CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD
REGIONAL BENCH, COURT NO. 2

CUSTOM APPEAL NO. 10233 OF 2021

(Arising out of OIA-AHD-CUSTM-000-APP-483-19-20 dated 18/12/2019 passed by Commissioner of CUSTOMS-AHMEDABAD)

INVIXIM ACCESS PVT LTD

203-204 Elanza Vertex Near Ahmedia Sindhubhavan Road
Ahmedabad, Gujarat

Appellant

Vs.

C.C.-AHMEDABAD **Respondent**

Custom House,
Near All India Radio Navrangpura,
Ahmedabad, Gujarat

Appearance:
Present for the Appellant :Shri Sanjay Singhal, Advocate
Present for the Respondent: Shri Himanshu P Shrimali, Superitendent (AR)

CORAM:
HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)

Final Order No. 10856/2024

DATE OF HEARING: **12.12.2023**
DATE OF DECISION: **09.04.2024**

RAJU

This appeal has been filed by Invixim Access Private Limited.

2. The appellant had imported IXM MYCRO FP3 (Bio-metric Access Control System). Appellant had sought to classify goods under the heading of 8471 6090. Revenue was of the opinion that the said goods are classifiable under heading 8543 7099. It is noticed that the issue of classification of Access control system is no longer res integra. The classification of such goods has been examined in the case of STJ Electronics 2016 337 ELT 140 and in the case of Redington (India) Limited 2018 6 TMI 465. In both these cases it has

been held that the goods are classifiable under heading 8471. The reasoning given in the case of STJ Electronics (supra) is as follows:-

"4. We have considered the contentions of both sides and perused the records. As the issue involved is classification of the impugned goods, whether under CTH 8471 or CTH 8543, both these headings are reproduced below for convenience.

Chapter heading 8471 reads as under:

"Automatic data processing machines and units thereof, magnetic or optical readers, machines for transcribing data on to data media in coded form and machines for processing such data, not elsewhere specified or included".

Chapter heading 8543 reads as under:

"Electrical machines and apparatus having individual functions, not specified or included elsewhere in this Chapter"

5. From the pamphlets relating to the impugned goods, it is evident that the impugned goods are fingerprint reader which work on optical technology and involve flat optical sensor for compact design. Its technical specifications indicate that it comprises thin optical sensor. CTH 8471 specifically covers magnetic or optical readers. Chapter Note 5(C) (D) and (E) to Chapter 84 read as under:

"(C) Subject to paragraphs (D) and (E) a unit is to be regarded as being part of an automatic data processing system if it meets all of the following conditions:

(i) It is of a kind solely or principally used in an automatic data processing system;

(ii) it is connectable to the central processing unit either directly or through one or more other units; and

(iii) it is able to accept or deliver data in a form (codes or signals) which can be used by the system. Separately presented units of an automatic data processing machine are to be classified in heading 8471. However, keyboards, X - Y co-

ordinate input devices and disk storage units which satisfy the conditions of (i) and (iii) above, are in all cases to be classified as units of heading 8471.

(D) Heading 8471 does not cover the following when presented separately, even if they meet all of the conditions set forth in the paragraph (C)

(1) printers, copying machines, facsimile machines, whether or not combined;

(1) apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network);

(iii) loudspeakers and microphones;

(iv) television cameras, digital cameras and video camera recorders;

(v) monitors and projectors, not incorporating television reception apparatus.

(E) Machines Incorporating or working in conjunction with an automatic data processing machine and performing a specific function other than data processing are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings".

It is clear that the impugned item is of a kind solely or principally used in an automatic data processing system, it is connectable to the central processing unit and is able to accept or deliver data in a form (codes or signals) which can be used by the system. The exclusions contained in Chapter Note 5(D) do not cover the impugned item and it is not the case of Revenue either that it does. Revenue referred to Chapter Note 5(E) quoted above. We find that Chapter Note 5(E) refers to machines incorporating or working in conjunction with an automatic data processing machine and performing a specific function other than data processing. In the present case the machine essentially performs data processing function inasmuch as it processes the data relating to fingerprint with the finger print data in the motherboard/Centre processing unit (CPU). Thus, it does not have any specific function other than data processing. The impugned goods are therefore *not eased out of CTH 8471 by the provisions of Chapter Notes 5(D) & 5(E) CTH 85.43 covers electrical machines and apparatus having individual functions, not specified or included elsewhere in Chapter 85. Thus, this heading is a sort of residuary heading for the goods otherwise covered under Chapter 85. As the impugned goods are found to be covered under CTH 8471 as per above analysis, they are obviously out of chapter 85 and hence out of CTH 85.43 too.*

6. In the light of aforesaid analysis, we are of the view that the impugned goods are classifiable under CTH 8471; that they are so classified in some Customs Houses like Bombay and Chennai as per the data given by the appellant only reaffirms that those customs houses are correctly classifying the same. Accordingly, we set-aside the impugned order and allow the appeal."

3. We find that the goods in the instant case are practically identical to the goods involved in the case of STJ Electronics Private Limited. In the instant case also the goods imported by the appellant are capable of connection to the Automatic Data Processing Machine (ADP machine). This devices are capable of storing data in the Automatic Data Processing Machine. The device takes input in the form of finger print scan and after processing the information, the said processed information is sent to Automatic Data Processing Machine which collects data for making reports of attendance and timing and for entry and exit. The devices also operate lock of the gate on the basis of the data captured by the said device and processed by Automatic Data Processing Machine.

Chapter note 5 (C) to chapter 84 readers as follows:-

"2. The Chapter Note 5(C) to Chapter 84 reads as follows -

(C) Subject to paragraphs (D) and (E), a unit is to be regarded as being part of an automatic data processing system if it meets all of the following conditions:

(i) it is of a kind solely or principally used in an automatic data processing system;

(ii) it is connectable to the central processing unit either directly or through one or more other units; and

(iii) it is able to accept or deliver data in a form (codes or signals) which can be used by the system."

4. It is notice that the device imported by the appellant is used solely or principally in automatic data processing system whereby access and exit is controlled automatically. The said device is connected to central processing unit and captures the data in the form of scan image in digital format. The said scan image is there after used by the system to validate/ record entry or exit. In this background we do not find any merit in the claim of revenue goods are not classified under heading 8471. Once goods are classifiable under heading 8471 the same cannot be classified under Entry 8543.

5. In view of above the appeal is allowed.

(Pronounced in the open court on 09.04.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Arpita