

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20415 of 2024

(Arising out of Order-in-Appeal No. 285-460/2023 dated 20.12.2023 passed by the Commissioner of Customs (Appeals), Bangalore.)

**M/s. Juniper Networks Solution
India Pvt. Ltd.**

111 To 115/4, 2nd Floor, Elnath Building,
Exora Business Park,
Marathahllai Sarjapur Outer Ring Road,
Bangalore – 560 103.

Appellant(s)

VERSUS

Respondent(s)

Commissioner of Customs

Office of the Assistant Commissioner of Customs,
PAG, Air Cargo Complex,
Bengaluru International Airport,
Devanahalli,
Bengaluru – 560 300.

WITH

- (1) Customs Appeal No. 20416 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)
- (2) Customs Appeal No. 20417 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)
- (3) Customs Appeal No. 20418 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)
- (4) Customs Appeal No. 20419 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)
- (5) Customs Appeal No. 20420 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)
- (6) Customs Appeal No. 20421 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)
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- (30) Customs Appeal No. 20445 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)**
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(174) Customs Appeal No.20589 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)
(175) Customs Appeal No.20590 of 2024 (M/s. Juniper Networks Solution India Pvt. Ltd.)

(All the appeals arise out common of Order-in-Appeal No. 285-460/2023 dated 20.12.2023 passed by the Commissioner of Customs (Appeals), Bangalore.)

APPEARANCE:

Mr. Rohit Jain, Advocate with
Mr. Harsh Shah, Advocate for the Appellant

Mr. K.A. Jathin, Deputy Commissioner (AR) with
Mr. Maneesh Akhoury, Asst. Commissioner for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER
(TECHNICAL)

Final Order No. 21353 - 21528 /2024

DATE OF HEARING: 24.10.2024

DATE OF DECISION: 20.12.2024

PER : R. BHAGYA DEVI

All the appeals arise out common of Order-in-Appeal No. 285-460/2023 dated 20.12.2023 passed by the Commissioner of Customs (Appeals), Bangalore. Since the issue involved is same, these are taken up together for hearing and disposal.

2. The Appellant Juniper Networks Solution India Pvt. Ltd. is a private limited company engaged in import and sale of networking equipment and provide various support options for the same in India. The equipment and spares are imported from the Appellant's holding company M/s Juniper Networks International BV. Imports were made by the appellant under provisional assessment. Pending SVB order and once the SVB final order was issued, the assessments were finalized for 256 Bills of Entry. Aggrieved by the same, the Appellant filed appeals before the Commissioner (Appeals) against 256 BOEs assessed

under final assessment during the period from April 2021 to August 2021. Pursuant to the same, the Orders-in-Appeal Nos. 564 to 820/2021 dated 29.11.2021 allowing the appeals of the Appellant in accordance with the directions mentioned therein *inter alia* requiring reassessment of the 256 BOE in question after issuance of a speaking order. The proceedings culminated into issuance of the Order-in-Original No. 372/2022 ('OIO') where the original authority concurred with views of the Appellant on classification and rate of duty for some products and disagreed with views of the Appellant on classification and rate of duty for products in relation to specified part IDs of Transceivers, Secured Routers, Modular Interface Cards, Parts of Security and Rack Mounting Kit. Aggrieved, the Appellant filed an appeal before Commissioner of Customs (Appeals) and the Commissioner (Appeals) upheld the classification and rate of duty. Aggrieved by this order, appellant is in appeal before us.

3. The Learned Counsel submitted that the Appellant is engaged in the import and sale of networking equipments. The present appeals are against the classification and rate of duty against the following products. Against each of these products, the submissions by the learned Counsel are summarised below:

Sl. No.	Category of goods	Classification as per the Impugned OIA	Classification as per the Appellant
1	Transceivers	8517 6290	8517 7090*
2	Modular interface cards (MIC)	8517 6290	8517 7090*
3	Mini Physical Interface Modules (Mini-PIM)	8517 6290	8517 7090*
4	Rack Mounting Kits for Switch (RMK)	8302 4900	8517 7090*

* with effect from 01.01.2022, Tariff Item 8517 7090 has been replaced with 8517 7990

Applicability of exemption notification

Sl. No.	Category of goods	Classification & applicable exemption notification as per the Impugned OIA	Classification & applicable exemption notification as per the Appellant
1	Secured routers	8517 6290 (Entry no. 20 of the Notification no. 57/2017 - Customs dated 30.06.2017)	8517 6290 (Entry no. 13N of the Notification no. 24/2005 -Customs dated 01.03.2005)

