CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH- COURT NO. I

Customs Appeal No. 50795 of 2020

(Arising out of Order-in-Appeal No. 10/VKP(10)ADG(Adj/DRI/N. DELHI/2019- 20 dated 17.02.2020 passed by the Additional Director General (Adjudication), New Delhi)

M/s. AGFA Healthcare India Pvt. Ltd. **...Appellant**
402, 4th Floor, Nitco Biz Park,
Plot No. C-19, Road No. 16,
Wagle Estate, MIDC
Thane West, Maharashtra-400604

versus

The Additional Director General (Adjudication) **...Respondent**
Room No. 214, New Customs House,
Near IGI Airport,
New Delhi- 110037

AND

Customs Appeal No. 50796 of 2020

(Arising out of Order-in-Appeal No. 10/VKP(10)ADG(Adj/DRI/N. DELHI/2019- 20 dated 17.02.2020 passed by the Additional Director General (Adjudication), New Delhi)

Mr. Yogesh More, Manager, Customer Operations, **...Appellant**
M/s. AGFA Healthcare India Pvt. Ltd.
402, 4th Floor, Nitco Biz Park,
Plot No. C-19, Road No. 16,
Wagle Estate, MIDC
Thane West, Maharashtra-400604

versus

The Additional Director General (Adjudication) **...Respondent**
Room No. 214, New Customs House,
Near IGI Airport, New Delhi - 110037

APPEARANCE:

Shri B.L. Narasimhan, Shri Anurag Kapur, Ms. Rubel Bareja and Ms. Ansiha Arya, advocates for the appellant

Shri Mihir Ranjan, Special Counsel of the department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

DATE OF HEARING: 17.09.2025
DATE OF DECISION: 20.02.2026

FINAL ORDER NO's. 50282-50283/2026

JUSTICE DILIP GUPTA:

Customs Appeal No. 50795 of 2020 has been filed by M/s. AGFA Healthcare India Pvt. Ltd.[1] to assail that portion of the order dated 17.02.2020 passed by the Additional Director General (Adjudication), Directorate of Revenue Intelligence, New Delhi[2] that holds that the classification of goods imported by the appellant would be under Customs Tariff Item[3] 8443 32 90 and accordingly, confirms the demand of differential duty. The goods have also been held liable to confiscation under sections 111(d) and (m) of the Customs Act 1962[4]. Penalties under section 112(a) and section 114AA of the Customs Act have also been imposed upon the appellant.

2. **Customs Appeal No. 50796 of 2020** has been filed by Yogesh More, Manager, Customer Operations of the appellant, to assail that portion of the order dated 17.02.2020 passed by the Additional Director General that imposes a penalty of Rs. 10 lakhs upon him under section 112(a) of the Customs Act.

3. The appellant claims that it is engaged in trading and distribution of medical equipments such as computed radiography systems, direct radiography solutions and image processing systems to cater to the needs of hospitals, medical laboratories and medical colleges. In relation to its business activities, the appellant imported various models of thermal printers, namely Drystar 5301, Drystar 5302, Drystar 5503 and Drystar

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1. **the appellant**
2. **the Additional Director General**
3. **CTI**
4. **the Customs Act**

Axys[5] during the relevant period from 01.07.2017 to 31.03.2019. The appellant claims that as all the said goods are used in medical sciences it classified them under CTI 9018 90 99 as 'Other' instruments and appliances used in medical, surgical, dental or veterinary sciences. The appellant cleared the goods upon payment of basic customs duty at the rate of 7.5 percent after availing benefit of exemption under Serial Number 563A of Notification No. 50/2017-Customs dated 30.06.2017[6] and Integrated Goods and Services Tax[7] at the rate of 12 percent.

4. Investigations were initiated by Directorate of Revenue Intelligence and it was noticed that the goods would be classifiable under CTI 8443 32 90 as other printing machinery, capable of connecting to an Automatic Data Processing[8] machine or a network and so basic customs duty at the rate of 10 percent and IGST at the rate of 18 percent would not leviable.

