

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

Customs Appeal No. 20187 of 2023

[Arising out of the Order-in-Appeal No.8 to 112/2022 dated 27.01.2022 passed by the Commissioner of Customs (Appeals), Bangalore.]

.....Applicants

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

Vs.

.....Respondents

Inland Container Depot
Whitefield
Bangalore – 560 066.

WITH

- 1. Customs Appeal No. 20188 of 2023 (M/s. Xiaomi Technology India Limited)**
- 2. Customs Appeal No. 20189 of 2023 (M/s. Xiaomi Technology India Limited)**
- 3. Customs Appeal No. 20190 of 2023 (M/s. Xiaomi Technology India Limited)**
- 4. Customs Appeal No. 20191 of 2023 (M/s. Xiaomi Technology India Limited)**
- 5. Customs Appeal No. 20192 of 2023 (M/s. Xiaomi Technology India Limited)**
- 6. Customs Appeal No. 20193 of 2023 (M/s. Xiaomi Technology India Limited)**
- 7. Customs Appeal No. 20194 of 2023 (M/s. Xiaomi Technology India Limited)**
- 8. Customs Appeal No. 20195 of 2023 (M/s. Xiaomi Technology India Limited)**
- 9. Customs Appeal No. 20196 of 2023 (M/s. Xiaomi Technology India Limited)**
- 10. Customs Appeal No. 20197 of 2023 (M/s. Xiaomi Technology India Limited)**
- 11. Customs Appeal No. 20198 of 2023 (M/s. Xiaomi Technology India Limited)**
- 12. Customs Appeal No. 20199 of 2023 (M/s. Xiaomi Technology India Limited)**
- 13. Customs Appeal No. 20200 of 2023 (M/s. Xiaomi Technology India Limited)**
- 14. Customs Appeal No. 20201 of 2023 (M/s. Xiaomi Technology India Limited)**

- 15. Customs Appeal No. 20202 of 2023 (M/s. Xiaomi Technology India Limited)**
- 16. Customs Appeal No. 20203 of 2023 (M/s. Xiaomi Technology India Limited)**
- 17. Customs Appeal No. 20204 of 2023 (M/s. Xiaomi Technology India Limited)**
- 18. Customs Appeal No. 20205 of 2023 (M/s. Xiaomi Technology India Limited)**
- 19. Customs Appeal No. 20206 of 2023 (M/s. Xiaomi Technology India Limited)**
- 20. Customs Appeal No. 20207 of 2023 (M/s. Xiaomi Technology India Limited)**
- 21. Customs Appeal No. 20208 of 2023 (M/s. Xiaomi Technology India Limited)**
- 22. Customs Appeal No. 20209 of 2023 (M/s. Xiaomi Technology India Limited)**
- 23. Customs Appeal No. 20210 of 2023 (M/s. Xiaomi Technology India Limited)**
- 24. Customs Appeal No. 20211 of 2023 (M/s. Xiaomi Technology India Limited)**
- 25. Customs Appeal No. 20212 of 2023 (M/s. Xiaomi Technology India Limited)**
- 26. Customs Appeal No. 20213 of 2023 (M/s. Xiaomi Technology India Limited)**
- 27. Customs Appeal No. 20214 of 2023 (M/s. Xiaomi Technology India Limited)**
- 28. Customs Appeal No. 20215 of 2023 (M/s. Xiaomi Technology India Limited)**
- 29. Customs Appeal No. 20216 of 2023 (M/s. Xiaomi Technology India Limited)**
- 30. Customs Appeal No. 20217 of 2023 (M/s. Xiaomi Technology India Limited)**
- 31. Customs Appeal No. 20218 of 2023 (M/s. Xiaomi Technology India Limited)**
- 32. Customs Appeal No. 20219 of 2023 (M/s. Xiaomi Technology India Limited)**
- 33. Customs Appeal No. 20220 of 2023 (M/s. Xiaomi Technology India Limited)**
- 34. Customs Appeal No. 20221 of 2023 (M/s. Xiaomi Technology India Limited)**
- 35. Customs Appeal No. 20222 of 2023 (M/s. Xiaomi Technology India Limited)**
- 36. Customs Appeal No. 20223 of 2023 (M/s. Xiaomi Technology India Limited)**
- 37. Customs Appeal No. 20224 of 2023 (M/s. Xiaomi Technology India Limited)**
- 38. Customs Appeal No. 20225 of 2023 (M/s. Xiaomi Technology India Limited)**
- 39. Customs Appeal No. 20226 of 2023 (M/s. Xiaomi Technology India Limited)**
- 40. Customs Appeal No. 20227 of 2023 (M/s. Xiaomi Technology India Limited)**

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- 100. Customs Appeal No. 20287 of 2023 (M/s. Xiaomi Technology India Limited)**
- 101. Customs Appeal No. 20288 of 2023 (M/s. Xiaomi Technology India Limited)**
- 102. Customs Appeal No. 20289 of 2023 (M/s. Xiaomi Technology India Limited)**

[All appeals Arising out of the Order-in-Appeal No.8 to 112/2022 dated 27.01.2022 passed by the Commissioner of Customs (Appeals), Bangalore.]

Appearance:

Ms. Neetu James, Advocate

....For Applicants

Mr. K. A. Jathin, 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 : 13.09.2023

Date of Decision : 13.10.2023

FINAL ORDER NO. 21000 - 21102 / 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 classifying the same under Chapter Heading 9013 8010 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, the original authority 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" and "Light Guide Plate (LGP)" under Chapter subheading 8529 9090.

2.2 The learned Commissioner (A) held that the issues involved in the instant appeals are identical to the issues involved in the previous appeals which had been decided vide Order-in-Appeal No.359 to 365/2021 dated 14.9.2021 and the appellant has filed appeals before the CESTAT against the aforesaid Order-in-Appeals and the matter is still pending before CESTAT. The learned Commissioner (A) dismissed the appeals filed by the appellant as devoid of any merits. Hence, these present appeals.

3. Ms. Neetu James, appearing on behalf of the appellant submitted that the impugned goods imported by them are rightly classifiable under CTH 9013 8010 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.**

3.1 She further submitted that this Tribunal in appellant's own case on identical issue has decided the case in favour of the appellant in Customs Appeal Nos. 20653 to 20659 of 2021 (arising out of Order-in-Appeal No.359 to 365/2021 dated 14.9.2021) vide **Final Order No.20666 to 20672/2023 dated 7.7.2023.**

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 dispute in the present appeal is regarding the classification of Liquid Crystal Display (LCD) panels under Chapter Heading 8259 9090 as decided by the Revenue or under Chapter Heading 9013 8010 as claimed by the appellant.

6. The matter is no longer *res integra* as the issue has been already settled in appellant's own case vide **Final Order No.20666 to 20672/2023 dated 7.7.2023**. Further, 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.....”

“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) as well as the Tribunal’s **Final Order No.20666 to 20672/2023 dated 7.7.2023**, the LCD Panels are to be classified under Chapter Heading 9013 8010.

Accordingly, we set aside the impugned order and allow the appeals with consequential relief, if any.

*(Order pronounced in Open Court **13.10.2023.**)*

(P. A. AUGUSTIAN)
MEMBER (TECHNICAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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