3.1 **Transceivers:** The transceivers in question are optical transceivers which facilitate communication of networking

equipment with other equipment in internal or external network through fiber optic cables. The same can only function as part of a networking equipment and in conjunction with other parts of networking equipment. It is stated that such transceivers merit classification under the Tariff Item 8517 7090 as parts of networking equipment, as opposed to classification as networking equipment of the Tariff Item 8517 6290 as held vide the impugned order and claimed that the issue of classification of transceiver is no longer *res integra*, since the issue stands decided in favour of the Appellant by judgment of the Hon'ble Supreme Court in the matter of **Commissioner of Customs vs. M/s. Reliance Jio Infocomm Ltd. [2023 (2) TMI 1295 – SC ORDER]** whereby, the Hon'ble Supreme Court dismissed the appeal of the Revenue against the decision of the CESTAT, Mumbai in case of **M/s. Commissioner of Customs, Mumbai (Air Cargo Import) vs. Reliance Jio Infocomm Ltd. [2022 (8) TMI 76- CESTAT Mumbai]** confirming classification of SFP/SFP+/QSFP transceivers as parts. The relevant extracts from the Supreme Court order referred above are as under:

"Mr. Balbir Singh, learned Additional Solicitor General, would submit, after getting instructions, that the classification as has been done in the impugned order, has been accepted by the Department-Revenue (See order dated 25.01.2017 passed by Commissioner of Customs and Central Excise (Appeals), Hyderabad).

In view of the aforesaid fact, the civil appeals are dismissed."

Subsequent to this, in the matter of **IBM India Private Limited vs. Commissioner of Customs (Import), Mumbai [2024 (4) TMI 972 – CESTAT Mumbai]**, the CESTAT, Mumbai had once again confirmed classification of SFP/SFP+/QSFP optical transceivers under the Tariff Item 8517 7090 as parts of telecom equipment. The transceivers covered in the appeals are nothing but SFP/SFP+/QSFP transceivers and squarely covered by the judicial precedents mentioned above. This is also substantiated by the screenshots of Juniper website and letter from subject expert Dr. Giuliano Coli (lead of Juniper Networks' Optics Global Community Team) submitted by the Appellant.

Classification of transceivers as parts of networking equipment of 8517 7090 is also supported by letter dated 22.10.2019 issued by the Telecommunication Engineering Center (TEC), which is the Technical Wing of the Department of Telecommunications of Ministry of Communications and top-most expert body to opine on matters pertaining to telecommunication goods.

3.2 With regard to **Modular Interface Cards** ('MIC') it is submitted that Juniper Network's product portfolio includes various modular and chassis-based routers of MX series. For modular routers, various components and parts need to be installed to make it functional. The architecture of such routers and key components includes Modular Port Concentrators ('MPC') and Modular Interface Cards (MIC). MPCs provide various online services of a router and host MIC. The MIC provides physical connections to various media types. For modular MX routers, the functionality of receiving and transmitting data packets and connecting to the network through suitable interfaces cannot be achieved without MIC. Hence, MIC merits classification under the Tariff Item 8517 7090 as parts of networking equipment, as opposed to classification as networking equipment under the Tariff Item 8517 6290 as held in the impugned order. It is further claimed the Tribunal in the case of **M/s. Vodafone Idea Limited vs. Principal Commissioner of Customs (Import) [TS-469-CESTAT-2022(DEL)]** wherein it was held that router line cards are part of routers and cannot be treated as apparatus and hence, the same are classifiable under the Tariff Item 8517 7090. Similarly in the case of **M/s. Vodafone Idea Limited vs. Principal Commissioner of Customs, New Delhi [2024 (10) TMI 636 – New Delhi]**, it was held that MPC line cards of Juniper Networks itself has been treated as parts and was classified under CTH 8517 7090 and therefore, the classification of MIC, which are further installed into MPC, as parts need to be classified under CTH 8517 7090.

3.3 Coming to **Mini Physical Interface Modules** ('Mini-PIM') it is stated that the Mini-PIM is part of SRX series of

Juniper Secured Routers. It provides physical connections between such SRX Secured Router on one side and a LAN or WAN network on the other side. They receive incoming packets and transmit outgoing packets. Therefore, such Mini-PIM are essential to achieve functionality of the underlying equipment. Considering the above, the Appellant submits that Mini-PIM merits classification under the Tariff Item 8517 7090 as parts of networking equipment, as opposed to classification as networking equipment of the Tariff Item 8517 6290 held vide the OIA.

3.4 The Learned Counsel further submits that the **Rack Mounting Kits for switch** ('RMK') in question are hardware kits of metals made for specified Juniper Switch which can be used for mounting of such Switch safely so as to configure and hold them for access and efficient operation. It is clarified that such kits are separately designed for each/compatible product. Since appropriate mounting is important for efficient and safe functioning of the equipment, the Appellant submits that RMK merits classification under CTH 8517 7090, as opposed to classification under CTH 8302 4900 as held by the Commissioner in the impugned order.

3.5. It is further submitted that the **"Full secured Routers"** in question are essentially fixed form equipment that consolidate routing, switching, security and next generation firewall capabilities into single device. This enables the core function of data packet forwarding along with value added security and firewall services. However, routing continues to be the core function of such devices since the security and firewall function is an additional value-added service which is performed as an additional step after routing of data. The classification of such secured 'Routers' under the Tariff Item 8517 6290 is undisputed. The Appellant submits that the same are eligible for full exemption from Basic Custom Duty (BCD) by virtue of Sl. No. 13N of the Notification No.24/2005-Cus. dated 01.03.2005 (as amended from time to time) providing exemption to

"Routers". It is submitted that the Hon'ble Supreme Court in the case of **Xerox India Limited vs. Commissioner of Customs, Mumbai [2010 (260) ELT 161 (SC)]**, while deciding the classification of a multifunctional printing machine, held that to determine classification of any multifunctional machine, it is necessary to *inter alia* look into the essential character test as provided in Rule 3(b) of the General Rules of Interpretation. Since core function of such equipments is routing, considering the essential character test as provided in Rule 3(b) of the General Rules of Interpretation (GRI), such equipment ought to be treated as routers.

