

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
1st Floor, WTC Building, FKCCI Complex, K. G. Road,
BANGLORE-560009

COURT-2

Customs Appeal No. 20721 of 2021

*[Arising out of the Order-in-Appeal No.350-356/2021 dated
13.9.2021 passed by the Commissioner of Customs
(Appeals), Bangalore.]*

M/s. Xiaomi Technology India Ltd

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

....Appellant

Vs.

Commissioner of Customs

Inland Container Depot,
Whitefield,
Bangalore – 560 066.

....Respondent

WITH

1. Customs Appeal No.20722 of 2021 (M/s. Xiaomi Technology India Limited vs Commissioner of Customs, Bangalore.)
2. Customs Appeal No.20723 of 2021 (M/s. Xiaomi Technology India Limited vs Commissioner of Customs, Bangalore.)
3. Customs Appeal No.20724 of 2021 (M/s. Xiaomi Technology India Limited vs Commissioner of Customs, Bangalore.)
4. Customs Appeal No.20725 of 2021 (M/s. Xiaomi Technology India Limited vs Commissioner of Customs, Bangalore.)
5. Customs Appeal No.20726 of 2021 (M/s. Xiaomi Technology India Limited vs Commissioner of Customs, Bangalore.)
6. Customs Appeal No.20727 of 2021 (M/s. Xiaomi Technology India Limited vs Commissioner of Customs, Bangalore.)

*[All appeals arising out of the common Order-in-Appeal
No.350-356/2021 dated 13.9.2021 passed by the
Commissioner of Customs (Appeals), Bangalore.]*

Appearance:

Ms. Neetu James, Advocate

....For Appellant

Mr. K. A. Jathin, AR

.... For Respondent

CORAM:

HON'BLE MR. P. A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS R. BHAGYA DEVI, MEMBER (TECHNICAL)

Date of Hearing: 28.07.2023

Date of Decision: 28.11.2023

FINAL ORDER No. 21303 to 21309 of 2023

Per R. BHAGYA DEVI:

The appellant M/s. Xiaomi Technology India Private Limited imported Mi Web Camera classifying the same under Chapter Heading 8473 3099 as parts and accessories of Automatic Data Processing (ADP) Machines. The original authority and the Commissioner (Appeals) in the impugned order classified the said products under Chapter heading 8525 8010 in view of the fact that the web camera imported by the appellant was standalone item unlike in other cases where the web camera was imported along with the ADP machine.

2. The learned counsel submitted that the Mi Web Camera consists of camera lens, a USB plug to connect exclusively to an ADP machine as a plug and play and a clamping slot. The web camera is solely and principally used with the ADP machine and cannot function independently. The web camera is used to capture

images/video and deliver the same in the form of codes signals which is displayed on the computer/laptop. Its application is for videoconferencing, online chatting etc; it is imported solely for the purpose of using the same with the appellant's new product known as notebook computers, which are ADP machines. Therefore, it is claimed by the appellant that the web camera is rightly classifiable under Chapter heading 8473 3099 as parts and accessories suitable for use solely or principally with machines of Heading 8470 to 8471. It is further submitted that the classification of the said item is no longer *res integra* in the light of the decision of the Hon'ble Tribunal in the case of **Hi-Tech Computers: 2004(9) TMI 262 - CESTAT BANGALORE** wherein it was held that web cameras are not classifiable under Chapter Heading 8525 but are rightly classifiable under chapter heading 8473. This decision of the Tribunal was upheld by the Supreme Court as reported in **2015 (321) ELT A274 (SC)**. The appellant has also brought about the similarities between the web camera as decided in the above Tribunal's decision as against the web camera imported by them to show that both the web cameras are one and the same and not distinguishable as held by the Commissioner (Appeals) in the impugned order. Reliance is also placed on the decision in the case of **D-Link India Ltd.: 2008 (11) TMI 485-CESTAT Mumbai**. The learned counsel also draws our attention to Chapter Note 5(E) to state that machines incorporating or working in conjunction with ADP machine and performing a specific function are to be classified in the Heading

appropriate to their function or failing that, in residual Headings. Since the web camera can work only in connection with ADP machine and does not have any specific function, it is rightly classifiable under Chapter Heading 8473. Reliance is also placed on the HSN explanatory Note 5 (C) to chapter 84 wherein it is stated that the unit is regarded as being part of an Automatic Data Processing (ADP) system if it meets the conditions mentioned therein. Since the said item meets the conditions, they are rightly classifiable under Chapter Heading 8473.

3. It is further submitted that the Mi Web Camera does not have an identifiable individual function as it can function only when used with the ADP machine and cannot work in isolation or independently but needs to work only with the ADP machine and therefore, needs to be classified under Chapter Heading 8473 as held in the case of **M/s. Asianet Satellite Communication Ltd vs. Commissioner of Customs (Appeals), Cochin** reported at **2023 (7) TMI 598 CESTAT Bangalore**. It is also claimed that the impugned item cannot be classified under Chapter Heading 8525 as the Chapter covers "Television camera, Transmission apparatus for radio broadcasting or televisions, whether or not incorporating reception apparatus or sound recording reproducing apparatus; television camera, digital camera and video camera recorders". It is submitted that the web cameras are not television camera or a digital camera or a video camera which can have individual function to be classified under Chapter Heading 8525. It

is also stated that the web cameras are excluded from classification under Chapter Heading 8525 under Note 2 to Section XVI where it states that parts of machines (not being parts of articles of certain headings) are to be classified under Chapter 84 or Chapter 85 in accordance with certain Rules and subject to exclusions provided under Note 1 to Section XVI. Referring to Note 2(a) and 2(b) to Section XVI, it is claimed that the goods are rightly classifiable under Chapter Heading 8473 and not under Chapter 8525.

