

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL

1st Floor, WTC Building, FKCCI Complex, K. G. Road,
BANGLORE-560009

COURT - II

Customs Appeal No. 20653 of 2021

[Arising out of the Order-in-Appeal No.359 to 365/2021
dated 14.09.2021 passed by the Commissioner of Customs
(Appeals), Bangalore.]

M/s. Xiaomi Technology India LimitedApplicants

Orchid Block E, Embassy Tech Village,
Devarabeesanahalli,
Marathahalli Outer Ring Road,
Bangalore – 560 103.

Vs.

The Commissioner of CustomsRespondents

Inland Container Depot
Whitefield
Bangalore – 560 066.

WITH

1. Customs Appeal No. 20654 of 2021 (M/s. Xiaomi Technology India Limited)
2. Customs Appeal No. 20655 of 2021 (M/s. Xiaomi Technology India Limited)
3. Customs Appeal No. 20656 of 2021 (M/s. Xiaomi Technology India Limited)
4. Customs Appeal No. 20657 of 2021 (M/s. Xiaomi Technology India Limited)
5. Customs Appeal No. 20658 of 2021 (M/s. Xiaomi Technology India Limited)
6. Customs Appeal No. 20659 of 2021 (M/s. Xiaomi Technology India Limited)

[All Arising out of the Order-in-Appeal No.359 to 365/2021
dated 14.09.2021 passed by the Commissioner of Customs
(Appeals), Bangalore.]

Appearance:

Ms. Neetu James, Advocate

....For Applicants

Mr. Dyamappa Airani, Dy. Com. (AR)

... For respondents

CORAM:

HON'BLE MR. P. A. AUGUSTIAN, MEMBER (JUDICIAL)

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Date of Hearing : 03.07.2023

Date of Decision : 07.07.2023

FINAL ORDER NO. 20666 - 20672/ 2023

Per: R. BHAGYA DEVI

M/s. Xioami Technology is engaged in the business of trading of electronic goods and various ecosystem products. They had filed various Bills of Entry for import of Liquid Crystal Display (LCD) panels and parts of LCD panels. They had classified the above items under Chapter Heading 9013 9010 which was not accepted by the original authority and Commissioner (Appeals).

2. The Original Authority classified the said items under Chapter 8529 9090. The reason given by the above authorities is summarized below:

“Note 2 of Section XVI provides as under:

“2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, Parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings.

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;”

2.1 Based on the above notes provided at Section XVI, both the authorities held that Note (2b) of Section XVI is squarely applicable since the goods are parts which are suitable solely and principally for use with television of Chapter 8528. They also

held that when Chapter Heading 8529 provides a specific heading to cover such parts which are solely and principally used with goods of Chapter Heading 8528. Thus in view of Note 2(b) of Section XVI the authorities classified "LCD Panel" "Light Guide Plate (LGP) and under Chapter subheading 8529 9090, the question of classifying them under Chapter Sub-Heading 9013 does not arise.

3. Ms. Neetu James, appearing on behalf of the appellant submitted that the impugned goods imported by them are rightly classifiable under CTH 9013 9010 and the issue is settled by apex court judgment rendered in the case of **CCE, Aurangabad vs. M/s. Videocon Industries Ltd.: 2023 (3) TMI – SC.**

4. Learned Authorized Representative reiterated the findings of the Commissioner (A) and referring to the paragraph 4 of the Commissioner (A)'s order submitted that the LCD panels and LCD parts are rightly classifiable under Heading 8529 9090.

5. The present appeals the dispute is regarding the classification of Liquid Crystal Display (LCD) panels and parts of LCD panels under Chapter Heading 8259 9090 as decided by the revenue or under Chapter Heading 9013 9090 as claimed by the appellant.

6. The Apex Court in the case of **CCE, Aurangabad vs. M/s. Videocon Industries Ltd.** (supra) on interpreting the General

Rules of Interpretation and the Section Notes and Chapter Notes
observed as follows:

“25..... . Thus, the revenue’s contention that by virtue of Note 2 (b) to Chapter 85, the goods are to be classified based on their principal or sole use is insubstantial because of the clear mandate of Note 1 (m), which excludes Chapter 90 goods (which includes LCD panels). More importantly, Note 2 opens with the expression “subject to Note 1”. This subordinates the entire subject matter in Note 2; it is only where the article is a “part” which acts as an accessory that the enumerated portions of Chapter 85 come into play. Such an interpretation is plainly untenable.....”

6.1 Further the apex court held that :

“28. It is, therefore, clear that when goods are excluded from a particular chapter, the “pull in” through a note has to be narrowly construed, as otherwise, the basis of exclusion would be defeated, and the earlier note (of exclusion) rendered redundant. Finally, Secure Meters (supra) is decisive on the question that LCDs are not articles provided “more specifically in other headings”, i.e., other than 90.13. Furthermore, the fact that LCDs could be used for purposes other than television sets or audio sets is also concluded because, in that decision, its use in meters was in issue. This court held, pertinently, as follows:

“17. Keeping in mind the aforesaid nature of product in question, we revert to the tariff entries. It cannot be disputed that LCDs are specifically provided in Tariff Item 9013. The only condition is that such LCDs should not constitute “articles” provided more specifically in other headings. In the present case, it is also not in dispute that LCDs imported by the appellant did not constitute any such “article” which is more specifically provided in other headings. On the contrary, the Revenue wants to include in the same chapter i.e. Chapter 90, though under Entry 9028.90.10 as “parts and accessories”. The only reason for including the goods under Chapter Heading 9028 is that the LCDs were to be used in the electricity supply meters. However, Entry 9028 does not pertain to LCDs but gas, liquid, etc. and includes electricity supply meters as well. Merely because these LCDs are to be used as parts in the said electricity supply meters, can it be said that they are to be included in Entry 9028? Here, Note 2 of this Chapter Notes becomes important since LCDs are used in the electricity supply meters only as parts thereof. Note 2(a) stipulates that parts and accessories which are goods included in the heading of the said chapter i.e. Chapter 90, are to be classified in their respective headings. Going by the plain reading of Note 2(a) it is clear that LCDs, which are goods and are used as parts in the final product mentioned in Chapter 90, namely, electricity supply meters, are to be classified in its respective heading. Respective heading, which is specifically provided is 9013.

7. By following the ratio of the above apex court judgment rendered in the case of **CCE, Aurangabad vs. M/s. Videocon Industries Ltd.** (supra), the LCD Panels are to be classified under Chapter Heading 9013 8010 and parts of LCD panels are to be classified under Chapter Heading 9013 9010. Accordingly, we set aside the impugned order and allow the appeals with consequential relief, if any.

*(Order pronounced in Open Court on **07.07.2023.**)*

(P. A. AUGUSTIAN)
MEMBER (TECHNICAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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