4. The Learned Authorised Representative on behalf of the Revenue made the following submissions:

4.1. The averment of the appellant is that the product is router, and it should be eligible for benefit under Sl. No. 13N of Customs Notification No.24/2005-Cus dated 01.03.2005. As discussed in Para No.21.1 of the Order-in-Original, the models under import are of NFX Series and SRX Series. NFX series products are basically network services platform. As per description available on supplier's official website, the Juniper Networks NFX150 Network Services Platform is a secure, automated, software-driven customer premises equipment (CPE) platform that delivers virtualized network and security services on demand. The NFX150 architecture integrates routing, switching, and security functions on a single platform that optimizes the usage of system resources. NFX 150 models are available with or without LTE support. Similarly, the Juniper Networks NFX250 Network Services Platform integrates routing, switching, and security functions on a single platform, which allows provisioning secure, fast, custom service delivery on demand. Therefore, it is evident that NFX series products are not simple routers, but a Network Services Platforms which integrate routing, switching, and security functions on a single platform. Therefore, these products are not eligible for Notification benefits

under Sl. No. 13N of Notification No.24/2005-Cus dated 01.03.2005 which is only available for routers. Regarding SRX series products, as per supplier's official website, Supplier has described SRX series products as Services Gateways which have features like next-generation firewalls, secure SDWAN, etc. SRX series products viz. SRX 300, 320, 340, 345, and 380 are next generation firewall. These are high performance, secure SD-WAN gateway with superior and reliable WAN connectivity. It integrates security routing, switching for distributed enterprise offices in a single device. Remaining SRX products mentioned above viz. SRX 1500, 4100, 4200, and 4600 are high performance firewalls. From the above, it is evident that they are not mere routers as claimed by the importer but an integrated Services Gateway System, encompassing the features of routing and switching. Therefore, the SRX series products are not eligible for Notification benefits under Sl. No. 13N of Notification No. 024/2005 dated 01.03.2005 which is only available for routers.

4.2 Optical transceivers are network equipments which converts electrical signals to light signals and vice versa. It can either be plugged into or embedded into a network device that is capable of sending or receiving signal. The goods are imported as independent products to be used along with supplier's other network devices and are not part of any device. Appellant's argument that these are only part of networking equipments such as router, switch etc., appears to be untenable. As per their own submissions during adjudication proceedings, these optical transceivers are used in conjunction with multiple networking equipments such as router, switch etc. The item under discussion is an identifiable device having specific functions on its own to do in the whole networking system. The item appears to be a device or an assembly which can be further dis-assembled into parts. It is used along with many networking equipment's such as Router, Switch etc., and hence it does not fit into a definition for Part of a particular equipment or device as

claimed by the importer. In para 9.37 of DGFT policy, the word “part” is defined as an element of a sub-assembly or assembly not normally useful by itself, and not amenable to further disassembly for maintenance purposes. Since the subject device is a network device having specific function, it merits classification as apparatus under CTH 85176290. CESTAT Mumbai in Reliance Jio Infocomm case has decided the matter based on the decision of Commissioner (Appeals), Hyderabad as having been accepted by the department without delving much into the merits of the case. The Hon’ble Supreme Court has also dismissed the appeal accordingly but needs to be examined in detail based on the specifications.

4.3 Module Interface Cards which are in dispute have the model nos. MIC3-3D-10XGE-SFPP, MIC-3D-20GE-SFP, MIC-3D-20GESFP-E, MIC-3D-2XGE-XFP, MIC-3D-4XGE-XFP, MIC-MRATE. As per the information available in supplier’s website these are Modular Interface Cards (MICs) capable of providing physical connections to various network media types. MICs allow different physical interfaces to be supported on a single line card. MICs of different media types can be installed on the same router as long as router supports those MICs. MICs receive incoming packets from the network and transfer outgoing packets to the network and act as a network interface card. As per Explanatory Notes (II)(G) of heading 85.17 which includes other communication apparatus viz. network interface cards, modems, routers, bridges, hubs, repeaters and channel to channel adaptors, multiplexers etc., which allows for the connection to a wired or wireless communication network or the transmission or reception of speech or other sounds, images or other data within such a network, and thus are classifiable under 851762. As these Modular Interface Cards (MICs) are capable of providing physical connections to various network media types, subject goods are classifiable under 85176290. Since these interface cards are covered under other communication apparatus of subheading 8517.62, which provides for “Machines for the reception, conversion and transmission or regeneration of voice, images, or

other data, including switching and routing apparatus”, these cards may not be classified under “Parts” of Subheading 8517.70/8517.79. As these Modular Interface Cards (MICs) are capable of providing physical connections to various network media types, subject goods are classifiable under 85176290 and notification benefit under Sl. No. 20 of Notification No. 057/2017 dated 30.06.2017 is applicable.

