

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. III

Customs Appeal No. 41492 of 2019

(Arising out of Order-in-Original No. 69247/2019 dated 29.05.2019 passed by Commissioner of Customs, Custom House, No. 60, Rajaji Salai, Chennai – 600 001)

M/s. Monotech Systems Limited

...Appellant

3rd Floor, City Centre,
No. 66, Thirumalai Pillai Road,
T. Nagar,
Chennai - 600 017.

Versus

Commissioner of Customs

...Respondent

Import Commissionerate,
Custom House,
No. 60, Rajaji Salai,
Chennai – 600 001.

And

Customs Appeal No. 41595 of 2019

(Arising out of Order-in-Original No. 69247/2019 dated 29.05.2019 passed by Commissioner of Customs, Custom House, No. 60, Rajaji Salai, Chennai – 600 001)

Commissioner of Customs

...Respondent

Import Commissionerate,
Custom House,
No. 60, Rajaji Salai,
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Versus

M/s. Monotech Systems Limited

...Appellant

3rd Floor, City Centre,
No. 66, Thirumalai Pillai Road,
T. Nagar,
Chennai - 600 017.

APPEARANCE:

For the Assessee : Shri S. Murugappan, Advocate
For the Revenue : Shri N. Satyanarayanan, Authorised Representative

CORAM:

HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER Nos. 40423-40424 / 2024

DATE of HEARING: 14.11.2023
DATE of DECISION: 18.04.2024

Order :- [Per Mr. VASA SESHAGIRI RAO]

Customs Appeal No. C/41492/2019 has been filed by M/s. Monotech Systems Ltd., Chennai assailing the Order-in-Original No. 69247/2019 dated 29.05.2019 issued by the Commissioner of Customs, Chennai-II rejecting the classification of SCODIX Ultra Pro Inkjet Printer, Ultra RIP & Barcode and SCODIX Ultra Foil Unit under Customs Tariff Headings 8443 3250, 8523 8020 and 8433 3250 respectively and thereby denying the benefit of duty exemption claimed by the importer under Customs Notifications No. 24/2005 dated 01.03.2005 and 50/2017 dated 30.06.2017, while confirming the differential duty demand of Rs.21,78,440/- and Rs.59,40,927/- under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA, besides, holding the subject imported goods valued at Rs.2,38,98,200/- and Rs.6,51,73,904/- liable for confiscation under Section 111(m) of ACT *ibid* and imposing a penalty equal to the duty confirmed under Section 114A of ACT *ibid*.

1.2 Customs Appeal No. C/41595/2019 has been filed by the Commissioner of Customs, Chennai-II against the said impugned order for non-imposition of redemption fine on offending imported goods which were already cleared and being not available.

1.3 As both the appeals arise against the same impugned order, both these appeals are being taken up together for disposal by this common order.

2. The brief facts of the case are as detailed below:-

2.1 Investigation was initiated by the Department into imports of (i) SCODIX Ultra Pro Inkjet Printer (Part No. SCO-1300-96) and (ii) Ultra RIP & Barcode (Part No. SCO-1300-42) under cover of Bill of Entry No. 4234370 dated 02.02.2017 with a declared value of Rs.2,38,98,200/-, by the Appellant, which were self-assessed under CTH 8443 3250 and 8523 8020 respectively with a claim for duty exemption under Notification Nos. 24/2005-Cus (Sl.No. 2 E) and 50/2017-Cus (Sl.No.298).

2.2 As per the examination report, the printing machine was imported in semi-knocked down (SKD)/ Dis-assembled condition in three parts viz., (i) SCODIX S-1541 Ultra Engine Assembly 3120 (ii) SCODIX S-1541 Ultra UV Assy 3120 and (iii) SCODIX S-1541 Ultra Loading System plus Stacker Assembly 3120. Along with the above, One Automatic Data Processing Machine (ADP) and Monitor were found available and were to be integrated into the Printing Machine as components of the Printing Machinery. The ADP Machine imported along with main machine was seen to have been embedded with the Scodix Machine Operating Software. The Operator Manual of the supplier furnished by the Appellant reported that the item was actually SCODIX Ultra Pro Digital Enhancement Press. However,

during the physical examination, it was noticed that no software was physically available in any form.