5. Accordingly, a show cause notice dated 25.04.2019 was issued to the appellant proposing to re-classify the goods imported by the appellant during the relevant period under CTI 8443 32 90 for the reason that the thermal printers had no diagnostic functions and they scanned images generated by the ADP machines which guides and assists in the diagnosis. The appellant submitted a reply and denied the allegations made in the show cause notice. The Additional Director General, however, confirmed the proposal made in the show cause notice and ordered for recovery of differential duty from the appellant under section 28(4) of the Customs Act with penalties. Penalty was also imposed upon Yogesh More.

6. The relevant portion of the order in so far as it deals with the classification of the imported goods is reproduced below:

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5. the goods
6. the Exemption Notification
7. IGST
8. ADP

"**5.3.3.2 On careful reading of the Chapter Heading along with its Explanatory Notes, it comes out strikingly that goods covered under CTH 9018 are medical equipment for use in medical diagnostics whereas goods covered under CTH 8443 are Printing machinery used for printing.**

5.3.3.3 On a closer appreciation of the Explanatory Notes of CTH 8443, it is seen that, this chapter includes printers capable of connecting to Automatic Data Processing machines/flatbet desktop scanners/networks and capable of printing characters/images by means of Thermal Print Process on Print Media. **Moreover, facts in the above paragraphs, clears that the Drystar series of Thermal printers imported by M/s AGFA are capable of connecting to the Automatic Data Processing machines, either directly or through Network, which in turn are connected to CT Scanner/MRI Scanner etc and are capable of printing images on any print media and need not only be paper. In the current case the Thermal Printers imported by the Noticee is capable of connecting to networks and printing images on the print media.**

5.3.3.4 The moot point to note is whether thermal printers perform any exclusive diagnostic function that would enable them to be considered as an extension of medical instrument or an appliance. As brought out in the literature of the product, it is clear that it is not the case that the present series of thermal printers are functional only if they are connected to medical imaging devices. Indeed, it is clear that the thermal printers in question can be attached to any personal computer which is configured to transmit its images in DICOM protocol. Moreover, the thermal printer does not by itself perform any diagnostic function. It is clear from the facts above that any medical professional could read the image of the X ray from the system itself and diagnose the medical complication. It is not necessary that the medical complication is diagnosed only after printing it out on the X-Ray Film. This fact has also been admitted by the Noticee that the image can be seen on the screen in

certain hospitals. Also many medical diagnostic centers send the digital copy of the medical device via email to the consumer directly. **Hence, it seems that printers only enable storage of an already diagnosed medical complication. The diagnosis of the medical complication is almost always done by the automated data processing machine which is present inside the medical device like CT Scan or MRI Machine.**

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5.3.3.8 It can be seen that M/s Agfa has merely pointed to the fact that they are fulfilling the gap in the 'ever increasing need for high quality hard copy films for clinical diagnostic purposes'. As enumerated in the facts above it is the contention of DRI that M/s AGFA produces "imagers" that work in a diagnostic ambience and are compatible with diagnostic machines but do not perform any diagnostic functions by themselves. It is relevant to note that this point is nowhere being discussed by M/s AGFA in their comments. They are in fact admitting that the printing of the medical images in X-Ray form is necessary for future storage of the medical complication.

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5.3.3.10 The sole function of the thermal printer in this case appears to formulate and expose images on medical film for visual examination from the signals generated by the diagnostic equipment, and it is not essential for the operation of diagnostic equipment. Hence by virtue of Note 4 to Section XVI, applicable to Section XVII in terms Note 3 of Section XVII, the imported printers is a functional unit in itself. **Moreover, the impugned imager can take a printout of the digital images received from various modalities and the modalities include the DICOM images stored in a storage device (DVD, PACS etc.,) when connected with a DICOM workstation.** Hence, the function rendered by the said machine is distinct and its function is not dependent on any other machine or appliance (modalities).

