CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 40655 of 2023

(Arising out of Order-in-Appeal C.Cus. II No.474/2023 dated 07.07.2023 passed by Commissioner of Customs (Appeals-II), Custom House, 60, Rajaji Salai, Chennai 600 001)

M/s.RN Chidakashi Technologies Pvt. Ltd. **.... Appellant**
Flat No.4, Plot No.82, Stambhtirth,
R.A. Kidwai Road,
Wadala (West)
Mumbai 400 031.

VERSUS

The Commissioner of Customs, (Imports) **... Respondent**
Chennai-II,Custom House,
No.60, Rajaji Salai,
Chennai 600 001.

WITH

Customs Appeal No. 40288 of 2024

(Arising out of Order-in-Original No.103837/2023 dated 06.12.2023 passed by Commissioner of Customs, Chennai-II (Import), Custom House, No.60, Rajaji Salai, Chennai 600 001)

M/s.RN Chidakashi Technologies Pvt. Ltd. **.... Appellant**
Flat No.4, Plot No.82, Stambhtirth,
R.A. Kidwai Road,
Wadala (West)
Mumbai 400 031.

VERSUS

The Commissioner of Customs, (Imports) **... Respondent**
Chennai-II, Custom House,
No.60, Rajaji Salai
Chennai 600 001.

APPEARANCE :

Shri Prakash Shah, Senior Advocate
Shri Mihit Mehta, Advocate for the Appellant

Smt. O.M. Reena, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER Nos.41531-41532/2025

DATE OF HEARING : 08.10.2025
DATE OF DECISION :19.12.2025

Per: Shri P. Dinesha

The issue in both these Appeals though identical, but are arising out of separate impugned orders and hence, were heard together and are being disposed of by this common order.

2. The Assessee is a Company engaged in the business of import and manufacture of Automatic Data Processing Unit for Learning and Entertainment Model (ADPM) for learning, educating and interacting with humans under the brand

name ‘MIKO’. In the later years, it appears that the Assessee launched two higher versions/models viz. MIKO–2 & MIKO–3 which are more advanced versions of basic MIKO-1. The issue in the present Appeals revolves around the classification of ‘MIKO-3’ model; the admitted position is that MIKO-1 which was claimed to be a basic model, was classified under Customs Tariff Heading (CTH) 95030030.

3. Considering the advancement in Technology and Composition, MIKO-2 & MIKO-3 were classified by the Appellant under CTH 84714190 with description ADPU for learning and entertainment model MO201 and ADPU for learning and entertainment model EMK301, respectively. The model in dispute, i.e. MIKO–3 is claimed to be sold by the Assessee on its own website as well as through e-commerce platforms and it is claimed that the said model is a social Robot. During the year under dispute, it is the case of the Assessee that per Bill of Entry dated 28.04.2022, it had cleared 2876 units of MIKO-3 with classification as claimed above and thereby claiming exemption under Sl.No.8 of Notification No.24/2005–Cus. dated 01.03.2005 from payment of Basic Customs Duty (BCD); the Assessee appears to have discharged appropriate IGST on the

imported goods. It appears that soon thereafter, the Assessee filed two more Bills of Entry for import of the same model claiming similar classification and benefit of exemption. To the Assessee's surprise, it appears that they were not permitted to clear the said goods as the Faceless Assessment Group had entertained a view that the goods in question were only 'toys' and liable to be classified under CTH 9503 which attracted BCD at 60%. The Assessee appears to have defended its classification, however, not agreeing the Order-in-Original No.92764/2022 dated 01.11.2022 came to be passed by the Adjudicating Authority viz. Additional Commissioner of Customs, Group-5 whereby, the Authority rejected the declared classification and ordered for confiscation of the goods, apart from allowing redemption of the goods upon payment of fine of Rs.10 lakhs for the purpose of re-export. He also imposed penalty of Rs.10 lakhs under Section 112 (a) of Customs Act, 1962. Aggrieved by the above demand and re-classification, it appears that the Assessee preferred an Appeal before the Commissioner of Customs (Appeals), Chennai, but however, *vide* impugned Order-in-Appeal dated 12.07.2023, the First Appellate Authority also having rejected their Appeal, Appeal No.**C/40655/2023** is filed by Appellant.

4. In another proceedings, vide Order-in-Original No.103837/2023 dt. 06.12.2023 the Adjudicating Authority viz. Commissioner of Customs, Chennai II (Imports), rejected the declared classification, confirmed the demand of Rs.1,79,10,790/- with applicable interest and ordered confiscation of the goods however giving option to redeem the goods on payment of a fine of Rs.26 lakhs and also imposed equal penalty under Section 114A ibid. Aggrieved by this demand Appeal No.**C/40288/2024** has been filed by Appellant.