2.3 Upon further investigation conducted by the Department, it appeared that the item imported was "Digital Enhancement Press" and the ADP Machine is named as "Press Computer" and was installed inside the electrical cabinet of the press as an inbuilt component. Further examination was conducted by the independent Chartered Engineers who reported that the ADP machine inbuilt in the engine assembly drew power from the main machine and not from external source; that it performs a variety of functions from the initiation of apparatus while switching on power, overall management, preview of information about job, status of print, machine state control, management of printing ink tank control, etc.

2.4 Referring to Paragraph 3.4 of the CBEC Circular No. 11/2008-Cus dated 01.07.2008 on classification of large format printer, it was pointed out that large format inkjet printers were classifiable under Chapter Heading No. 844332 which do not have an inbuilt ADP machine and cannot do any processing by themselves and do not have any independent functions without the use of a computer. In the instant case, the Digital Enhancement Press has inbuilt ADP machine embedded with machine operating software and all the printing processes from start-up to printing job upto shutting down of system were operated through the inbuilt ADP machine supplied along with the printing machine.

2.5 The declared software items Ultra viz., RIP, Bar Code, etc. were found to be embedded/ loaded in the internal ADP machine and were not available separately in any physical form according to the examination report and these were part of the main machine and these software were used for various functions such as conversions, etc. and they form an essential part without which the machine cannot function and hence they need to be classified along with the printing machine and not as IT Software separately.

2.6 In view of the above, the Department was of the view that the Appellant had resorted to mis-declaration by inappropriate classification of the subject imports and had wrongly claimed benefit of Customs Notifications. Therefore, the Show Cause Notice No.78/2018 dated 20.12.2018 was issued to the Appellant proposing to: -

- i. reject the declared classification of (i) SCODIX Ultra Pro Inkjet Printer and (ii) Ultra RIP & Barcode under Chapter Heading Nos. 84433250 and 85238020 and re-classify the same under CTH 84433910 and thereby deny the benefit of Customs Notification Nos. 24/2005-Cus and 50/2017-Cus.
- ii. demand differential duty of Rs.21,78,440/- and Rs.59,40,927/- under Section 28(4) along with interest under Section 28AA of ACT *ibid* in respect of live and past consignments respectively.
- iii. confiscate the imported goods valued at Rs.2,38,98,200/- and Rs.6,51,73,904/- in respect of Live/Past Consignments under Section 111(m) of the ACT *ibid* and to
- iv. impose penalty under Section 112(a)/114A of ACT *ibid*.

2.7 After due process of law, the Adjudicating Authority *vide* Order-in-Original No. 69247/2019 dated 29.05.2019 confirmed all the proposals put forth in the Show Cause Notice and imposed a penalty equal to duty confirmed under Section 114A of the ACT *ibid* and appropriated amounts already deposited by the Appellant, after observing as follows:-

- i. Inkjet Printers of CTH 8443 3250 and inkjet printing machines under 8443 3910 are different and the tariff does not equate the two even in broader scope. The imported equipment performed more than just inkjet printing because of its features like digital enhancement and it does not just print the data received from the external ADP machine without effecting a change.
- ii. The imported item in as much is having an ADP machine and monitor which are individually separate items inbuilt in it, along with printing facility should be called as a Machine and more specifically inkjet machine to be in line with the Section Notes 4 to Section XVI and it cannot be treated as an inkjet printer simplicitor.
- iii. The capability for connecting to ADP/ Network is required for inkjet printers only and not for inkjet machines. The inkjet printing machine falls under the double dash heading 844339 as "other". Only the sub-headings 844331 and 844332 require the capability of connection with an ADP/ network.
- iv. The data as received from the external ADP get transmitted only to the inbuilt ADP which would in turn make changes to the data and then sends it for printing. Thus the data received from the external ADP is not printed as such and therefore the printer cannot be treated as a

mere output device for the external ADP. The Scodix Ultra Foil Unit bears the same part number SCO 1300 and therefore an accessory of the printing machine and merits classification along with the machine.

- v. The imported machine comes with a CPU which is embedded with 3 softwares such as Machine Operating Software, RIP Software and Barcode Software and are essential parts of the machine and these together with the main machine constitute the printing apparatus performing the function of digital printing using inkjet printing technology. Since the Software is embedded in to the ADP machine, it forms an integral part of the printing machine and to be classified along with the machine.
- vi. The importer had split the value into two components *viz.*, Hardware and Software and classified them under different Tariff Headings to avail duty exemption, though the software is embedded in to the ADP which is an integral part of the machine as they have not been imported separately.