4.4 A Mini-Physical Interface Module (Mini-PIM) is a network interface card (NIC) that is installed on the SRX Series Services Gateway to provide physical connections to a LAN or a WAN. The Mini-PM receives incoming packets from the network and transmits outgoing packets to the network. SRX-MP-LTE-AA, SRX-MP-LTE-AE: These products are LTE Mini-Physical interface Module (Mini-PIM) provides wireless WAN support on the SRX300 Series and SRX550 High Memory Service Gateways. This Mini-PIM contains an integrated modem and operates over 3G and 4G networks. It also supports up to two SIM cards and can be installed in any of the Mini-PIM slots on the services gateways. As per explanatory notes (II)(G) of Heading 85.17 which includes other communication apparatus viz. network interface cards, modems, routers, bridges, hubs, repeaters and channel to channel adaptors, multiplexers etc., which allows for the connection to a wired or wireless communication network or the transmission or reception of speech or other sounds, images or other data within such a network, and are classifiable under 851762. Since Mini-Physical Interface Module (Mini-PIM) is a network interface card (NIC) and these are included in other apparatus as per explanatory notes (II)(G) of heading 85.17, Mini-Physical Interface Module (Mini-PIM) merit classification under CTH 85176290.

4.5 Rack Mounting Kits for secured routers are basically Rack Mount Kit for PoE or non-PoE SRX service gateways with or without Power Supply Adapter Tray. These are basically rack mounting kit i.e., an accessory for installing SRX service gateways in a rack, and hence, these items cannot be considered

or categorized as part of secured router as claimed by the importer. It is pertinent to mention that as per General Rules for the Interpretation of the Harmonized System, Rule 1 says that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. Further Rule 3(a) says the heading which provides the most specific description shall be preferred to headings providing a more general description. As per section note 1(k) of Section XVI, articles of chapter 82 or chapter 83 are not covered in section XVI (chapter 84, 85). Hence, these goods do not qualify to be classifiable under CTH 8517 62 90 as originally assessed nor under CTH 8517 70 90/ 8517 79 90 as claimed by the importer. As tariff heading 8302 specifically covers base metal mounting kits, these goods appear to more appropriately classifiable under 83024900 and liable to duty applicable under the said CTH.

5. Heard both sides and perused the documents placed on record. The issues are twofold one is regarding classification and the other is regarding the eligibility of the benefit of the exemption notification No.24/2005 dated 01.03.2005 as shown in the table below.

Sl. No.	Product category for which Appeal is being filed	As upheld in the Impugned Order		As claimed by the Appellant		Amount of differential BCD+SWS (INR)
		Classification	Effective rate of BCD	Classification	Effective rate of BCD	
1	Transceiver	8517 6290	20%	8517 7090	Nil	2,00,92,869
2	Modular interface cards (MIC)	8517 6290	10%	8517 7090	Nil	6,43,692
3	Mini Physical Interface module (Parts of security)	8517 6290	20%/10 % merit rate	8517 7090	Nil	12,45,169
4	Full Secured Routers	8517 6290	10%	8517 6290	Nil	61,92,631*
5	Rack Mounting Kits for switch	8302 4900	Merit rate	8517 7090	Nil	61,021

*SI.No.13N of notification No.24/2005 dated 01.03.2005.

Let's examine each of these products:

5.1 Transceivers: The transceivers are optical transceivers which facilitate communication of networking equipment with other equipment in internal or external network through fiber optic cables and functions as part of a networking equipment and in conjunction with other parts of networking equipment. The Appellant's claim is that such transceivers merit classification under the CTH 8517 7090 as parts of networking equipment, as opposed to classification as networking equipment under CTH 8517 6290 as held by the Commissioner in the impugned order. As per the technical writeup, the items imported are transceiver are primarily Small Form Pluggable transceivers (SFP) to be used with various networking equipment. The classification of this product stands settled in the case of **Commissioner of Customs-Mumbai (Air Cargo Import) vs. Reliance Jio Infocomm Ltd. 2022 (8) TMI 76 - CESTAT Mumbai**, dated 29.07.2022, Where the Tribunal observed as follows:

"6. The original authority has held that the impugned goods cannot be treated as parts but instead are themselves machines. The appellant has explained that the product SFP is a standalone pluggable module which can be plugged into any computer or networking such as Ethernet switch, IP Routers etc and could act as connector providing interface between two domains i.e. electrical and optical; that it gives information about optical power levels and electrical supply parameters, but only when SFP is plugged into Ethernet switch which has the requisite software to report these values, The appellant have demonstrated that after SFP trans receiver is inserted into the Cisco switch which has lockable front doors, the doors are to be closed and the functioning of the apparatus can start only thereafter. Therefore, it is found that the SFP trans-receiver itself does not lead to operation of the switch. The original manufacturer of impugned goods i.e. Cisco, Netherlands vide their letter dated 03.08.2015 has clarified that all Cisco nexus switches consist of a chassis with designated slots for power supply module, fan module tray, supervisor modules, fabric modules and input/output (1/0) modules and that 1/0 module is one of the parts of Ethernet switch providing ethernet interfaces of 1/10/40/100 Gbps using Small Form Factor Pluggable