5. Sri Prakash Shah, learned Senior Advocate appeared for the Appellant and contended at the threshold, that issue of classification of the product in dispute is no more *res integra*. He would contend that in respect of the very Assessee/Appellant, the co-ordinate Mumbai Bench has ruled in their favour and the product involved is the same. He would take us through the relevant portions of the Final Order (i) No.85341/2024 dt. 19.03.2024 (in Appeal No.C/86776/2023) reported in **2024 (388) ELT 729 (Tri.-Mumbai)** and (ii) No. A/87576/2024 dt. 26.08.2024 (in Appeal C/86806/2024) of the Mumbai Bench of the Tribunal

and would thus submit that in view of the above decisions/orders, the re-classification ventured by the authorities below cannot stand. He would thus pray for setting aside the demands and the impugned orders.

6. *Per contra*, Smt. O.M. Reena, learned Additional Commissioner defended the impugned orders, she would take us through the Order-in-Original dt.06.12.2023 & 01.11.2022 wherein the Original Authority has given reasons to hold the goods in question as 'electronic toys' and the said view has been upheld in the impugned orders. Therefore, she would submit that the demand is in order and thus the impugned orders may be upheld.

7. We have considered the rival contentions, we have perused the documents placed on record before us and we have also gone through the orders of Mumbai Bench in the Assessee's own case (*supra*) although for different consignment. Co-ordinate Mumbai Bench has upheld the classification declared by the Appellant-Assessee. After hearing both sides, the only question that survives for our consideration is, 'whether the classification as declared by

the Assessee–Importer is correct or re-classification made by the Revenue is sustainable in law'?

8. Learned Senior counsel has taken us through the relevant observations/findings of the co-ordinate Mumbai Bench, and therefore, we are tempted to examine the applicability of the same to the case on hand. The relevant observations of Tribunal reported in **2024 (388) ELT 729 (Tri.-Mumbai)** are as under:

> **"17.** The impugned order has not established the primacy of Heading 9503 of First Schedule to Customs Tariff Act, 1975 nor the inappropriateness of Heading 8472 of First Schedule to Customs Tariff Act, 1975. The rules of engagement enunciated by the Hon'ble Supreme Court for altering classification has not been followed by the adjudicating authority. The facts, indelibly clear, does not controvert conformity with the essential requirements set out in Note 5(A) in Chapter 84 of First Schedule to Customs Tariff Act, 1975 There is no finding that the impugned goods, by incorporating or working in conjunction with 'Automatic Data Processing (ADP) machines', performs the function of 'toys' which should be the consummation of resort to Note 5(E) in Chapter 84 of First Schedule to Customs Tariff Act, 1975 and such finding is well nigh impossible in the absence of any authoritative guidance on 'toys' and its intended functions. A thought process conditioned by one's own childhood or parenting experience is not a tenable substitute. Even if this note comes into play insofar as the impugned goods are concerned, the impossibility of appending 'toys' renders the claimed classification to be the only one remaining in the ring. Consequently, the classification claimed must remain. The impugned order is set aside to allow the appeal."

9. In the impugned order of Commissioner of Customs, Chennai-II, we find that the Commissioner has

predominantly gone by what is mentioned on the package but has, for the reasons known to him, ignored the technical descriptions apart from (i) Advice of the Principal Scientific Advisor to the Government of India (ii) the certificate issued by Meity and BIS. It is a matter on record that the Appellant did offer sufficient explanation some of which have been reproduced at para-28 of the Order-in-Original of which, the following are exceptionally relevant :

> "iii. Play is not the principal intention or function of this product which is nothing but a 'motile ADPM'. The essential function of the product is 'data processing'. The SCN has noted that it functions as a toy specifically incorporating software applications (apps) designed for learning, entertainment purpose. However, the SCN has not appreciated that a possible use for entertainment (and therefore, as a toy) was merely one of the applications of the product and not 'the' specific function of the product. The SCN itself has noted in Para 9 that the product was 'designed for learning' (though a half truth, as it has many other capabilities of a computer). However, The SCN has chosen to give primacy to the 'fun part' rather than the 'learning part' and considered 'the fun part' as the 'specific function'.
>
> iv. … … …
>
> v. The SCN has not appreciated that a product cannot be considered as 'toys' only because the product caters to the market segment of kids. The SCN has also not appreciated that the product cannot be considered 'as a toy' only because it is sold through some shops or outlets specializing in sale of toys, rather the shops selling goods for kids. It may be appreciated that the product is offered for sale through such outlets for the convenience and ease of reaching one of the target markets of kids. It is a misconception and prejudice that the product should be as a toy only because it is usable by kids.

