintained that the cuvettes were merely containers used for holding samples during analysis, were separately supplied and marketed to laboratories and hospitals, and were disposable/consumable in nature. Since they were neither built into nor integral components of the analyser and the analyser could function without them, they could not be regarded as "parts" of the instrument. Reliance was also placed upon the decision of the Tribunal concerning similar consumable laboratory products, wherein such products were held to be labware/consumables and not instruments classifiable under Heading 9027. A Show Cause Notice dated 18.12.2023 was thereafter issued. Upon adjudication, the declared classification under CTH 9027 9090 was rejected and the goods were ordered to be re-classified under CTI 3926 9099. The differential duty of Rs.2,49,69,513/- was confirmed under Section 28 of the Customs Act, 1962, along with applicable interest under Section 28AA. A redemption fine of Rs.2,00,00,000/- was imposed under Section 125 in lieu of confiscation and an equivalent penalty of Rs.2,49,69,513/- was imposed upon the appellant under Section 114A of the Customs Act. No separate penalty under Section 112(a) was imposed in view of the proviso to Section 114A. Aggrieved by the impugned order, the appellant has preferred the present appeal before the Tribunal.

7. The Ld. Advocate Shri. E. Ramesh appeared for the Appellant and Ld. Authorized Representative Shri. Anoop Singh, appeared for the respondent.

Submissions made by the Appellant

7.1 Shri. E. Ramesh the Ld. Counsel for the appellants submitted as follows:

A. The adjudicating authority erred in treating the impugned goods as mere containers/consumables. The goods are integral and essential components used in the appellant's IVD equipment**,** and the scientific and technical material placed on record establishing their specific role was not properly appreciated.

B. The cuvette is used in the Analyzer to hold the sample and facilitate its analysis, but is not merely a container. The cuvette is an integral and specially designed component of the 'Cobas c111 Analyser', as the diagnostic sample is mixed with reagents within it and the design, material and physical characteristics of the cuvette directly affect the accuracy of the test results. Unlike an ordinary plastic container, the cuvette must be specifically designed to be calibration-worthy and spectrophotometry-worthy, allowing the requisite transmission of light through the sample. Its dimensions, material and optical characteristics are therefore integral to the spectrophotometric analysis performed by the Analyzer.

C. Spectrometry is the measurement of the interactions between light and matter, and the reactions and measurements of radiation intensity and wavelength. The spectrophotometer works by passing a light beam through a sample to measure the light intensity of a sample. These instruments are used in the process of measuring colour and used for monitoring colour accuracy throughout production. The Appellant accordingly submits that the impugned cuvettes are not ordinary sample containers but specially designed components intended for use with the Analyzer.

D. In order to be used in the Analyser, the cuvette must be calibration worthy and then it must be spectrophotometry worthy. Both this worthiness depends on the design, materials of make and physical characteristics of the cuvette.

E. The adjudicating authority relied upon a Tribunal decision without considering the distinguishing technical facts of the present case.

F. Confiscation under Section 111 can arise only when the goods are available for confiscation. Reliance was placed on **Commissioner of Customs (Import), Mumbai Vs Finesse Creation Inc.**, 2009 (248) ELT 122 (Bom), affirmed by the Supreme Court in 2010 (255) ELT A120 (SC), **Union of India Vs Raj Grow Impex LLP**, 2021 (377) ELT 145 (SC), and **Flextronics Technologies Pvt. Ltd. Vs Commissioner of Customs, Chennai-IV**, (2025) 29 Centax (Tri.-Mad.).

G. Penalty under **Section 114A** is unsustainable in the absence of any finding or evidence of suppression of facts, wilful misstatement or collusion as contemplated under Section 28(1) of the Customs Act, 1962.

The ld. Counsel prayed that the impugned order be set aside.

Submissions made by the Respondent-Revenue

3.2 Shri. Anoop Singh. Ld. Authorized Representative, submitted on behalf of the Revenue that:

A. The impugned cuvettes are consumables/labware and not parts or accessories of the analyser. They are separately used and consumed in the analytical process and do not constitute integral components of the equipment. Reliance was placed on the distinction recognised in the HSN and judicial decisions between parts, accessories, sub-assemblies and consumables.

B. Reliance was placed on **Vanasthali Textiles Industries Ltd. Vs CCE, Jaipur**, 2007 (10) TMI 303 (SC), followed in **Madhav Marbles and Granites Ltd. Vs CCE, Salem**, 2024 (8) TMI 592 (CESTAT Chennai), and **Pragati Silicons Pvt. Ltd. Vs CCE, Delhi**, 2007 (211) ELT 534 (SC), wherein the concept of a “part” was explained with reference to its being an integral element necessary for the functioning or completion of the principal article. Reliance was also placed on **Deputy Commissioner v. Union Carbide India Ltd.**, (1976) 38 STC 198 (Ker.), and **Annapurna Carbon Industries Co. Vs State of Andhra Pradesh**, (1976) 2 SCC 273, for the distinction between a part and an accessory.

C. Further reliance was placed on **Commissioner of Customs, New Delhi Vs C-Net Communication (I) Pvt. Ltd.**, 2007 (12) SCC 72, wherein the relevant criteria for determining a part include its being essential to the operation of the principal product, a necessary and integral component thereof, its installation in the principal product and the common trade usage and practice.