(SFP/SFP+/QSFP) to inter-connect switches, servers and routers in a data-center or campus network. It has also been stated that the 1/0 module cannot function on its own in a stand-alone mode because it lacks power (provided by the chassis), switching capability (provided by the fabric through the mid-plane) and the control plane for decision of switching/routing packets between ports (provided by the supervisor module). In view of the above technical details made available from the manufacturers of the impugned goods, it is evident that SFP is not equipment which on its own is capable of providing the essential function of transmission and reception of optical data. It is a part of 1/0 card module used as part of the ethernet switch providing Ethernet interfaces to inter-connect switches, servers and routers in a data center or campus network. The original authority has, however, concluded that as the SFP modules have Digital Optical Monitoring (DOM) capability to monitor realtime parameters of the module, such as optical output power, optical input power, temperature, laser bias current, transceiver supply voltage etc they are distinct equipment/machines having specific functions of transmission and reception of optical data. However, it has not been brought forth as to whether the SFP can independently handle the above functions without being attached to the Ethernet switch as explained by the appellant in the submissions in these proceedings. The manufacturer Le. Cisco themselves have clarified that SFPs along with 1/0 card module are the parts of Ethernet switch providing Ethernet interface to interconnect switches, servers and routers in a data-center or campus network. It is noted that the original authority vide para 14 of impugned order has held that SFP is a compact, hot-pluggable used for both telecommunication and data communication applications and that it interfaces a network device switch, router, media converter to a fiber optic or copper networking cable, thus accepting that SFP functions as part of a network and not otherwise. Therefore, taking into account the appellant's explanation and the clarification issued by the original manufacturer of the impugned goods who are reputed persons it is to be held that SFP is part of I/O card module of Ethernet switch apparatus which could function only when connected with Ethernet switch providing interface between two domains i.e. electrical and optical. As such, they are parts and are correctly classifiable under CTH 8517 7090 of the Customs Tariff. As regards the treatment of the impugned goods as OTN products by the original authority, I find that the original manufacturer Le. Cisco have categorically stated that the impugned goods are not OTN products and instead are interface and modules goods which is consistent

with the literature on their website. It is noted that the OTN products provide for functionality of transport, multiplexing, switching, management, supervision and survivability of optical channels carrying client signals, whereas as explained by the appellant and the original manufacturer, the impugned goods do not perform such functions. Therefore, I hold that the impugned goods i.e. SFPs are classifiable as being parts of telecom equipment i.e. Ethernet switch falling under CTH 8517 7090 and thereby are entitled to the benefit of Notification 24/2005-Cus dated 01.03.2005 as claimed by the appellant. Accordingly the order passed by original authority denying the benefit of exemption is also not correct and is liable to be set aside."

6. We also find that learned Commissioner (Appeals), Mumbai vide order dated 30.08.2018 found after discussing the relevant Chapter Heading of 8517 of Customs Tariff Act, 1975 as follows: -

"11. I find that the above information as available in the product catalogue published by the manufacturer supplier clearly suggests that all four items are parts of Alcatel Lucent 1830 Photonic Service Switch-32 (PSS-32) and therefore shall be classifiable as parts under 85177090 and 85177010. I also find that for other parts and cards imported in the same consignment the Deputy Commissioner of Customs has assessed the goods under heading 85177090 and 85177010 respectively. The Deputy Commissioner of Customs ought to have extended the same treatment to the impugned goods. Even in the catalogue goods have been shown as parts/spares with exact part numbers of PSS-32 and the appellant in its submission has given details where on invoice/packing list the impugned goods have been mentioned as parts with specific part number. I also find that goods have been subjected to 100% examination and the examinations report confirms all goods to be as per import invoice. It also endorses "card for DWDM". Besides, presently in terms of Customs Notification 24/2005 dated 01 03 2005 Sr. No. 13S goods of heading 85177010 and in terms of Customs Notification 57/2017 Sr. No. 5, goods of heading 35177090 are exempted from BCD unconditionally. All these details are sufficient to assume the legislative intension to exempt parts of Telecommunication Equipment which themselves are not machine and from BCD and therefore the action on the part of assessing officer to classify the

impugned goods i.e. "Parts" as "Other Machine" under CTH 85176290 cannot be held As legal and proper."

7. We also find that the department has not filed any appeal against the order passed by learned Commissioner (Appeals), Hyderabad and whereas no appeal has been filed against the order passed by Commissioner (Appeals), Mumbai. We find that it is not open that the Department to take a different stand on the same issue in Mumbai and Hyderabad. Such a differential classification of the impugned goods imported at different places would negate the very purpose of the Tariff Act on the one hand and would cause avoidable litigation for the importers on the other. We find that the findings given by the Id. Commissioner (Appeals) vide the order cited above are quite elaborate and reasoned which were followed by the learned Commissioner (Appeals), Mumbai in the impugned order. Therefore, we find that no case has been made out by the Department against the impugned orders and accordingly, we find that the impugned orders do not require any interference by this Bench."