vi. the SCN fails to appreciate that the age marking only suggests that the kids less than 5 years may not derive sufficient effectiveness of the patented Al technology. Miko is absolutely safe for all ages and can be very well used by users lower than age 5 and above 14 as well. The capability of the product to process data finds its applications to all ages, kids and the elders alike. We target different age groups in market campaigns at different times.

vii….

viii. The SCN has not appreciated that 'Amusement' is not the principal intention or function of the subject goods which are nothing but 'ADPM with some mobility'. Only because the 'mobility' amuses some people on account of novelty of the concept, it cannot be considered as intended for amusement. Except mobility all other features such as 'camera' ‘microphones’ & ‘speakers’ are commonly found with most of the ADPM. Even for kids the product remains a device 'processing data' and retrieving data.

ix. The SCN is in error in suggesting that the product in common parlance was understood as a toy'. In common parlance, the product was considered more as ‘robot' because of its 'mobility' and the artificial intelligence and features like ‘face and speech recognition', autonomous navigation system, and proprietary emotional intelligence. It was a kids' companion (and possibly a companion for an elderly people) who can remain connected with the parents or the care takers.

x. …

xi. The Principal Scientific Advisor to the Government of India vide her letter 18/09/2023 has opined that the Product Miko-3 qualifies as an ADPM. We have already placed the opinion of Principal Scientific Advisor on record.

xii. It needs to be appreciated that the product under importation was certified as ADPM by Meity and BIS. The mail correspondence with BIS / Meity along with BIS certification of the Product has already been placed on record vide mail dated 06/ 10/2023.

xiii. …. …. ….

> xiv. It is a settled position of law that the classification and the claim to exemption are the matters of assessment and bonafide belief of the importer and not the matters of 'any other particulars' as referred in section 111(m) of the Customs Act, warranting confiscation. In this context, the Noticee referred to the decision of Supreme Court in the case of Northern Plastic Ltd. Vs. CCE reported in 1998 (101) E.L.T. 549 (S.C)"

10. In the same Order-in-Original however, the Lower Authority has felt it proper to prefer 'google search' over the explanation including the advice of Principal Advisor and the certificates by Meity and BIS. There is a reference to the brochure, which confirms that "*the goods are Artificial Intelligence based Robot toy, which is programmable, voice activated, customizable with Face-ID and has motion sensors. It is designed to entertain, educate kids and young learners using Artificial Intelligence. It is designed to be a robot companion with preloaded software that is programmable. Users interact with it by voice and touch screen inputs. It responds through both voice and display screen. There are many apps available on it for videos, games, quizzes, coding challenges, experiments and other experiences. There is also a specialized app for parental control and can also be used to track progress of the kids while they use the robot for learning and activities. There*

are conversational learning modules which can be customized to a child's age and grade level" ; but then the Adjudicating Authority takes a somersault back at the age group mentioned on the packed boxes. His understanding apparently, is perhaps that the kids between the age of 5-10 cannot learn anything from the product under dispute! There is also a further reference to the open sources on internet and while getting into the discussion on classification, he concludes at para 44.2 that "……*As already discussed, the imported goods are not classifiable under CTH 8471* …..". It is unfortunate from the above conclusion that there is no discussion at all of relevancy or otherwise of technical features explained, or to the letter of the Principal Scientific Advisor and the certificate issued by Meity and BIS; same are treated as if they are irrelevant.

11. At this juncture, it is useful to the order of Mumbai Bench, the relevant observation with regard to the facts are as under :

> "…..The landscape itself presents a contrast of youthful ingenuity against conventional instinct by placement of a product of the end of the first quarter of this century onto a template devised at the beginning of the last quarter of the previous century; a brooding presence for five decades and straining to come to terms with disruptive development. This is apparent in the inability of the arms of the Central Government

to evolve consensus on its fitment and, even more so, in the contrasting approach of quasi-judicial decision making within the tax administration too. Doubtlessly, they have all taken pains to justify and are full of virtue in defending their respective positions on the issue. And it is all about MIKO II not only being no different from MIKO I - a toy - as asserted by customs authorities but also not comparable to the more advanced MIKO III which conforms to :

'automatic data processing (ADP) machines and units thereof; magnetic or optical readers, machines for transcribing data on to data media in coded form and machines for processing data, not elsewhere specified or included'

corresponding to Heading 8471 of First Schedule to Customs Tariff Act, 1975, as claimed by the appellant owing to which Heading 9503 of First Schedule to Customs Tariff Act, 1975 was held as appropriate by the customs administration. And it is controversial only owing to :

'8471 All goods'

being afforded exemption from Basic Customs Duty (BCD) in Notification No. 24/2005-Cus., dated 1st March, 2005 (at Serial No. 8)."