D. The learned AR accordingly submitted that, applying these tests to the facts on record, the impugned goods are consumable labware and cannot be classified as parts/accessories under CTH 9027, and prayed that the appeal be decided on merits.

4. Heard both sides and perused the appeal records.

5. We find that a similar item "STA Satellite Cuvette 6X220" was examined by this Bench in **M/s. Syndicate Diagnostics (P) Ltd. Vs Commissioner of Customs, Chennai** [FINAL ORDER NO. 41032/2026, Dated: 22.09.2026] and found classifiable as a 'Part' of a machine under CTI 9027 9090 and not as an 'Article of Plastic' under CTI 3926 9099. The submissions made by the Appellant therein found favour, for the following reasons:

> **A.** The subject goods are not ordinary sample vessels capable of general laboratory use. Their dimensions, configuration and construction are specifically designed for the STAGO analytical system, and the Revenue has not established any practical use of the goods with instruments other than the STAGO coagulation analyser.

B. Chapter 90 Note 2(b) provides that parts and accessories suitable for use solely or principally with a particular kind of machine, instrument or apparatus are to be classified with that machine, instrument or apparatus. The provision does not require permanent physical attachment. The relevant test is whether the goods are parts or accessories suitable for sole or principal use with the particular instrument. The subject goods accordingly merit classification under CTH 9027 9090.

C. In **CCE, Delhi v. Insulation Electrical (P) Ltd., 2008 (224) E.L.T. 512 (S.C.)**, the Hon'ble Supreme Court recognised that a part is an essential component of the whole, without which the whole cannot function. Applying this functional test, the micro-cuvettes cannot be treated as ordinary sample vessels, as the STAGO system requires the plasma to be contained in the specially designed cuvette and the steel ball therein to interact with the analyser's magnetic system.

D. It further cited **C-Net Communication** (supra), wherein the Hon'ble Supreme Court relied on the Canadian International Trade Tribunal's decision in **York Barbell Company Limited Vs Canada** [(DMNRCE), AP-90-161, [1991] CITT No. 43], to highlight the following four essential criteria for determining whether a product qualifies as a "part" of another product:

- **Operational Necessity:** The item is essential to the operation of the principal product.
- **Integral Component:** The item forms a necessary and integral component of the main product.
- **Physical Installation:** The item is installed or incorporated directly into the principal product.
- **Trade Usage:** Common commercial understanding and prevailing trade practices classify it as a part.

The test, when applied to the actual characteristics of the goods, supports rather than defeats the appellant's case. The question is not whether the analyser can be physically switched on without a cuvette inserted into it, but whether the imported article is an essential component for the intended analytical operation. On the facts as submitted, the answer is in the affirmative.

E. "Disposable" and "consumable" are not synonymous. "Disposable" refers to the intended life or use-cycle, whereas "consumable" denotes an article that is used up, exhausted or physically or chemically consumed in operation. **M/s. Meridien Industries Ltd. Vs Commissioner of Central Excise** [2015 (325) E.L.T. 417 (S.C.)]. Thus, 'single use', 'short durability' or 'disposal after use' does not, by itself, preclude an article from being a part or accessory. Classification must be determined under GRI 1, the relevant tariff heading and the applicable Section and Chapter Notes, having regard to the goods' objective characteristics, function and sole or principal suitability for use with the machine.

F. The principle that a specific tariff entry prevails over a general or residuary entry is well settled. More importantly, classification follows from the specific statutory mandate contained in Note 2(b) to Chapter 90, having regard to the subject goods' suitability for sole or principal use with the STAGO analyser.

6. On similar lines we find that the 'Integra Microcuvetten, Micro Cuvette Segment' is not merely a plastic container for holding the sample. It is a specially designed functional product suitable for sole or principal use with the Analyzer. Its dimensions, configuration, material and optical characteristics are specifically engineered to make it calibration-worthy and spectrophotometry-worthy and thereby enable accurate analysis. The sample and reagents are processed within the cuvette, through which the requisite light transmission takes place for measurement. These characteristics are integral to the analytical function of the Analyzer and distinguish the cuvette from an ordinary article of plastic or a general-purpose laboratory vessel. Its classification must therefore be determined by its objective characteristics and function as a component of the Analyzer, rather than merely by its material of manufacture. It hence satisfies the essential characteristics as mentioned in **York Barbell Company** (supra). The Revenue has also not established any practical use of the goods with instruments other than the 'Cobas c111 Analyser' or for general use as a plastic article.

That the cuvette's are disposable in nature would not preclude it from being classified as a part or accessory. Hence applying Chapter 90 Note 2(b), the goods are classifiable under CTI 9027 9090. The impugned order hence merits to be set aside.

7. Since the classification is decided in favour of the Appellant on merits, the question of interest, confiscation, penalty etc does not arise.

Conclusion

Accordingly we set aside the impugned order and uphold the classification of goods under CTI 9027 9090 as adopted by the Appellant. They are eligible for consequential relief as per law. The appeal is disposed of accordingly.

(Order pronounced in open court on 25.09.2026)

Sd/-
(**M. AJIT KUMAR**)
Member (Technical)

Sd/-
(**P. DINESHA**)
Member (Judicial)

Rex