

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

REGIONAL BENCH - COURT NO. 2

Central Excise Appeal No. 20156 of 2022

(Arising out of Order-in-Appeal No. 179&180/2020-21-CT dated 04.03.2021 passed by the Additional Commissioner of Central Tax (Appeals – II), Bangalore.)

M/s. Manvish E-Tech Pvt. Ltd.

No. 12, Administration Building,
Sri Siddaganga School,
Raghuvanahalli, Kanakapura,
Bengaluru – 560 109.

.....**Appellant(s)**

VERSUS

The Commissioner of Central Tax,

North Commissionerate, HMT Bhavan,
Ganganagar,
Bangalore – 560 034.

.....**Respondent(s)**

APPEARANCE:

Mr. B.G. Chidananda Urs, Advocate for the Appellant.

Mr. Vinod Kumar Garhwal, Superintendent (AR) for the Respondent.

Coram:

Hon'ble Mr. P.A. Augustian, Member (Judicial)

Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order No. 20225/2026

Date of Hearing: 28.08.2025

Date of Decision: 27.02.2026

PER: P.A. AUGUSTIAN

This appeal is filed against Order-in-Appeal No. 179&180/2021-21-CT dated 04.03.2021 passed by the Commissioner of Central Tax (Appeals - II), Bangalore.

2. The issue in the present appeal is classification of the product and the excise duty liability on the appellant. Alleging that the Appellant had developed, manufactured and cleared sophisticated

hi-tech products such as time attendance and access control devices and handheld data collection devices without payment of duty under the brand name of "MiFaun" investigation was commenced and Adjudication Authority as per order dated 14.02.2019 held that the appellant is manufacturing such goods and confirmed the demand for the period from 2015-16 to 2016-17 with interest and also imposed penalty under various provisions of law. Aggrieved by said order, an appeal was filed before the Commissioner (Appeals) and Commissioner (Appeals) as per the impugned order rejected the appeal. Aggrieved by said order, present appeal is filed.

3. When the appeal came up for hearing, Learned Counsel for the appellant draws our attention to the show cause notice and submits that during investigation, statements were recorded regarding all the products. The products are manufactured and brought to appellants for distribution to customers subject to alterations and modifications. The product imported by the appellant is fully assembled tablets to which the fingerprint biometric sensors have been attached to USB port by them and then distributed to the customers. Further it is stated that the appellant has no manufacturing facility on their own. In respect of handheld device, the appellant had procured / imported the necessary raw materials components including PCB's etc., and supplied to M/s. Vinyas, Mysore for soldering and manufacturing. Appellant is only loading firmware on to the devices. Learned Counsel also draws our attention to the Job Work Invoice Cum Delivery Challan issued by the M/s. Vinyas Innovative Technologies Pvt. Ltd., and by considering the activity as falling under service tax, they have paid service tax @12%. Considering the facts and circumstances of the case, the activity carried by the appellant does not amount to manufacture and even if it is considered as manufacture, it is carried out by the job worker and demand can be made only on job worker M/s. Vinyas, Mysore for soldering and manufacturing. However, they have paid service tax on such activities by considering that such activities are falling under service. Learned Counsel further submits that the issue is not more *res integra* and relied on the following decisions:-

- i. Superintendent of Central Excise and others Vs. VAC Met Corpn. Pvt. Ltd. - 1985 (22) ELT 330 (SC)***
- ii. Collector of Customs Vs. Bhor Industries - 1988 (35) ELT 346 (SC)***
- iii. SPA Computers Ltd. Vs. Commissioner of C. Ex., Bangalore - 1999 (110) ELT 689 (Tribunal)***
- iv. Gestetner (India) Ltd. Vs. Commissioner of Customs, Mumbai - 2006 (197) E.L.T 498 (Tri. - Mumbai.)***
- v. Essae Teyaoka Ltd. Vs. Commissioner of Customs, Bangalore - 2001 (130) E.L.T 831 (Tri. - Bang.)***
- vi. Xerox India Ltd. Vs. Commissioner of Customs, Mumbai - 2010 (260) ELT 161 (SC)***
- vii. Caprihans India Ltd. Vs. Commissioner of Central Excise - 2017 (51) STR 239 (SC)***