Further, the Co-ordinate Bench proceeded to hold as under :

"10. 'It looks like a toy and, therefore, is a toy' is a proposition which, even if superficial, may not be easily dismissed owing to simple appeal to conceptual pre-disposition. Physically, the product is not particularly big and recalls comic book portrayal of engineering fantasy. Conventionally, a toy is a plaything that acts as a prop in childish playacting without capability either for initiative or response. The impugned goods certainly does not conform to such effect notwithstanding which, and in the absence of any standard of measure of 'toy', its appeal, or lack thereof, is an uncanny resemblance to that object of childhood fantasy which may have persuaded the adjudicating authority that re-classification was warranted. It also does not meet with legislative intent as use by a particular age group does not suffice for it to be 'toy' and it is certainly not in keeping with sensitivity towards needs of children to proceed in the belief that anything that persons of that age may find attractive are 'toys' and nothing more.

11. … … ….

> **12.** It is admitted that MIKO 1 was declared as 'toy' but there is no ground to hold fast to the conviction that a subsequent variant, even if conforming to another description, must continue to be classified against an erroneous tariff item. The impugned order has referred to the rejection of application for registration of MIKO 2 under Electronics and Information Technology (Requirements of Compulsory Registration) Order by Bureau of Indian Standards (BIS) owing to expert opinion of Ministry of Electronics and Information Technology (MeitY). It is on record that the registration was subsequently incorporated. It is also contended that MIKO 2 and MIKO 3 are more akin than MIKO 1 is to MIKO 2. None of this alters the onus that devolves on customs authorities in terms of the decisions of the Hon'ble Supreme Court in *re HPL Chemicals* and in *re Hindustan Ferodo*. The lack thereof places the findings in the impugned order in serious jeopardy.
>
> **13.** The description of the imported goods is not just 'toys' made of plastic. That it has capabilities endowed by technological development does set it apart from a toy and, even if does conform to toy, it was necessary to show that the goods do not contain the essentials enumerated in Tariff Item 8471 41 90 of First Schedule to Customs Tariff Act, 1975. Such finding is glaringly deficient in the impugned order. The classification adopted in other countries may not be a guide for assessment in India when the dispute has its genesis in perceived evaporation of duty; it is inevitable that identical duty rates marginalizes declaration relevance. Reliance thereto will not suffice for the purpose.

and further, it was held at para 16 as under :

> ....."We fail to perceive the dearth of complexity that may justify shift of classification from within Heading 8471 to Heading 9503 of First Schedule to Customs Tariff Act, 1975. The findings are conjectures and assumptions that are not backed by authoritative texts, notes or definitions in law or even logical sequencing. These are not tenable in a classification exercise."

The conclusion of the Tribunal order reads as under :

> **"17.** The impugned order has not established the primacy of Heading 9503 of First Schedule to Customs Tariff Act, 1975 nor the inappropriateness of Heading 8472 of First Schedule to Customs Tariff Act, 1975. The rules of engagement enunciated by the Hon'ble Supreme Court for altering classification has not

> been followed by the adjudicating authority. The facts, indelibly clear, does not controvert conformity with the essential requirements set out in Note 5(A) in Chapter 84 of First Schedule to Customs Tariff Act, 1975 There is no finding that the impugned goods, by incorporating or working in conjunction with 'Automatic Data Processing (ADP) machines', performs the function of 'toys' which should be the consummation of resort to Note 5(E) in Chapter 84 of First Schedule to Customs Tariff Act, 1975 and such finding is well nigh impossible in the absence of any authoritative guidance on 'toys' and its intended functions. A thought process conditioned by one's own childhood or parenting experience is not a tenable substitute. Even if this note comes into play insofar as the impugned goods are concerned, the impossibility of appending 'toys' renders the claimed classification to be the only one remaining in the ring. Consequently, the classification claimed must remain. The impugned order is set aside to allow the appeal."

12. In the subsequent Appeal relating to a later period, filed by the Revenue, the Mumbai Bench has followed its own earlier order and *vide* Final Order No.A/87576/2024 dated 26.08.2024 dismissed the Revenue's Appeal.

13. From a perusal of the facts of the present case as forth coming from the impugned orders, we find that the very same factual matrix is involved in the Assessee's own cases before the Mumbai Bench. We note that there is no change in any factual aspects and therefore, we are of the firm view that the very same issue regarding classification has already been decided and therefore, the re-classification attempted by the Revenue cannot survive. The classification declared under CTH 84714190 admitted by the Appellant is therefore

upheld. In view of the above, we do not find any merit in the impugned orders, also for the reason that the Revenue has not discharged its burden of disproving the classification declared by the Assessee and also not establishing with evidence as to its attempt to re-classify the goods in question as "electronic toys" alone. The only natural corollary that follows is to set aside the impugned orders, which we hereby do.

14. In the result, the Appeals are allowed with consequential benefits, if any as per law.

(Order pronounced in open court on 19.12.2025)

sd/-	sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

gs