5.2 The above decision of the Tribunal was upheld by the Supreme Court as reported at **2023 (2) TMI 1295 - SC** dated 27.02.2023 where in their Lordships observed as follows:

"1. Delay condoned.

2. Mr. Balbir Singh, learned Additional Solicitor General, would submit, after getting instructions, that the classification as has been done in the impugned order, has been accepted by the Department-Revenue (See order dated 25.01.2017 passed by Commissioner of Customs and Central Excise (Appeals), Hyderabad).

3. In view of the aforesaid fact, the civil appeals are dismissed.

4. Pending applications stand disposed of."

5.3 In view of the above, we confirm the classification of the 'transceivers' under Chapter Heading 8517 7090 as parts of network equipment.

6. With regard to '**Full secured Router**', the appellant accepts the classification under Chapter Heading 8517 6290 of the Customs Tariff Act, 1985. The only dispute is the eligibility of

the benefit of the Notification No.24/2005 (13N) as claimed by the appellant or Notification No.57/2017-Cus. dated 30.06.2017 as held by the Revenue.

Notification-Customs Customs -Tariff

Exemption to specified goods to Chapter 36, 84, 85 and 90 and all goods for the manufacture thereof-

[Notification No. 24/05-Customs] Dated 1.3.2005

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so lo do, hereby exempts the following goods of the description as specified in column (3) of the Table below and falling under the heading, sub-heading or tariff-item of the First Schedule to the Customs Tariff Act 1975 (51 of 1975) as specified in the corresponding entry in column (2) of the said Table, when imported into India, from the **whole of the duty of customs** leviable thereon under the said First Schedule, namely:-

Table

Sl. No.	Heading, sub-heading or tariff item	Description
1	2	3
1	3818 00	All goods
....		
¹⁰ [2	8443 31 00	All goods
⁶ [13N	8517 62 90	Routers]

Notification-Customs - Customs -Tariff

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

Notification No. 57/2017- Customs New Delhi, the 30th June, 2017

G.S.R. 798 (E). - In exercise of the powers conferred by sub-section (1) of Section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description as specified in column (3) of the Table below, as the case may be, and falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as are specified in the corresponding entry in column (2) of the said Table, when imported into

India, from so much of the duty of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the standard rate as specified in the corresponding entry in column (4) of the said Table subject to any of the conditions, as specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (5) of the said Table.

Table

Sl. No.	Chapter or Heading or Sub-heading or tariff item	Description of goods	Standard rate	Condition No.
(1)	(2)	(3)	(4)	(5)
1.	4016 99 90	The following goods for use in manufacture of cellular mobile phones, namely:- (i)Microphone Rubber Case (ii) Sensor Rubber Case/ Sealing Gasket including sealing gaskets/cases from Rubbers like SBR, EPDM, CR, CS, Silicone and all other individual rubbers or combination/combination of rubbers	⁶⁰ [10%]	1
⁶¹ [1A	Any Chapter	Inputs or parts for use in manufacture of goods mentioned at Sl. No. 1 above	Nil	1]
....			...	...
¹⁸ [20	8517 62 90 or 8517 69 90	All goods other than the following goods, namely:- Wrist wearable devices 64[(commonly known as smart watches) and other smart wearable devices including smart rings, shoulder bands, neck bands or ankle bands;] Optical transport equipment Combination of one or more of Packet Optical Transport Product or Switch (POTP of POTS); Optical Transport Network (OTN) products; IP Radios; Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers; Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS-TP) products;	10%	-]

		⁴⁶ [(h) Multiple Input/Multiple Output (MIMO) products; (i)Long Term Evolution (LTE) products]		
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6.1 Full secured routers as declared by the appellant are network services platform and as per the technical literature, these products integrate routing, switching and security functions on a single platform that optimizes the usage of system resources. The appellant admits the fact that the routing is clearly the essential function of the secured routers with additional features enhancing the quality and since, the essential function is routing and claims the benefit of the Notification meant for routers under Sl. No.13N of Notification No.24/2005 which is meant for routers. The Commissioner in the impugned order based on the technical writ-up filed by the appellant and based on the products described in their website observes that these routers are having multiple functionalities including routing and are used as network service platform as well as integrated services gateway system encompassing the features of routing and switching. Since these additional features are not being disputed by the appellant, they cannot be considered a simplicitor router. The essentiality function claimed by the appellant can only help them in classification of the product but not in extending the benefit of the notification. As the exemption claimed by the appellant is clearly meant for simplicity routers and not for “Full Secured Router” with multifunctional features, the benefit of the Notification cannot be extended under Notification No.24/2005 (Sl.No.13N).