5.3.3.17 xxxxxxxxxx

> **(e)** From the above it is clear that the printer in question is referred to as a standard Network printer by M/s. AGFA themselves. They also mention that it needs to be plugged in to the existing Ethernet network. They also further mention that the standard DICOM protocol can be used and that the DICOM jobs can be printed with it. **Hence, it is clear that the printer is not an essential part of any medical apparatus, as all the medical equipment, which generate DICOM images are stored in console and from console the images can be viewed. Only if the print is required, the imager is used for taking print in a dry image film. The above facts were also admitted by the personnel of M/s AGFA during the statements.**"
>
> **(emphasis supplied)**

7. The relevant portion of the order that deals with the invocation of the extended period of limitation under section 28(4) of the Customs Act is reproduced below:

> "**5.4.2** Section 17 of the Customs Act, 1962 introduced self-assessment of goods by the importers. **Accordingly, the impugned goods were self-assessed by the Noticee and Bills of Entry were filed wherein wrong declarations were made intentionally. Under the self-assessment procedure, it is obligatory on the part of importers to correctly declare all the particulars such as description of the goods, CTHS/CETHS and Notifications for claim of applicable rates of duties.** While claiming any classification or exemption, it is obligatory on the part of the Noticee to check the applicability of classification/exemption claimed by them to the imported goods. **Therefore, by not declaring the true and correct description of the goods, the Noticee wrongly claimed the said exemption. The claim by the importer that they have been importing Thermal Printers under CTH 90189099 does not absolve them of the responsibility to declare correct self assessment in the era of self assessment.** Further, matter under dispute was effective from the date of issue of Notification No 56/2017-Cus dated 30.06.2017,

therefore, it was not necessary that extended period of liability be invoked each time recourse to Section 28(4) is taken. **Moreover, the evidences like copies of Bills of Entry indicating that the Noticee has imported the Thermal printers, Data Sheets of the Thermal printers imported and the Technical Write-up as available in open source regarding Thermal Print Process, Statement of the Shri Yogesh More, Manager, of M/s AGFA, dated 30.01.2019 etc clearly prove that the Noticee has indulged in mis-declaration and suppression of facts with an intention to evade payment of applicable Customs duty.**

5.4.3 Therefore, I donot agree with the arguments of the Noticee. In this regard, I come to the finding that the SCN has been correctly issued as provided u/s 28(4) of Customs Act, 1962."

(emphasis supplied)

8. Shri B.L. Narasimhan, learned counsel for the appellant assisted by Shri Anurag Kapur, Ms. Rubel Bareja and Ms. Ansiha Arya, made the following submissions:

(i) The burden to prove re-classification of the goods under Customs Tariff Heading[9] 8443 is on the department. The department, however, did not discharge its burden. In support of this contention learned counsel placed reliance upon certain decisions, to which reference shall be made at the appropriate stage;

(ii) The goods are appropriately classifiable under CTI 9018 90 99, since they are specially designed to be used in medical sciences. In support of this contention learned counsel placed reliance upon certain decisions to which reference shall be made at the appropriate stage;

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9. CTH

(iii) The demand confirmed under section 28(4) of the Customs Act, interest under section 28AA, confiscation under sections 111(d) and 111(m) of the Customs Act and penalty under section 112(A) of the Customs Act is unsustainable in law;

(iv) The penalties imposed on the appellant under section 114A and 114AA are liable to be set aside;

(v) Section 3(12) of the Customs Tariff Act, 1975 does not borrow the machinery provisions pertaining to interest, and penalty from the Customs Act. In the absence of which, demand of integrated tax, interest and penalty are not sustainable; and

(vi) Penalty under section 112 is not imposable on Yogesh More.

9. Shri Mihir Ranjan, learned special counsel of the department, however, supported the impugned order and submitted that:

(i) The imported goods are thermal printers used for printing output produced by various medical equipment, such as CT scan machines, MRI machines, Tomographs and Mammograms. They are not part of any instruments or appliances used in medical, surgical, dental, or veterinary sciences;

(ii) The appellant imported mainly Drystar printers, which work one thermal printing technology. Printers working on the thermal print process are categorized as dry or wet, depending on the type of film development process. However, there is no difference in the print process/technology between dry and wet printers. All the AGFA Drystar printers were dry and printed images

on thermally sensitive media, i.e. heat-sensitive films. Most of the printers imported by the appellant, including the AGFA Drystar series of thermal printers, incorporated memory to store data received from ADP machines. This built-in hard disk and RAM did not contribute to diagnostic functions, which were done solely by physicians based on the images produced by the ADP machines of CT scanners and MRI. The Drystar series of thermal printers/imagers imported by the appellant received digital signals sent by the ADP machines of computed tomography CT scans, computed radiography and magnetic resonance imaging from any location in the hospital and prints them. The only function of the thermal printer is to print the diagnostic image appearing on the screens of ADP machines of CT scanners, MRI, Cathlab and X-ray machines, and the referral doctors studied this image for diagnostics;