3. Aggrieved by the impugned order, the Appellant filed the present appeal before this Forum.

4. The main grounds of appeal filed by the Appellant are as detailed below:-

- i. By providing the classifications from CTH 844332 to 844339 along with sub-headings at eight digit level as reproduced below, it was averred that there are only two types of equipment at six-digit level

viz., 8443 32 and 8443 39 and accordingly if a machine meets the requirement of the description 8443 32, then absolutely there is no basis, whatsoever to skip at six digit level classification and jump to the residuary heading at the same six digit level 8443 39.

Chapter 84 Machinery and mechanical appliances

8443 32	--	<i>Other, capable of connecting to an automatic data processing machine or to a network:</i>		
8443 32 10	---	Line printer	u	Free
8443 32 20	---	Dot matrix printer	u	Free
8443 32 30	---	Letter quality daisy wheel printer	u	Free
8443 32 40	---	Laser jet printer	u	Free
8443 32 50	---	Ink jet printer	u	Free
8443 32 60	---	Facsimile machine	u	Free
8443 32 90	---	Other	u	Free
8443 39	--	<i>Other:</i>		
8443 39 10	---	Ink-jet printing machine	u	7.5%
8443 39 20	---	Electrostatic photocopying apparatus operated by reproducing the original image directly onto the copy (direct process)	u	7.5%
8443 39 30	---	Electrostatic photocopying apparatus operated by reproducing the original image via and intermediate onto the copy (indirect process)	u	7.5%
8443 39 40	---	Other photocopying apparatus incorporating an optical system	u	7.5%
8443 39 50	---	Other photocopying apparatus of contact type	u	7.5%
8443 39 60	---	Thermo-copying apparatus	u	7.5%
8443 39 70	---	Facsimile machine not capable of getting connected to automatic data processing machine	u	7.5%
8443 39 90	---	Other	u	7.5%

- ii. It was contested that by applying the interpretative rules to the tariff, only if classification under 8443 32 is ruled out for an inkjet printer, as per the terms of that heading / sub-heading, then the inkjet printer appearing under 8443 3910 could be considered as an alternate classification under residuary heading 8443 39 which meant that once an inkjet printer is capable of connecting to an ADP machine or to a network, it cannot go out of 8443 32 at six-digit level

and it will be inappropriate to choose 8443 39 which is only applicable to "Others" in the relevant classification.

- iii. It was submitted that relying on the explanatory notes, the ink jet printer appearing at three dash level with eight digit code below two dash level of equipment capable of connecting to an ADP machine with six digit level, heading under 8443 32 will be the only appropriate classification.
- iv. It was pointed out that features like digital enhancement are totally irrelevant for determination of classification of subject imports as the equipment does not cease to be an inkjet printer by the presence of these features as the components imported in disassembled form will get assembled into one identifiable printer which performs a clearly defined function by using the inkjet printing technology.
- v. The finding in the impugned order dated 29.05.2019 was contested by submitting that the printer with in-built ADP machine cannot create or print any job unless the data is fed from an external ADP device in PDF form; that without connecting to an external ADP machine and without receiving external data for printing, the printer was a dumb device.
- vi. It was submitted that the observations to "interlink" and "connectivity" in Para 26 of the impugned order, was flawed as the print job has to be provided to the ink jet printer through LAN/ network connection from an ADP machine located outside the printer and is not provided by the ADP machine housed inside.
- vii. It was submitted that the observations that ink jet printer should be an output device for an ADP network to which it is connected and

that when the apparatus serves more than as a mere output device for an external ADP machine, it goes out of the term "ink Jet Printer", in Paragraph 27 of the impugned order, was factually and legally incorrect, as the printer under reference was an output device only and does not do anything extra to term it as more than an output device. Hence the above consideration was not relevant for the purpose of subject imports.

