

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal No. 51605 of 2022

(Arising out of the Order-in-Original No. 15-2021-22-CJ-PR-COMMR dated 24.02.2022 passed by the Principal Commissioner of Customs (Import), New Delhi)

Vodafone Idea Limited

(Previously Vodafone Mobile Services Limited)
C-48, Okhla Industrial Area
Phase- II
New Delhi- 110020

.....Appellant

Versus

The Principal Commissioner of Customs,

Air Cargo Complex (Import)
New Customs House
New Delhi- 110037

.....Respondent

APPEARANCE:

Shri Dhruv Matta and Shri Prafful Dawani, Advocates for the Appellant
Shri Nagendra Yadav, Authorized Representative of the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. C.J. MATHEW, MEMBER (TECHNICAL)

Date of Hearing/Decision: 18.09.2024

FINAL ORDER NO. 58741/2024

JUSTICE DILIP GUPTA:

This appeal has been filed by M/s Vodafone Idea Limited¹ for setting aside the order dated 24.02.2022 passed by the Principal Commissioner of Customs² rejecting the classification of MPC7E MRATE IRB 10G/40G 100 QSFP28-MPC-L3 Line Cards³ imported by the appellant under Customs Tariff Item⁴ 8517 69 30 of the First Schedule to the Customs Tariff Act, 1975⁵ and reclassifying the Router Line Cards under CTI 8517 62 90. The

1 the appellant

2 the Principal Commissioner

3 Router Line Cards

4 CTI

5 Customs Tariff Act

Principal Commissioner has also confirmed the demand of duty under section 28 (1) of the Customs Act, 1962⁶ with interest. The order also confiscates the goods under section 111 (m) of the Customs Act. Penalty under section 112 (a) (II) of the Customs Act has also been imposed upon the appellant.

2. The appellant had imported the Router Line Cards through five Bills of Entry during the period from 29.05.2018 to 11.07.2018. The Router Line Cards have been imported by the appellant for the main equipment Juniper Routers MC960 and MX480 and were considered by the appellant to be parts and components essential for the functioning of the main equipment. The appellant, therefore, classified the Router Line Cards under CTI 8517 69 30 and availed the benefit of exemption from payment of Basic Customs Duty under Notification dated 01.03.2005 at Serial No. 13N.

3. The Principal Commissioner issued a show cause notice dated 26.05.2020 directing the appellant to show cause why-

- i. Classification of subject goods cleared under CTI 8517 69 30 should not be rejected and reclassified under CTI 8517 62 90;
- ii. Basic Customs Duty of Rs. 1,32,66,082/- should not be demanded and recovered under section 28(1) of the Customs Act.
- iii. Applicable interest should not be recovered under section 28AA of the Customs Act;
- iv. Subject goods should not be confiscated under section 111(m) of the Customs Act;
- v. Penalty should not be imposed upon under section 112 (a)(ii) of the Customs Act.

6 Customs Act

4. The appellant filed a reply dated 14.02.2022 to the show cause notice and contended that:

- (i) The Router Line Cards do not have any separate identifiable function from that of the main equipment and that they are incapable of operating independently;
- (ii) That Router Line Cards become functional only when plugged into the slots in the chassis of the main equipment, from where it derives the sourced power and intelligence.
- (iii) Router Line Cards are correctly classifiable as 'parts' of router and, therefore, proposal for classification under CTI 8517 62 90 is incorrect.
- (iv) Router Line Cards are in the nature of Populated Print Circuit Board⁷ assembly and are, therefore, correctly classifiable under CTI 8517 70 10;
- (v) Router Line Cards are not liable for confiscation under section 111 of the Customs Act. Mere claim to an exemption notification does not amount to mis-declaration so long as the description given in the Bill of Entry is correct;
- (vi) Proposal for imposition of penalty under section 112 of the Customs Act is incorrect. The ingredients of the provision are not fulfilled and the proceedings also involve interpretation of tariff entries.