(iii) The contention of the appellant that the impugned goods are exclusively used only with medical imaging devices like CT and MRI is, therefore, incorrect;

(iv) Thermal printers are correctly classifiable under CTI 8443 32 90 and not under CTI 9018 90 99;

(v) The extended period of limitation was correctly invoked under section 28(4) of the Customs Act;

(vi) Penalties have been correctly imposed both upon the appellant and Yogesh More; and

(vii) Interest was also correctly demanded;

10. The submissions advanced by the learned counsel for the appellant and the learned special counsel appearing for the department have been considered.

11. The issue that arises for consideration in this appeal is whether the thermal printers imported by the appellant are classifiable under CTI 9018 90 99 as claimed by the appellant or under CTI 8443 32 90 as claimed by the department.

12. To determine this issue it would be appropriate to first reproduce the relevant portions of the two competing entries.

CTI 9018 90 99

Tariff Item	**Description of goods**	**Unit**	**Rate of duty**	
			Standard	Preferential Areas
(1)	**(2)**	**(3)**	**(4)**	**(5)**
xxxxxx	xxxxx	xxx	xxx	xxx
9018	**Instruments and applicances used in medical,** surgical, dental or veterinary **sciences,** including scientigraphic apparatus, other electromedical apparatus and sight-testing instruments			
	- Electro-diagnostic apparatus (including apparatus for functional exploratory examinations or for checking physiological parameters):			
xxxxx	xxxxxx	xxx	xxx	xxx
9018 90	**-** Other instruments and appliances:			
	--- Diagnostic instruments and apparatus:			
xxxxx	xxxxxx	xxx	xxx	xxx
	--- Surgical tools:			
xxxxx	xxxxxx	xxx	xxx	xxx
	--- Renal dialysis equipment, blood transfusion apparatus and haemofiltration instruments:			
xxxxx	xxxxxx	xxx	xxx	xxx
	--- Anesthetic apparatus and instruments, ENT precision instruments, acupuncture apparatus, and endoscopes:			

xxxxx	xxxxxx	xxx	xxx	xxx
	--- **Other:**			
9018 90 91	**----** Hilerial or venous shunts.	u	10%	-
9018 90 92	**----** Baby incubators.	u	10%	-
9018 90 93	**----** Heart-lung machines.	u	10%	-
9018 90 94	**----** Defibrillators	u	10%	-
9018 90 95	**----** Fibrescopes	u	10%	-
9018 90 96	**----** Laproscopes	u	10%	-
9018 90 97	**----** Vetrasonic lithotripsy instruments .	u	10%	-
9018 90 98	**----** Apparatus for nerve stimulation. . .	u	10%	-
9018 90 99	**----** **Other. . . . . .**	**u**	**10%**	-

(emphasis supplied)

CTI 8443 32 90

Tariff Item	**Description of goods**	**Unit**	**Rate of duty**	
			Standard	Preferential Areas
(1)	**(2)**	**(3)**	**(4)**	**(5)**
xxxxxx	xxxxx	xxx	xxx	xxx
8443	**Printing machinery used for printing by** means of plates, cylinders and other printing components of heading 8442; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof			
xxxxx	xxxxxx	xxx	xxx	xxx
8443 32	**--** **Other, capable of connecting to an automatic data processing machine or to a network:**			
8443 32 10	**---** Line Printer	u	Free	-
8443 32 20	**---** Dot matrix princter	u	Free	-
8443 32 30	**---** Letter quality daisy wheel printer . .	u	Free	-
8443 32 40	**---** Laser jet printer	u	Free	-
8443 32 50	**---** Ink Jet printer	u	Free	-
8443 32 60	**---** Facsimile machine	u	Free	-
8443 32 90	**---** **Other . . . . . .**	**u**	**[10%]**	**-**

(emphasis supplied)

13. Section XVI of the Customs Tariff relates to Chapters 84 and 85. Note (1) provides that this section does not cover articles of Chapter 90. Thus, Chapter 84 which contains the CTH 8443 can be examined only if

the imported goods do not fall under Chapter 90.