4. On behalf of the Revenue, the learned Authorised Representative submitted that as per Notes 5 (C) and 5 (D) to Chapter 84 which reads 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 the following conditions:

- (i) if 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 (ii) and (iii) above, are in all cases to be classified as units of Heding 8471.

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

- (i)
- (ii)
- (iii)
- (iv) television camera, digital camera and video camera recorders;
- (v),

It is further submitted that as per HSN Explanatory Notes, Web Cams are classifiable under Chapter Heading 8525 and therefore, the impugned order needs to be upheld.

5. The only dispute in this appeal is whether the Mi Web Camera imported by the Appellant is classifiable under Chapter Heading 8473 as claimed by the appellant or under Chapter Heading 8525 as claimed by the Respondent. The impugned order does not dispute the fact that this Web Cameras satisfies the condition laid down under Chapter Note 5(C) and to be excluded from Chapter 8471, it needs to fall under one of the exclusions as specified under Chapter Note 5(D).

(iv) Television camera, digital camera and video camera recorders.

The Web Camera cannot be considered as television camera or digital camera or a video camera recorder. Hence, it definitely falls under Chapter Heading 8471.

6. The Commissioner (Appeals) in the impugned order holds as follows:

“I find that the classification of web camera has already been decided by CESTAT Bangalore in the case of **M/s. Hitech Computers (9) TMI 262 CESTAT-Bangalore** and this order of CESTAT has been upheld by the Supreme Court of India and therefore to this extent, the customs classification of web camera is no longer res-integra. However, it is to be noted that in the said judgement the web camera had been imported along with an ADP machine and not separately as has been done by the importer in the instant case, and therefore there is a critical and crucial distinction, which has a bearing on the customs classification thereof”.

7. The Tribunal in the case **Hi-Tech Computers vs. Commissioner of Customs** vide Final Order Nos. 1462-1464/2004 dated 3-9-2004 in Appeal Nos. C/26, 62/2003 and 188/2001 reported at **2005 (180) E.L.T. 356 (Tri. - Bang.)**.

The facts before the Tribunal as seen from the order are as under:

“3. In Order-in-Appeal No. 9/2003-Cus. dated 14-1-2003, the issue pertaining to classification of item, viz. “Typhoon Easy Cam 110K complete set” (commonly known as web camera). The assessee in this appeal has claimed the classification of the item as Computer parts and accessories under sub-heading 8471.60 as input or output units, whether or not containing storage units in the same housing. The Department has classified the item under sub-heading 8525.40. Alternatively they pleaded for classification under Heading 8473.30 as parts and accessories of the machines under Chapter Heading 8471. The Chapter heading 8473 reads parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of Heading Nos. 84.69 to 84.72. The Department has considered the item to be “Digital Camera” under sub-heading 8525.40 after amendment of tariff which reads “Still image video cameras and other video camera recorders; Digital cameras”.

4.

5. The issue that is required to be determined is as to whether the item which is a web camera which works as a part suitable for use solely and principally along with Computer falling under Heading 8471 or it can be considered as a Digital Camera for classification under Heading 8525.30 before 1-1-2002 and under heading 8525.40 after the tariff changed on 1-1-2002 as can be seen from the definition prior to 1-1-2002 sub-heading 8525.30 referred to “Television Cameras” and sub-heading 8525.40 referred to “Still image video camera and other video camera recorders”.....

6.

7.

8. Thus, it is observed that the web camera imported by the appellant is not an ordinary camera and does not function independently. The image can be captured only when it is connected with the computer. Thus, from the above, it can be seen that the product imported by the appellants is not an ordinary camera and therefore will not fall under chapter 90 as held by the lower authority. The proper classification will be under chapter 84.73 or 84.71. Besides, a perusal of the aforesaid judgment of the Hon'ble Tribunal also clearly indicates that all those items which come along with the computer are to be treated as spares and accessories. Thus, in view of the submissions made by the

appellants and in view of the case law referred to by the applicants at the time of personal hearing, it is observed that the proper classification of the product under classification would be under chapter 8473.30 or 84.71 and not under chapter 90 as held by the lower authority. I set aside the order passed by the lower authority and allow the appeal filed by the appellants.”

8. The facts that are reproduced above are the same as in the present appeal. Moreover, as per Chapter Note 5(C) and 5(D), the items are rightly classifiable under Chapter Heading 8471 as long as they satisfy the conditions laid therein and there is no dispute that these conditions have not been satisfied, the item has been excluded from Chapter 8471 only on the ground that Chapter Note 5(D) excludes television camera, digital cameras and video camera recorders. Moreover, the imported items web cameras are used principally with the ADP machines is not under dispute. The imported item under question is a web camera and as has been already decided in the case of **Hi-Tech Computers vs. Commissioner of Customs**, the Tribunal has clearly distinguished that the web cameras are not digital camera nor it can be considered as a television camera. Therefore, the web cameras are rightly classifiable under Chapter Heading 8473 as claimed by the appellant and not under Chapter Heading 8525 as classified by the Department.

9. In view of the above discussions and by following the ratio of the decision rendered in the case of **Hi-Tech Computers** (supra), we hold that Mi Web Cameras are rightly classifiable under Chapter Heading 8473. Consequently, we set aside the

impugned order and allow the appeal of the appellant with consequential relief, if any.

*(Order pronounced in open court on **28.11.2023.**)*

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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