4. As regards classification, Learned Counsel also draws our attention to Chapter 85 and invoice issued by the Appellant which clearly shows description as "MiFaun" Handheld Computer Model: Mi004". Thus, the goods are classifiable as data processing machine falling under Central Excise Tariff Heading (CETH) 8471. The alleged classification adopted to demand duty under Central Excise Tariff Heading (CETH) 85437099 is not supported by the nature of goods sold by the Appellant. The Central Excise Tariff Heading (CETH) 85437099 reads as "ELECTRIC MACHINES AND APPARATUS HAVING INDIVIDUAL FUNCTIONS, NOT SPECIFIED OR INCLUDED ELSEWHERE IN THIS CHAPTER" which is construed as a residual entry for Electrical Machines and not computer. Learned Counsel further draws our attention to various Bills of Entries (B/E) including B/E No. 3885881 dated 12.01.2016 where the goods while importing were described as tablet devices under HSN Code 84713090. Learned Counsel further submits that as per the impugned order also it is held that:-

"The study of the above features shows that the devices are designed for a specific functionality relating to data collection/ access control device. The goods are clearly shown to have been designed for data capturing, computing, memory, time tracking, security and payroll management, etc. The assessee had

specifically designed device for the above specific purposes. Hence the impugned goods will necessarily go out of the scope of CTH 8471 30 90. For an item to be classified under CETH 8471 30 90, it should be an automatic data processing machine, which is portable and weighing less than 10 kgs. I find that on analyzing the scope and performance of the impugned **goods** that the said equipment was unique and ideal for collection of data/time tracking. In view of the specialized and specific nature of the goods, the same cannot be classified merely as an automatic data processing machine or as computer peripherals. Reliance is placed on Note 5(E) of Chapter 84 which defines what goods would not fall under automatic data processing machines and Chapter Note 7 to show that machines that have specific functions or purposes other than data processing would fall to be classified under heading appropriate to their respective functions or under their residual headings”.

5. Learned Counsel also draws our attention to the Chapter Note of Chapter 84(5)(B), where it is specifically mentioned that Automatic data processing machines may be in the form of systems consisting of a variable number of separate units and further as per clause 84(5) (C), separately presented units of an automated data processing machine are to be classified in heading 8471. Thus, even if is considered as manufactured by the Appellant, the demand confirmed under Customs Tariff Heading (CTH) 85437099 is unsustainable since it can be considered only as falling under Customs Tariff Heading (CTH) Customs Tariff Heading (CTH) 8471 as imported by the appellant.

6. Learned Authorized Representative (AR) for the Revenue reiterated the findings in the impugned order and submits that the appellant was manufacturing unique products with unique brand name and literature on their specific brand is /was in public domain and very much discussed in the impugned order. Thus, the demand is sustainable. Learned AR further submits that as held by the Adjudication Authority that on the receipt Populated Printed Circuit

Boards (PPCBs), the employees of the appellant flashed the firmware into it and the PPCBs were tested for functionality of the products. The casing / covering was fastened to the PPCBs and an external sticker "Mifaun™" was affixed onto it. The products were packed and dispatched to the customers. Further the design and the specifications of the products were developed by the appellant and only some part of the products were assembled or manufactured by indigenous Units or the overseas companies as per the specification supplied by the appellant. As regards Tablet Biometric Devices, the products were not attached with fingerprint biometric sensor module and after import the appellant connected to the biometric sensor module, flashed the firmware, packed the product and then the same was dispatched to the customers. Thus, the activity carried out by the appellant amounts to manufacture. Further as regards classification, Learned AR submits that Adjudication Authority categorically finds that as per the Chapter Note 5 (E) of the Chapter 84 and Chapter Note 7 which defines what good would not fall under automatic data processing machine and will be classified under heading appropriate to their respective function or under residual headings and specific function of data collection is different from data processing.