- viii. The Appellants relied on the classification opinion of the world customs organisation in respect of Digital Inkjet Printer and also the site preparation guide to support their case.
- ix. It was submitted that similar imports made at Mumbai were classified by the importer under 8443 3250 but the department re-classified under 84433910 which was accepted only due to increased storage and demurrage charges and does not mean that it was the correct classification.
- x. It was averred that the rate of duty for software as well as the inkjet printer under 84433250 remained the same during the relevant period and thus on the basis of the claim made by the Appellant, there is no variation in the duties to be paid even when assessment is claimed separately for the software and therefore it was claimed that the issue was revenue neutral.
- xi. The ruling by US Trade commission that the subject goods were appropriately classifiable under 84433210 of US Tariff was pointed out in support of their case.
- xii. It was put forth that even under self-assessment procedure, it cannot be held that a wrong classification will amount to mis-declaration of particulars and is only a mis-classification and nothing

more and in this regard the Hon'ble Supreme Court's decision in the case of *Northern Plastics Ltd. Vs. Collector of Customs and Central Excise* reported in [1998 (101) ELT 549] was relied upon. Hence it was disputed that Section 111(m) was not relevant to the case and confiscation ordered could not be sustained.

- xiii. It was asserted that the Appellant was guided to claim the subject classification and hence absolutely there is no basis to allege suppression to evade duty and as a result the duty demands made with imposition of penalties and confiscation of goods cannot be legally sustained and hence it was prayed to set aside the impugned order.

5.1 The Ld. Advocate Shri S. Murugappan appearing for the Assessee, stressed that the subject imports were appropriately classifiable under 8443 3250 as once it was found that the equipment was being capable of connecting to an ADP machine, proceeding to the latter heading under 8443 39 was ruled out. He has relied on the Final Order No. 40574/2020 dated 21.02.2020 passed by the Hon'ble CESTAT in respect of the same appellant and clarification issued by CBEC dated 01.07.2008. The Ld. Advocate also relied on the Compendium of classification of opinions published by WCO classifying the Digital Inkjet Printer, Customs Ruling NY N 276735 in respect of industrial inkjet printers and the Order-in-Appeal C.Cus.II No.180/2017 dated 14.03.2017 passed by the Commissioner of Customs (Appeals-II), Chennai.

5.2 The Ld. Advocate contented that as per Customs manual, in every case of short payment of duty, penal provisions could not be invoked as *mens rea* was to be established to prove the intention to evade duty resulting in short payment. Therefore, it was asserted that the confiscation of goods and imposition of redemption fine and penalties were not warranted.

6. The Ld. Authorised Representative Shri N. Satyanarayanan, reiterated the findings in the impugned order and asserted that the subject imports were appropriately classifiable under CTH 84433290 and pointed out that redemption fine was imposable even when the confiscable goods were not available in the light of the decision by the Hon'ble Madras High Court in the case of M/s. Visteon Automotive Systems Vs. Commissioner of Customs.

7. Heard both sides and carefully considered the submissions and evidences on record.

8. The issue involved in this appeal in no more *res integra* as we find that the very same issue was considered by the Tribunal in the appellant's own case *vide* Final Order No.40574/2020 dated 21.02.2020. The issue is with regard to classification of "SCODIX Ultra Pro Inkjet Printers with Ultra RIP and Barcode Reader" imported by the appellant. The literature of the said product furnished by the appellant-importer is as under: -

Scodix Ultra™ & Scodix Ultra Pro™
Product Specifications

	Scodix Ultra™	Scodix Ultra Pro™
Printing technology	UV "Fixed Array" inkjet print-heads	
Media handling	Scodix Twin-Tray™ technology (TT)	
Resolution	Up to 2,540 x 450 DPI	
Variable data	PDF, Optional Barcode system	
Supported image standards	Standard PDF	
Scodix RSP™ Technology	Up to 4 CCD cameras system, Automatic positioning	
Communication protocol	Hot Folder, LAN	
Substrates*	Offset, Digital, Plastics, Laminated and coated substrates	
Substrates loading sizes	Minimum L297 x W420 mm / 11.7 x 16.5 in Maximum – L545 x W788 mm / 21.5 x 31 in	
Printing Image size	Maximum – L504 x W748 mm / 19.86 x 29.5 in	
Polymer	Scodix PolySENSE™ Clear Polymer Scodix Spot™ - Flat, Clear Polymer	
Polymer layer thickness	From 5 Up to 250 microns	
Print Heads Maintenance	Automatic process	
Substrates input system	Automatic feeder	
Substrates output systems	Automatic stacker	
Substrates weight	135 - 675 gsm / 6 - 30 points	
Substrates thickness	Up to 700 micron	
Air requirements	Air Flow: 34 CFM. 7 bar +/- 1 - regulated	
Scodix software	Internal RIP, Software Editor	
Press dimensions (L x H x W)	6,327 x 1,788 x 1,889 mm / 249 x 71 x 74 in	
Operating environment	Temperature: 15°C to 30°C (59°F - 86°F) Humidity: 40% to 80% relative humidity, non-condensing	
Electrical requirements	Voltage: 3x220, +/-5% 3 Phases + G + N (star connection) Frequency: 50 /60 Hz Current: Avg. 25 Amps in production Power consumption: - Avg.: 13.5 kVA in production - Max.: 30 kVA Circuit Breaker: 44 Amps minimum	
Multi Polymer Tank System	NA	Up to 4 tanks (3 Polymers and flushing fluid)
Polymer Switch System	NA	Automatic Polymer Switch System
Press weight (Net)	4,350 kg / 9,590 lbs.	4,400 kg / 9,700 lbs.