14. Chapter 90 covers a wide variety of instruments and apparatus. CTH 9018, amongst others, deals with instruments and appliances used in medical sciences. HSN to 9018 provides that this heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice by doctors, either to make a diagnosis or to prevent or treat an illness or to operate. It also provides as follows:

> "**On the other hand, this heading includes specialised measuring instruments used exclusively in professional practice, such as cephalometers, dividers for measuring cerebral lesions, obstetrical pelvimeters, etc.**
>
> It should also be noted that a number of the instruments used in medicine or surgery (human or veterinary) are, in effect, tools (e.g., hammers, mallets, saws, chisels, gouges, forceps, pliers, spatula, etc.), or articles or cutlery (scissors, knives, shears, etc.). **Such articles are classified in this heading only when they are clearly identifiable as being for medical or surgical use by reason of their special shape, the ease with which they are dismantled for sterilization, their better quality manufacture, the nature of the constituent metals or by their get-up (frequently packed in cases or boxes containing a set of instruments for a particular treatment:** childbirth, autopsies, gynaecology, eye or ear surgery, veterinary cases for parturition, etc.)."
>
> **(emphasis supplied)**

15. It can, therefore, be said that instruments and apparatus which are 'specifically designed' or 'intended for use' or 'meant for use' in medical sciences remain classified in Chapter 90, even if they fall under another heading of the Customs Tariff Act by virtue of their general characteristics

or construction. Thus, the decisive criterion for classification of goods under CTH 9018 is their specific adaptation, construction, or design for professional medical or surgical use.

16. The Bill of Entry dated 17.10.2018 filed by the appellant mentions that the Drystar thermal printer was for medical diagnostic use in healthcare industry (Medical equipment) and the classification was mentioned under CTI 9018 90 99.

17. The Brochure of Drystar 5302, which has been enclosed with the appeal memo, provides as follows:

> "**Drystar 5302 is a dual media size, direct digital imager.**
> **DRYSTAR 5302 offers all the benefits of Direct Digital Imaging.** This solid-state technology avoids the use of complex optical components, making the imager reliable and durable by design."
>
> **DRYSTAR 5302 offers versatility and improved workflow for almost all radiology applications.**
>
> **A total, one-stop imaging solution**
> **Through its intelligent matching of Direct Digital Imaging technology, media and imager, DRYSTAR 5302 is designed to stand at the heart of Agfa HealthCare's integrated solutions.** Combined with state-of-the-art DRYSTAR DT2 media, diagnostic quality grayscale hardcopies of the highest standard are delivered time after time. Because it is heat-sensitive rather than light-sensitive, DT2 brings the added convenience of daylight loading.
>
> **Enhancing imaging quality**
> As part of our continual drive to provide you with perfect image quality, our award winning Direct Digital Imaging (DDI) technology has been enhanced to include A#Sharp technology. This technology intensifies imaging capability, enabling DDI to provide sharper image quality across all allocations."
>
> **(emphasis supplied)**

18. The white paper on diagnostic printing in the Digital Era issued by Agfa regarding continued demand for medical hard copy provides as follows:

> "The introduction of PACS and digital patient records has not eliminated the demand in many areas of the world for medical hardcopy, especially with the expanding footprint and range of diagnostic imaging modalities.
>
> **There are clear reasons for this continued demand for medical hardcopy.**
>
> **Diagnosis**: **Medical hardcopy film is, in many situations, the primary medium for the doctor's diagnosis. This remains true even when records are available in digital format.** Furthermore, when non-diagnostic monitors are being used, diagnostic hardcopy is required in order to diagnose the image."
>
> **(emphasis supplied)**

19. Regarding printing requirement for diagnostic image, the white paper provides:

> "**Printing requirements for diagnostic images**
>
> The requirements for printing today are more diverse than ever before, die to the expanded range of modalities for diagnostic imaging. At the same time, an image that enables a correct and accurate diagnosis is key in radiology. **Therefore, the most important consideration in selecting a printer for diagnostic printing is the ability to print an image with diagnostic quality that can be used for primary reading by a radiologist or another medical specialist.**"
>
> **(emphasis supplied)**

20. It would also be useful to refer to the declaration made by Dr. Deepak P. Patkar Director, Medical Services, Head, Department of Radiology, Nanavati Super Speciality Hospital, Mumbai. The relevant

portion of the declaration is reproduced:

"**Medical film is a primary medium of record to diagnose disease or condition of injury since many years. Medical film offers following advantages**,

1. With its unique printing technology, it becomes convenient to store medical films for a longer duration of time with patients and institutions.

