

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

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20575 of 2018

(Arising out of Order-in-Appeal No. 50/2018 dated 18.01.2018
passed by the Commissioner of Customs (Appeals), Bangalore.)

Commissioner of Customs,
Airport and ACC Commissionerate,
Devanahalli,
Bengaluru – 560 071.

Appellant(s)

VERSUS

M/s. Wipro GE Healthcare,
No. 4, Kadugodi Industrial Area,
Bangalore – 560 067.

Respondent(s)

APPEARANCE:

Mr. Maneesh Akhouri, Assistant Commissioner (AR) for the Appellant.

Mr. B.V. Kumar, Advocate for the Respondent.

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

Final Order No. 21632 /2024

DATE OF HEARING: 17.12.2024

DATE OF DECISION: 17.12.2024

PER : R BHAGYA DEVI

This appeal is filed by the Revenue against the impugned order Order-in-Appeal No. 50/2018 dated 18.01.2018.

2. The respondent M/s. Wipro GE Healthcare had imported Keyboard, PSB Board and 12" LCD Panel with LED backlight. The Original Authority classified the Keyboard under CTH 8471 6040 and PSB Board under CTH 8537 1000 denying the benefit of Notification No. 12/2012 (Sl. No. 309 (i)) dated 17.03.2012. The

12" LCD Panel with LED backlight was classified under CTH 8528 5900 denying the benefit of the Notification No. 69/2004 dated 09.07.2004. The respondent had filed an appeal against the above order before the Commissioner (Appeals), who set aside the above order re-classifying the products Keyboard, PSB Board under CTH 9018 1290 and 12" LCD Panel with LED backlight under CTH 9013 8010 of the Customs Tariff Act, 1975 as declared and claimed by the respondent. Aggrieved by this order, Revenue is in appeal.

3. The Learned Authorized Representative reiterating the findings of the Original Authority submitted that the Keyboard is rightly classifiable under CTH 8471 in view of the Chapter Note 6 clauses B & C as reproduced below:

"(B) Automatic data processing machines may be in the form of systems consisting of a variable number of separate units.

(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".

3.1. It is also submitted that the write-up on the PSB Board states that it distributes high voltage required for the ultrasound probes and received echoes, which is rightly classified under CTH 8537 1000. With regard to LCD it is submitted that these LCD with LED backlight are classifiable as monitors under CTH 8528 5900.

4. Countering the above arguments, the learned counsel for the respondent submitted that the impugned product 56 KB A N Keyboard with IR RSPL Kit can only be used along with an Ultrasonic Equipment used as a Diagnostic Apparatus for examination of internal organs of a human body, hence unlike the common keyboard which is used with the ADC, the functions of this particular keyboard is only meant for medical purpose, hence, rightly classifiable under CTH 9018 1290. It is also stated that PSB Board is a link between the Probe and the Ultrasound Scanner, which is specially designed to function with the Probe and the Scanner, hence, classifiable under CTH 9018 1290. With regard to LCD and LED backlight, it is stated that this is a part of a monitor which not only has an illuminated display screen but also contains electronics to receive the signals from the Probe and Display on the monitor, hence classifiable under CTH 9013 8010, which has also been upheld by the Tribunal in the case of **Samsung India Electronics Pvt. Ltd. Vs. CC (AIR), Chennai 2016 (337) ELT 87 (Tri. Chennai)** which is upheld by the Hon’ble Supreme Court in **Commissioner Vs. Samsung India Electronics Pvt. Ltd. 2017 (345) ELT A 181(S.C.)**.

5. Heard both sides. The core issue to be decided is with regard to classification and benefit of the exemption Notification. For ease of reference, the respective Chapter Headings of the 3 products are reproduced below:

Sl. No.	Description	Chapter Heading (Revenue)	Chapter Heading (Respondent)	Exemption Notification
1.	Keyboard	8471 6040	9018 1290	No. 12/2012 (Sl. No. 309 (i)) dated 17.03.2012
2.	PSB Board	8537 1000	9018 1290	
3.	12" LCD with LED backlight	8528 5900	9013 8010	No. 69/2004 dated 09.07.2004

Chapter 8471 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

8471 60 40 --- Keyboard

9018: Instruments and Appliances used in Medical, Surgical, Dental or Veterinary Sciences, including Scientigraphic Apparatus, other Electromedical Apparatus and Sight-Testing Instruments:

Electro-diagnostic apparatus (including apparatus for functional exploratory examinations or for checking physiological parameters)

9018 11 00 -- Electro-cardiographs u 10%

9018 12 -- Ultrasonic scanning apparatus

9018 12 10 --- Linear ultrasound scanner u 10%

9018 12 90 --- Other

5.1 The Keyboard imported by the appellant (56 KB AN) is used along with Diagnostic Apparatus for medical purposes to scan the internal organs of human body such as spleen, liver, kidneys etc., is not in dispute. The keyboard which has specific mention under CTH 8471 is a normal keyboard meant for being used along with a computer or an Automatic Data Processing Machine. The corresponding chapter headings reproduced above clearly show that the appliances used for medical purposes cannot be classified under CTH 8471 but is rightly classifiable under CTH 9018 1290 in view of the fact that it is specially designed keyboard which can exclusively function with an Ultrasound Scanner. The Commissioner (Appeals) reliance on the detailed technical literature on the keyboard has not been disputed by the Revenue, hence, the question of classification also cannot be disputed.

Chapter 8537: Boards, Panels, Consoles, Desks, Cabinets and other Bases, Equipped with two or more Apparatus of Heading 8535 or 8536, for Electric Control or the Distribution of 8537 1000 Electricity, including those incorporating Instruments or Apparatus of Chapter 90, and Numerical Control Apparatus, other than Switching Apparatus of Heading 8517

8537 - for a Voltage not exceeding 1,000 V

5.2 Similarly, with regard to PSB Board, Revenue's claim is only that since it distributes voltages, it needs to be covered under CTH 8537, which is meant for Electrical Equipments as seen from the description of the production. However, as rightly observed by the Commissioner (Appeals), the PSB Board is not a simpliciter electronic equipment but it is link between the probe and ultrasound scanner, which is specifically designed to obtain the diagnostic data and to monitor the data. Therefore, since the function of the PSB is basically that of a medical apparatus, the same is classified under CTH 9018 1290 which is meant for medical diagnostic apparatus.

Chapter 8528: Monitors and Projectors, not Incorporating Television Reception Apparatus, Reception Apparatus for Television, whether or not Incorporating Radio-Broadcast receivers or Sound or Video Recording or Reproducing Apparatus - Cathode-ray tube monitors:

8528 4200 -- Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471

8528 49 00 -- Other

9013 - Lasers, other than Laser Diodes; other Optical Appliances and Instruments, not Specified or Included Elsewhere in this chapter

9012 10 - Telescopic sights for fitting to arms; periscopes; telescopes designed to form parts of machines, appliances, instruments or apparatus of this Chapter or Section XVI

9013 10 10 --- Telescopic sights for fitting to arms

9013 10 20 --- Periscopes

9013 10 90 --- Other

9013 20 00 - Lasers, other than laser diodes

9013 80 00 - Other devices, appliances and instruments

9013 90 00 - Parts and accessories

5.3 The LCD monitor is also used for medical purpose specifically covered under CTH 9013 8010, while the claim of the Revenue is that LCD is classifiable under CTH 8528 is ruled-out because the Chapter Heading 8528 covers only Television, apparatus and not the monitors which are meant for medical purposes. Moreover, the classification of LCD is settled in view of the decision rendered by the Hon'ble Supreme court in the case **Commissioner of Central Excise, Aurangabad Versus Videocon Industries LTD. 2023 (384) E.L.T. 628 (S.C.)** wherein it was observed as follows:

"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.

18. It was sought to be argued by Ms. Kiran Suri that as per Note 2(b), when these LCDs are used solely for particular instrument, namely, electricity supply meter, it has to be classified with the said meter and, therefore, Chapter Entry 9028 would get attracted. However, this argument loses sight of the fact that Note 2(b) relates to "other parts and accessories", namely, it would apply to those parts and accessories for which Note 2(a) is inapplicable. Once we find that in the present case Note 2(a) squarely applies, the irresistible conclusion is that the goods will be classified in Tariff Item 9013, which is the specific heading for these goods."

29. In view of the above decisions and the foregoing reasoning, the CESTAT's reasoning and conclusions, in both cases, that the LCD sets were under Chapter 90, Entry 9013.8010, is sound and unexceptionable".

6. In view of the above, impugned order is upheld and the Revenue's appeal is dismissed.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

iv