* Based on the Scodix Recommended Media List (RML) for expected Scodix SENSE™ quality, surface tension should be within the range of 36-44 dyne/cm.

For more information, please visit www.scodix.com

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9. The seventh row in column 1 of the above table would show that the communication protocol has Hot Folder, LAN. This specification would

indicate that the product is capable of connecting to an automatic data processing machine or to a network.

10. It is noticed from the technical opinion provided by the appellant on the specific aspects of the SCODEX Ultra Pro Inkjet Printers imported under Bill of Entry No. 4234370 dated 02.12.2017 that the imported printer is capable of being connected to network/external ADP machine as explained below:-

TECHNICAL OPINION ON THE SPECIFIC ASPECTS OF THE ITEM COVERED UNDER THE BILL OF ENTRY NO. 4234370 DATED 02.12.2017:

IMPORTER DETAILS : M/s Monotech Systems Ltd,
PLACE AND DATE OF INSPECTION : Continental II CFS; 14.12.2017

DETAILS OF GOODS :

Declared Description of goods	1.SCODEX ULTRA PRO INKJET PRINTERS (PART NO. SCO-1300-96 2. ULTRA RIP & BARCODE (PART NO. SCO-1300-42)
Supplier Details	M/s. Scodex Ltd, 13, Amal Street, Park AFWQ, P.O 11777, Rosh Haayin- 4809239, Israel.
Bill of Lading No	ZIMUHFA4075091 dated 06.11.2017
Container Numbers	ZCSU8605282

On the reference from the Customs vide letter dated 14.12.2017 in F.No. ENQ/155/2017-SIIB, the goods covered under Bill of Entry No. 4234370 dated 02.12.2017 have been inspected in the presence of Customs Officers at M/s. Continental CFS on 14.12.2017 and following pointwise opinion is offered:

Main Sources of Information for this Opinion: Import Documents, Equipment Operating Manual, information from internet sources.

1. List of Imported Items and their functions and the Printing Technology used:

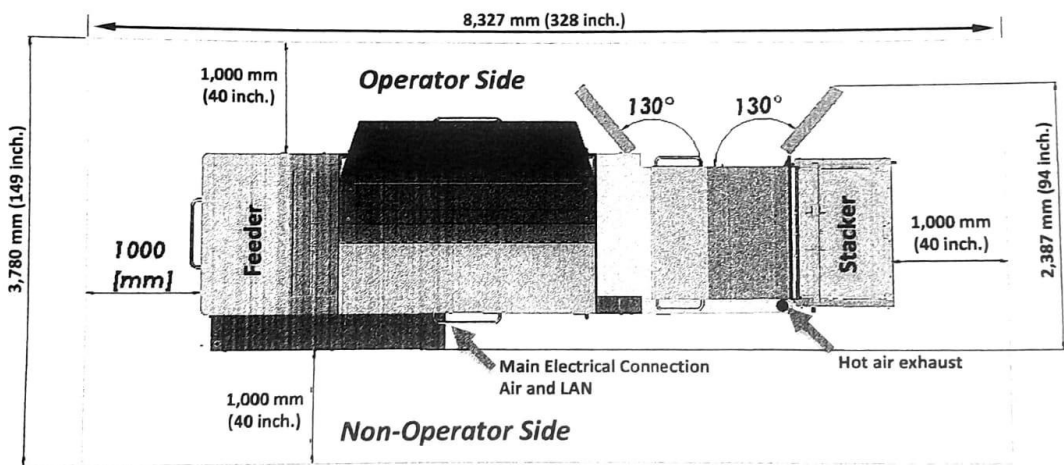
Observation: Broadly there are two items as declared in the Bill of Entry. They are:

1.SCODEX ULTRA PRO INKJET PRINTERS (PART NO. SCO-1300-96): consisting of following units:

- Loading/Feeder System:** Which forms the front end of the equipment through which the feed stocks such as papers, foils are fed
- Engine Assembly:** The main component of the equipment which houses the central processing unit, the monitor, the inkjet print heads and associated wiring and circuitries.
- UV Station and Conveyer:** This unit houses a UV Station used to cure and dry the print stock immediately after printing.
- Stacker Assembly:** By its very name stacks the print material.

16

Ultra Inkjet Printer – Top view - 1 meter gap on sides
(without Foil Station)



- The minimum height of the ceiling can be 200 mm (8 inch.) above the maximum height of the Printer (with the doors open): 2,365 mm (94 inch.) + 200 mm (8 inch.) = 2,565 mm (101 inch.).



Requirement	Description	Other Details
Operations Environment	Temperature: 15°C to 30°C (59°F to 86°F) Humidity: 40% to 80% relative humidity, non-condensed. Shutdown Conditions: 10°C to 35°C; 20% to 80% relative humidity.	
Network	LAN TCP/IP Cat. 5E	LAN Cable to be supplied by customer.
Acetone	2 liters	Customer to provide (Local Purchase)
Alcohol / IPA	2 liters	Customer to provide (Local Purchase)

File Transfer

The Scodix masking files should be transferred by Network LAN TCP/IP (RJ45 Connector)

"Q10: Please specify the functions of the ADP machine imported along with the printing machine as a part? Do you have any documentary evidence regarding this?"

A10: It is a computer CPU which sits in the housing provided in the printer and receives the data in PDF form from an external ADP through network. The printer has a network and is connectable to external ADP through cable. The computer CPU in the printer hosts machine control software, RIP software and BARCODE software, the functions of which were explained in the previous answers. I will provide the documentary evidence by tomorrow (12.01.2018) afternoon.

Q13: Whether the machine is operated/run (from start up to shut down) by the software installed in the imported ADP machine in it or by command given by external automatic data processing machine? Do you have any documentary evidence regarding the same?

A13: The printer cannot be operated/ run or in other words cannot print without being connected to an external ADP device through a network. The printer is not designed as a standalone printer and it has to work by being connected to an external network through cable. I can provide a certificate from the manufacturer in this regard, and I request time till next week to produce the same before you.

Q16: Please specify the role of external computer in running the printing machine?

A16: As mentioned earlier, the SCODIX ULTRA PRO inkjet printer is a dumb printer unless it receives a job from the external ADP. In a production environment, the users create the print jobs on different ADP units and then send these jobs through network to the SCODIX ULTRA PRO printer for printing."

11. Further, it is also to be noted that SCODIX Limited has given a Certificate that the printer imported is not a standalone printer and cannot print on its own unless print pages are sent to it from external ADP through network. The Certificate of the SCODIX is extracted below for ready reference:-



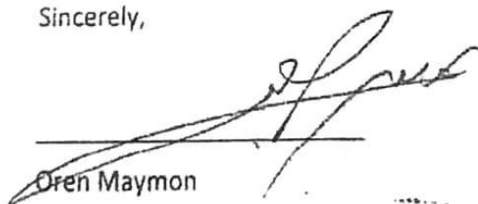
28 Jan 2018

To whom this may concern,

We hereby certify that:

1. All the Scodix Ultra Pro Inkjet Printers supplied by us house a Computer preloaded with RIP (Raster Image Processing) software, Barcode Software (optional, loaded only if ordered by the customer) and Ultra Printer Control Software. The Printer is capable of being connected with external ADP with network cable. It accepts data from external ADP in pdf form, RIP software converts it into bitmap form and Barcode software helps in variable data printing while Printer Control software takes care of machine functioning like loading of media, ink control system, print function etc.
2. The Printer is not a standalone Printer and cannot print on its own unless print files are sent to it from external ADP through network.

Sincerely,



Oren Maymon
VP operations

SCODIX LTD.