2. They carry a life span of 20 years so that for any medico legal issues they can be referred

3. It is not possible to alter/correct the image/patient information

Medical film benefits for patients:

1. Referring to a physician/doctor for second opinion having examination performed at new facility if required
2. In-case of medical emergency, films are quickly available for diagnosis and treatment

Medical films offer diagnostic image with advantage of being portable & cost effective means which can be easily viewed everywhere.

Most medical imaging applications require medical printing apparatus to print hardcopy with desired resolution and contrast for each image.

Film formats and the physical properties of the film material (such as glossiness, thickness, rounded corners, film hue, scratch resistance, etc.) also play an important role, as do the productivity (access time, throughput, etc.) and ergonomic aspects (number of trays, film sorter, daylight operation, etc.) of the printer.

Radiologists always consider the following parameters before buying a medical film printer:

1. Pixel size/Spatial Resolution of the printer which indicates the number of dots/pixels printed in one inch
2. Contrast Resolution which reveals about the

number of grey shades it can print & differentiate for printing a diagnostic image.

How is film helping in performing the diagnosis?

An image that enables a correct and accurate diagnosis is key in radiology. Therefore, the most important consideration is the ability to print an image with diagnostic quality. To achieve this, the resolution (Contrast Resolution & Spatial Resolution) **of the printer is of utmost importance.** Printing images on Medical film provides images with the details, lower noise and sharp images with exceptional spatial and contrast resolution.

Printed medical images present:

- Diagnostic quality images
- Clear visibility of low contrast differences
- Low Noise

Films offer wider dynamic range, which help in differentiating areas with low contrast difference, thus offering superior quality with visibility of small objects. Examination like Mammography requires to be printed on high spatial and contrast resolution imagers, 508 dpi or above with capability of 16 bit grey shades respectively in order to display all fine details. The institute prints medical films for all patients referred for imaging examinations at the radiology department of the institute."

(emphasis supplied)

21. It thereafter concludes that:

"**This is to conclude that Agfa Drystar range of Thermal Printers are capable of printing diagnostic quality medical x ray images on Medical X ray films only, which are used in medical diagnosis which cannot be achieved by simply printing these images on paper or only viewing them on monitor.**

Hence, we state that Agfa Thermal Printers are Medical Diagnostic Equipment only."

(emphasis supplied)

22. Dr. Yashvant Singh, Head of Department of Radiodiagnosis, Dr. Ram Manohar Lohia Hospital and Medical College, New Delhi also gave a similar declaration.

23. It will also be appropriate to refer to the certificate issued by Chartered Engineer B. Gopalakrishnan and the relevant portion of the certificate is reproduced below:

> "1.1 Whether the Agfa Thermal Printer Plays any part in the Diagnostic Process?
>
> The Process of Diagnosis does not stop or end at the "Preview-monitor". For examining (or) scrutinizing by the Radiologist, the Radiologist needs a basis to interpret his opinion to advise the Patient. That opinion is achieved by examining the printed medical film (output) printed from thermal printer. **Hence such a printer cannot be dissected by claiming it as 'not a part of Diagnosing Process'. Thus, in our opinion, the thermal printer is an integral part of the diagnostic process.**
>
> **1.2 What is the relevance of 'Diagnostic Quality Monitors' in diagnosis?**
>
> It is pertinent to note that only Diagnostic Quality Monitors' can facilitate a Radiologist to crystallise and determine the issue of the Patient. ("BARCO", "PLANAR" brands are a few to mentions).
>
> **Thus, for detecting/determining/ to fix the proper status of the Patient, the output from the Thermal Printer is a must practically as far as the patient (or) Medical Practitioner is concerned.**
>
> **1.6 xxxxxxxx**
>
> Specialities of Agfa Thermal Printers:
>
> Clinically significant and influenced by sensitiveness Prints Proper images, to diagnosis with precision. This aspect gains confidence of Radiology Medical Practitioner who accordingly advises his patients.
>
> It will be unintelligent and incorrect to compare (or) equate this Agfa Thermal Printer to other Types of

Media Printers (Xerox paper), in our opinion.