7. **Modular Interface Cards** (MIC) as the name itself suggests that they are network interface cards capable of providing physical connections to various networks, media types (image shown below). The Commissioner in the impugned order had reproduced the technical literature based on the supplier’s website. The Modular Interface Cards (MICs) capable of providing physical connections to various network media types. MICs allow different physical interfaces to be supported on a

single line card. MICs of different media types and can be installed on the same router as long as router support these MICs. MICs receive incoming packets from the network and transfer outgoing packets to the network and act as a network interface card. These Characteristics of the MIC are not disputed by the appellant but relied on the decision in the case of **M/s. Vodafone Idea Limited vs. Principal Commissioner of Customs (Import)** (supra) to claim that this product is rightly classifiable under CTH 8517 7090 as parts and not as apparatus under CTH 8517 6290 as claimed by the revenue.



8. Similarly, the **Mini Physical interface module** (Mini PIM) is claimed to be part of secured router by the appellant and required to be classified under Chapter Heading 8517 7090. As per the appellant's supplier official website "a Mini Physical Interface Module (Mini-PIM) is a Network Interface Card (NIC) that is installed on the SRX series services gateway to provide physical connections to a LAN or a WAN. The Mini PIM receives incoming packets from the network and transmits outgoing packets to the network. These products are LTE Mini-Physical Interface Module provide wireless WAN support on the SRX300 series and SRX500 High memory service gateways. This Mini PIM contains an integrated modem and operates over 3G and 4G networks. It also supports up to two SIM cards and can be installed in any of the Mini PIM slots on the services gateways".

8.1 It is also observed that on the supplier's website, this product is mentioned "as Expansion Module supported on the NFX150-s1 & NFX150-s1E models. These are LTE modules

with support features like automatic switch overs between service providers through dual SIMS, multiple service provider and access point name (APN) profiles, LTE carrier aggregation, SIM security functions such as SIM lock, unlock and PIN change, and can be configured in three modes.” Thus, these features provide additional scope of benefits and is an expansion module which are independent of the NFX150 series of security products. It is also admitted that the security products otherwise are also functional on its own and these Mini PIM provide additional and enhanced security features.

8.2 It is to be examined as to how these products both Module Interface Cards (MIC) and Mini Physical Interface Module (Mini-PIM) stand classified in view of the technical literature as discussed above and taking into consideration the criteria for classification based on the Section Notes, Chapter Headings and the HSN Explanatory notes. The respective disputed chapter headings are reproduced below:

Tariff Item	Description of goods	Unit	Rate of Duty	
(1)	(2)	(3)	(4)	(5)
8517	- Telephone sets, including telephones for cellular networks or for other wireless networks; other 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), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528			
	- Telephone sets, including telephones for cellular networks or for other wireless networks:			
	- Line telephone sets with cordless handsets:			
8517 11	- Push button type			-
	- Other			-
8517 11 10	- Telephones for cellular networks or for other wireless	u	Free	
8517 11 90	networks:	u	Free	
8517 12	- Push button type			-
	- Other			-
8517 12 10	- Other:	u	10%	
8517 12 90	- Push button type	u	10%	-
8517 18	- Other			
8517 18 10	- Push button type	u	Free	-
8517 18 90	- Other apparatus for	u	Free	

	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):			
8517 61 00	- Base stations	u	10%	-
8517 62	- Machines for the reception, conversion and transmission or generation of voice, images or other data, including switching and routing apparatus:	u		-
	- PLCC equipment		Free	
8517 62 10	- Voice frequency telegraphy	u	Free	-
8517 62 20	- Modems (modulators-demodulators)	u	Free	-
8517 62 30	- High bit rate digital subscriber line system (HDSL)	u	Free	-
8517 62 40	- Digital loop carrier system (DLC)	u	Free	-
8517 62 50	- Synchronous digital hierarchy system (SDH)	u	Free	-
8517 62 60	- Multiplexers, statistical multiplexers	u	Free	-
8517 62 70	- Other	u	10%	-
8517 69	- Other:			
8517 69 10	- ISDN System	u	Free	-
8517 69 20	- ISDN terminal adaptor	u	Free	-
8517 69 30	- Routers	u	Free	-
8517 69 40	- X 25 Pads	u	Free	-
8517 69 50	- Subscriber end equipment			-
8517 69 60	- Set top boxes for gaining access to internet	u	Free	-
8517 69 70	- Attachments for telephones	u	10%	-
8517 69 90	- Other			-
8517 70	- Parts:			
8517 70 10	- Populated, loaded or stuffed printed circuit boards	u	Free	-
8517 70 90	- Other	kg	10%	-

8.3 The HSN Explanatory notes under chapter heading 8517 under **communication apparatus** reads as follows:

(G) **Other communication apparatus.**

This group includes apparatus which allows for the connection to a wired or wireless communication network or the transmission or reception of speech or other sounds, images or other data within such a network.

Communication networks include, inter alia, carrier-current line systems, digital-line systems and combinations thereof. They may be configured, for example, as public switched telephone networks, Local Area Networks (LAN), Metropolitan Area Networks (MAN) and Wide Area Networks (WAN), whether proprietary or open architecture.