12. The Tribunal Chennai in the appellant's own case has discussed and analysed the classification of the similar Inkjet Printer *vide* Final Order No. 40574/2020 dated 21.02.2020 which reads as under:-

"5. The invoice of the goods gives the description as under :

Ln	Order	Part Number	Part Description	HTS	Country of Origin	Qty	Unit Price	Total
1	SO14000023	SCO-1300-60	Scodix 575 Digital Inkjet	84433200	Israel	1.0 ea	USD 161,00.00	161,00.000

The competing entries are as under :

8443 32 50 (by Appellant)	--- Ink Jet Printer	u	Free
8443 39 10 (by Dept.)	--- Ink-jet printing machine	u	Free

6. The main contention of the department that the goods cannot be described as Inkjet printer and cannot be classified under 84433250 is that it cannot be connected to an automatic data processing machine or net work. The catalogue of the goods furnished by the appellant along with the appeal in page 34 states that the item can be connected to net work by LAN TCP/ IP Cat. 5E and that cable is to be supplied by the customer. The term "connectable to an ADP Machine or to a net work" for the purpose of sub headings 8443.31 and 8443.32 has been explained in the Explanatory notes which is as under :

"The criterion "capable of connecting to an automatic data processing machine or to a network" denotes that the apparatus comprises all the components necessary for its connection to a network or an automatic data processing machine to be effected simply by attaching a cable. The capability to accept the addition of a component (e.g., a "card") that would then allow the connection of a cable is not sufficient to meet the terms of these subheadings. Conversely, that the component to which a cable would be connected is present but inaccessible or otherwise unable to effect a connection (e.g., switches must first be set) is not sufficient to exclude goods from these subheadings."

7. The Board's Circular No.11/2008-Cus., dt. 1.7.2008 has also clarified the same. It is stated in the circular that large format printers which satisfy the conditions of connectability as given in HSN Explanatory Notes (as above) are to be classified under tariff heading 84433250 as "Inkjet Printers". So the conclusion arrived by

the authorities below that the goods are not Digital Inkjet Printers or that the goods are not capable of being connected to ADP or net work and therefore is not classifiable under 84433250 is against the clarification given by the Board.

8. The Ld. Counsel has also produced the copy of Order-in-Appeal No.180/2017 dt.14.3.2017 passed by the Commissioner of Customs (Appeals-II), Chennai in the case of P.M. Digital Products, Chennai the goods imported therein were also Digital Inkjet Printers Scodix 1200 vide Bill of Entry dated 7.6.2012. The appellant therein had classified the goods under 84433290. The Department issued show cause notice for reclassification under 8443390. On appeal, the Commissioner (Appeals) after considering the revised HSN Notes of 2012, wherein the criterion for capable of being connected to an automatic ADP machine or to a net work, has held that the goods are correctly classifiable under CTH 84433290.

9. From the discussions made above, after examining the HSN Explanatory Notes and the Board's circular, we hold that goods are correctly classifiable under CTH 84433250. The order passed reclassifying 84433910 is erroneous and requires to be set aside which we hereby do. The impugned order is set aside. Appeal is allowed with consequential relief, if any, as per law."

13. After closely examining specific aspects of SCODIX Ultra Pro Inkjet Printer imported and also on the basis of the Certificate issued by SCODIX it is inferred that the printer is not a standalone Printer and cannot print on its own unless print files are sent to it from an external ADP through network. Even the technical literature and the pictures relating to installation of the imported machine clearly indicate that there are components available for connecting to LAN / network. As such, the SCODIX Ultra Pro Inkjet Printer is classifiable under CTH 84433250 and the appellant is eligible for the benefit of duty exemption under Customs Notifications No. 24/2005 dated 01.03.2005 and 50/2017 dated 30.06.2017.

14. In view of the above, we do not find any grounds to take a different view. Following the decision in the appellant's own case cited

supra, the product being similar, we hold that the goods "SCODIX Ultra Pro Inkjet Printer" merits classification under CTH 84433250.

15. In the result, the impugned Order-in-Original No. 69247/2019 dated 29.05.2019 cannot be sustained and is ordered to be set aside. Consequently, the demand of duty, fine and penalties imposed are set aside. Thus, the appeal filed by the appellant-importer *vide* C/41492/2019 is allowed with consequential relief, as per the law. The appeal filed by the Revenue *vide* C/41595/2019 is rejected.

(Order pronounced in open court on 18.04.2024)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sd/-
(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

MK