In my considered opinion, the Thermal Printer under present discussion is a Medical Equipment for Diagnostic Purpose only, where again Reliance can be placed on the following 'Reports – study materials' enclosed for ready reference namely:-"

(emphasis supplied)

24. It would seen from the aforesaid declarations made by two specialist Doctors and one Chartered Engineer and the white paper issued by the Agfa that there is a continued demand for medical hard copy for diagnostic image. As the image enables a correct and accurate diagnosis, it is a key in radiology and, therefore, the most important consideration in selecting a printer for diagnostic printing is the ability to print an image with diagnostic quality that can be used for primary reading by a radiologist or another medical specialist. Agfa Drystar 5302 is used with medical equipment like MRI Scanners, CT Scanners, Digital X-Ray, Ultra-sound scanners and these thermal printers are capable of producing diagnostic quality images on heat sensitive medical film which cannot be printed on a ordinary desktop printer. It also concludes that these thermal printers play a vital role and function to conclude the process of diagnosis. These thermal printers are different from ordinary printers.

25. It needs to be noted that while CTH 8443 covers printers using thermal print process, but thermal printers specially designed for use in medical science are classifiable under CTH 9018. Parameters like spatial resolution and contrast resolution are necessary to determine whether a printer can print diagnostic quality images. Every thermal printer of CTH 8443 is not used in medical sciences. For instance, thermal printing technology is used for printing labels, tickets and barcodes in industries

like retail, shipping, pharmacy, manufacturing and warehousing, automotive, banking and aviation. Thus, thermal printers which are specially designed for use in medical science cannot be classified under CTH 8443 merely because it employs thermal print process.

26. Such being the position, the thermal printers imported by the appellant would fall under CTH 9018 since they are instruments used in medical sciences.

27. In terms of Section Note (1) (m) to section XVI of the Customs Tariff, articles of Chapter 90 are excluded. The thermal printers imported by the appellant are, therefore, outside the scope of CTH 8443.

28. The department has not placed any evidence to show that the thermal printers imported by the appellant are not used for medical diagnostic purposes. On the other hand, the appellant had placed two certificates issued by specialist Doctors and one Chartered Engineer to show that the thermal printers imported by the appellant are for medicinal use.

29. It needs to be remembered that the burden to prove re-classification of goods is always on the department. In the instant case, the department failed to produce any evidence to show that the thermal printers imported by the appellant would fall under CTH 8443.

30. In this connection, reliance can be placed on the judgment of the Supreme Court in **H.P.L. Chemicals Ltd.** vs. **Commissioner of C. Ex., Chandigarh**[10] and the relevant portion of the judgment is reproduced:

> "29. This apart, classification of goods is a matter relating to chargeability and the burden of proof is squarely upon the Revenue. **If the Department intends to classify the goods under a particular heading or sub-heading different from that**

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10. 2006 (197) E.L.T. 324 (S.C.)

> **claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof.** In the present case the said burden has not been discharged at all by the Revenue."
>
> **(emphasis supplied)**

31. The order passed by the Additional Director General fails to notice the difference between a thermal printer used exclusively for diagnostic purpose and a thermal printer used for obtaining hard copies of the image. It also needs to be noted that the thermal printers imported by the appellant are machines with standalone operation and cannot be classified as 'parts'.

32. The issue about classification of imported goods under CTH 9018 was examined by the Tribunal in **Westfort Hi-Tech Hospital Ltd.** vs. **Commissioner of Customs, Cochin**[11]. The issue that arose for consideration was regarding classification of lamps specially designed for operation theatre. The appellant contended the classification would be under CTH 9018, whereas the department contented that it would be under CTH 8539 which covers 'other discharge lamps'. It is in this context that the Tribunal held:

> "**6.** We have gone through the records of the case carefully. **The technical literature produced highlights the special features of the impugned product.** There is minimum shadow formation and optimized depth of illumination. The light radiates from the rim of the light head and potential areas of shadow are brightened. As a result of the above design, the light is homogeneous and arrangement of filters for infra red radiation limits the temperature increase to only 2C. The suspension is designed in such a manner that light heads can be positioned with the touch of the hand and without restriction. The shape of the light

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11. 2006 (204) E.L.T. 113 (Tri. - Bang.)

head is aerodynamic and its concave underside restricts any turbulence that may occur to the area immediately below the light head.