7. Heard both sides and perused the records.

8. As regards manufacture of the goods, the appellant had imported tablets and accessories and were supplied to M/s. Vinyas, Mysore / Vinyas Innovative Technologies Pvt. Ltd. Once they have paid service tax for the activity carried out by them by considering it as service, no finding can be made that the very same activity amounts to manufacture at appellant end and even if it is held that it amounts to manufacturer, job workers are liable to pay excise duty as applicable. Further as regarding classification also, we find that the Adjudication Authority confirmed the demand by classifying the good as falling under Central Excise Tariff Heading (CETH) 85437099 and the Heading 85437099 reads as "ELECTRIC MACHINES AND APPARATUS HAVING INDIVIDUAL FUNCTIONS, NOT SPECIFIED OR INCLUDED ELSEWHERE IN THIS CHAPTER". However, while importing goods are described as

tablet devices under HSN Code 84713090 and even as per the impugned order that the study of the above features shows that the devices are designed for a specific functionality relating to data collection / access control device. The goods are clearly shown to have been designed for data capturing, computing, memory, time tracking, security and payroll management. As regards classification, Hon'ble Supreme Court in the matter of **CC Vs. Bhor Industries., 1988(35) ELT 346(SC)** held that handheld computer sold by the Appellant is therefore not understood in the market as "electrical machines and apparatus". The demand of excise duty under Central Excise Tariff Heading (CETH) 85437099 is therefore impermissible on all canons of statutory interpretation. As per the decision of the Hon'ble Tribunal in the case of **SPA Computers Ltd Vs. CCE., reported in 1999(110) ELT689(T)** it is held that when the controller is used as an adjunct to computer it has to be classified under chapter heading 8471 of the Central Excise Tariff Act, 1985. Further as per the decision of the Hon'ble Tribunal in the case of **Gestener (India) Ltd Vs. Commissioner., 2006(197) ELT 498 (T)**, multi-function digital printers are also classifiable under heading 8471.60 of the Customs Tariff Act, 1975. Similarly, as per the decision of the Jurisdictional Tribunal in the case of **Essae Teyaoka Ltd Vs. Commissioner., 2001(130) ELT 831(T)**, scanner which is portable in nature being hand held could be attached to the terminal and also has a small keyboard, data can be collected either by use of keyboard or by scanning bar codes as an input unit which is to be attached to data processing system namely the personal computer and therefore in view of section note, explanatory notes and the specific description, it is classifiable under Chapter sub-heading 8471.60. Further as per the judgment of Hon'ble Supreme Court in the case of **Xerox India Ltd Vs. Commissioner., reported in 2010 (260) ELT 161(SC)**, printers as part of the computer input unit are classifiable under Customs Tariff heading (CTH) 8471.60.

9. In the instant case the classification that has to be determined is that of the computer unit with scanner and software that was integrated for the working of the computer system and therefore the goods presented by the Appellant has to be classified under Central

Excise Tariff Heading (CETH) 8471 and not under Central Excise Tariff Heading (CETH) 85437099 and there cannot be any other alternative classification permissible under the provisions of the Act. In view of the above discussion the impugned order is liable to be set aside. Further the Appellant contended that the proceedings cannot go beyond the show cause notice. Appellant places reliance on the decision of the Hon'ble Supreme Court in the case of **Caprihans India Ltd Vs. Commissioner., [2017 (51) STR 239(SC)]** and due to demand of excise duty under wrong classification also, the demand is unsustainable.

10. Accordingly, the impugned order is set aside, and the Appeal is allowed with consequential relief, if any, in accordance with law.

(Order was pronounced in Open Court on 27.02.2026)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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