This group includes:

- (1) Network interface cards (e.g., Ethernet interface cards).
- (2) Modems (combined modulators-demodulators).
- (3) Routers, bridges, hubs, repeaters and channel to channel adaptors.
- (4) Multiplexers and related line equipment (e.g., transmitters, receivers or electro-optical converters).
- (5) Codecs (data compressors/decompressors) which have the capability of transmission and reception of digital information.
- (6) Pulse to tone converters which convert pulse dialled signals to tone signals.

Section XVI subclause (2) of the Central Excise Tariff Act reads as:

"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, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529;
- (c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.

3. Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting

only of that component or as being that machine which performs the principal function.

4. Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

8.4 In view of the above, if the product is capable of contributing a clearly defined function even if it functions along with the individual components connected through electrical or other devices, it stands classified under appropriate heading depending upon its function. As seen from the Technical Literature, the products are Network Interface Cards. The Network Interface Card as per the various dictionary definitions as reproduced from the decision in the case of **M/s. Vodafone Idea Limited vs. Principal Commissioner of Customs (Import)** (supra) is defined as follows: *"Network Interface Cards' as a printed circuit board comprising electronic circuitry for the purpose of connecting a workstation to LAN. NIC usually is in the form of a card that fits into one of the expansion slots inside a PC. Alternatively, it can fit into a slot of a MAU (multi-station access unit), which serves multiple and attached devices such as workstations and printers. In the context of IEEE standards, NICs operate at the MAC (medium access control) layer. In the context of the OSI reference model, NICs is operated at Layer 1 (Physical Layer) and 2 (Data Link Layer). The basic job of the NIC is to take data from the transmitting workstation, form it into the specific packet format demanded by the LAN protocol you are running (e.g. Ethernet or Token ring), and present it to the shared medium (usually a cable). On the receiving end, the process is reversed, of course. Hard coded into the NIC at the time of manufacture is a MAC address, unique in all the world to that NIC card; the MAC address effectively identifies the LAN attached device with which it is associated. A NIC works with the network software and*

computer operating system to transmit and receive messages on the network.”

8.5 The Tribunal further held that *“Thus, Network Interface Card is effectively a translator which allows a computer to communicate with a network by translating the output of the computer into a format understandable by the network and vice versa. If a computer is not to be connected to a network, there is no need for NIC of computer to function. Computer is complete in itself and does its job of data processing without any need for NIC.”*

8.6 In the instant case, based on the description and the Technical Literature placed on record, it is clear that the said products are used in connecting the network equipments and can be used in any network equipment unlike in the case of Vodaphone where the line cards are used only for routers meant for M/s.CISCO. Since the product described above is nothing but a network interface card it is rightly classifiable under chapter heading 85176290.

8.7 The decision relied upon by the appellant was classifying the product “Router Line Cards” where the classification by the Revenue was under Customs Tariff Item 8517 69 90 of the Customs Tariff Act, 1962 instead of CTH 8517 7090 as claimed by the appellant. This decision is clearly distinguishable as observed by the Tribunal as follows:

“34. Router Line Cards are Populated PCBs as they are printed circuit boards mounted with various active and passive electronic elements. Therefore, these cards can be classified under CTI 8517 70 10, which covers ‘populated, loaded or stuffed printed circuit boards.’”

9. **Rack Mounting Kit** meant for secured router as explained in their technical literature are basically rack mounting kit for POE or non-POE SRX service gateways with or without power supply adapter tray. These are basic racks mounting kit is an accessory for installing SRX service gateways in a rack and hence, these items cannot be considered as part of a secured

router as claimed by the importer. The Rack Mounting Kit is an accessory for Ethernet switch and are associated with functioning of switch and thus, not part of a switch and since, the racks are specifically covered under Chapter Heading 8302 4900, the same are rightly classified under this Heading by the authorities. Moreover, as per Section Note 1(k) of Section XVI, Articles of Chapter 82 or Chapter 83 are not covered under Section XVI (84,85) as reproduced below:

Section XVI Machinery and Mechanical Appliances; Electrical Equipment; Parts Thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and Accessories of Such Articles Notes

1. This Section does not cover :

(a) transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 4010),
.....

(k) articles of Chapter 82 or 83;

10. In view of the above discussions, based on the technical literature of the products and the decisions discussed thereon, we find that the product 'Transceivers' are rightly classifiable under Chapter Heading 8517 7090 as 'parts of networking equipments' as claimed by the appellant. The 'Modular Interface Cards' (MIC) and 'Mini Physical Interface Modules' (Mini-PIM) are classified under Chapter Heading 8517 6290 as they are functional as Network Interface Cards (NIC) as seen from their Technical Literature. For the 'Full Secured Routers', the benefit of the Notification No.24/2005 dated 01.03.2005 is denied on the reason that admittedly they are not simplicitor routers but multifunctional routers.

Finally, the 'Rack Mounting Kits' which are used for mounting the switches are specifically covered under Chapter 83 and excluded under Chapters 84 and 85, hence, rightly classified under Chapter Heading 8302 4900.

11. In view of the above, the impugned order is disposed of on above terms.

(Order pronounced in Open Court on 20.12.2024.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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