6.1 Now let us examine the HSN Explanatory Notes. Under the Heading, 90.18, the following note is given:

9018.90 - Other instruments and appliances

This heading covers a very wide range of instruments and appliances, which, in the vast majority of cases, are used only in professional practice (e.g. by doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc. Instruments and appliances for anatomical or autoptic work, dissection, etc., are also included, as are, under certain conditions, instruments and appliances for dental laboratories. The instruments of the heading may be made of any material (including precious metals). **The Commissioner (Appeals) is of the view that these Operation Theatre Lights cannot be treated as having either a preventive, curative or diagnostic purpose. We do not understand how he has come to such a conclusion. Any surgery or operation will either have a curative or preventive purpose. There are many cases where advise is given for surgical operation in order to prevent certain future complications.** In many cases, surgery definitely has curative purposes. Therefore, the Commissioner (Appeals) has adopted a view without any basis**. We should also bear in mind that these lights have specifically been designed for Operation Theatre. In that view of the matter, these lights can be considered as Appliances coming under CSH 9018.19 as Other Electro Medical Apparatus.** Therefore, we allow the appeal with consequential relief by setting aside the impugned order in appeal."

(emphasis supplied)

33. In **Prosoya Industries Ltd.** vs. **Collector of Customs, New**

Delhi[12], the issue was regarding classification of 'Orthopaedic Bio Health Heater' used for eliminating pains in various parts of the body by using the 'salt fomentation' theory. The appellant classified it under CTH 9021 whereas the department classified it under CTH 5926 as article of plastics. The Tribunal noticed that the goods under consideration have medical application. The Tribunal held that from a reading of CTH 3926 it appears that the general purpose plastic articles are covered by the above heading but the description of the goods indicates that they not general purpose merchandise ware and, therefore, cannot be classified under CTH 3926. The Tribunal ultimately concluded that Bio Health Heater imported by the appellant is correctly classifiable under CTH 9018. The Tribunal further held:

> "10. xxxxxxx. `Medical' is a wide term and covers anything of or having to do with healing or with the science and practice of medicine. Medicine is the science of treating, preventing or curing diseases, study or practice of maintaining and improving health. xxxxxxxx."

34. In **Commissioner of Customs, Kandla** vs. **Dy. Director, Animal Husbandry**[13], the issue that arose for consideration was regarding classification of insulated plastic boxes for storage and transport of vaccine and blood under safe temperature. The Tribunal held that if the items were specifically designed for medicinal use, the classification under heading CTH 9018 should be preferred over any other classification given to similar products not used for medicinal purposes.

35. The aforesaid discussion leads to the inevitable conclusion that the thermal printers imported by the appellant are used in medical diagnosis

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12 . 1995 (78) E.L.T. 344 (Tribunal)
13. 2024 (389) E.L.T. 658 (Tri.- Ahmd.)

and are classifiable under CTH 9018. They are different from ordinary thermal printers which fall under CTH 8443.

36. The Additional Director General has failed to notice this distinction in the impugned order and, therefore, committed an error in holding that the thermal printers imported by the appellant would be classifiable under CTI 8443 32 90. This finding cannot be sustained.

37. The demand of duty with interest and penalty upon the appellant cannot, therefore, be sustained and is set aside.

38. Yogesh More is the Manager, Customer Operations of the appellant. Penalty of Rs. 10 lakhs has been imposed upon him under section 112(a) of the Customs Act. As the impugned order confirming the demand of differential duty and imposing penalties under section 112(a) and section 114AA of the Customs Act upon the appellant has been set aside, the penalty imposed upon Yogesh More under section 112(a) of the Customs Act also deserves to be set aside and is set aside.

39. The order dated 17.02.2020 passed by the Additional Director General is, accordingly, set aside and the two appeals are allowed.

(Order Pronounced on **20.02.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Jyoti