5. The Principal Commissioner rejected the classification indicated by the appellant in the five Bills of Entry under CTI 8517 69 30 and reclassified the Router Line Cards under CTI 8517 62 90. This order of the Principal Commissioner has been assailed in this appeal.

6. Shri Dhruv Matta, learned counsel assisted by Shri Prafful Dawani, learned counsel appearing for the appellant submitted that the issue about classification of Router Line Cards has been settled by the Tribunal in the case of the appellant itself in **M/s Vodafone India Limited vs Principal Commissioner of Customs (Import)**⁸. Learned counsel for the appellant submitted that once the classification of the Router Line Cards is under CTI 8517 6930, then the Basic Custom Duty would be exempted under the Notification dated 01.03.2005 at Serial No. 13N. Learned counsel further submitted that if the classification is under CTI 8517 70 10, then the appellant would be entitled to exemption from basic customs duty at Serial No. 13S of the Notification dated 01.03.2005.

7. Shri Nagendra Yadav, learned authorised representative appearing for the department, however, supported the impugned order. Learned authorised representative also submitted that the appellant has failed to substantiate that it would be entitled to the exemption under the Notification dated 01.03.2005, even if it is accepted that classification is under CTI 8517 69 30.

8. The submissions advanced by learned counsel for the appellant and the learned authorised representative appearing for the department have been considered.

9. What transpires from the order passed by the Principal Commissioner is that the appellant claimed classification of Router Line Cards under CTI 517 69 30 and availed the benefit of the Exemption Notification dated 01.03.2005 under Serial No. 13N. The Principal Commissioner, however, did not accept the said classification and reclassified the Router Line Cards under CTI 8517 62 90. What has,

8 Customs Appeal No. 52287 of 2019 decided on 20.09.2022

therefore, to be determined is whether the Router Line Cards deserve classification under CTI 8517 62 90. A Division Bench of the Tribunal in the case of the appellant itself in **M/s Vodafone India Limited** in the decision rendered on 20.9.222 found that the Router Line Cards can be classified either under CTI 8517 70 90 or CTI 8517 70 10. The relevant paragraphs of the decision are reproduced below:

"24. A perusal of the catalogue of Router Line Cards shows that these cards/modules are only parts of the existing Routers which have already been imported or installed by the appellants. The Router chassis has dedicated slots marked for these line cards, switch cards and router processor cards. The line cards are simply inserted in these slots in the existing Routers. These line cards become functional only when plugged into the said slots in the Router chassis. The line cards source intelligence from control and processor module of the Router. These line cards cannot perform its function on a stand-alone basis in the imported condition. Further, communication between the line cards and the other components of the Router, most importantly, the switch processor board, is in the electrical domain and in completely proprietary data protocols. These facts are decisive to conclude that the line card/modules in question are parts, as they cannot perform independently of the Router because unless and until the said cards/modules are slotted into the dedicated slots into the chassis of the equipment, the said cards/modules cannot function. The cards/modules are dependent on the intelligence (i.e. timing information) provided by the control and timing modules. The timing information provided by the control and timing modules is essential for the proper functioning of these cards. Without connection to the overlying software of the equipment and the control/timing information being provided to them, the said line cards are incapable of operation. The line cards are proprietary of the Original Equipment Manufacturer. These line cards are, therefore, not cross compatible with devices of other manufacturers but are only usable for the purpose for which they are designed for e.g., a line card manufactured by Cisco would be usable only in a Cisco Router and nowhere else. In other words, these cards/modules possess no functionality other than when used in the dedicated slot designed for them in the primary equipment chassis. Each primary equipment will possess dedicated and proprietary slots into which alone the said cards/modules must be inserted. Thus, there is no individual and separable function performed by line cards.

25. xxx

26. There is, therefore, no difficulty in holding that Router Line Cards are classifiable under CTI 8517 70 90 in view of Note 2 (b) of Section XVI of the Tariff Act.

27. Learned counsel for appellant, in the alternative, submitted that even otherwise imported Router Line Cards are in the nature of a PCB and, therefore, classifiable under CTI 8517 70 10 and not CTI 8517 69 90.

Xxx

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'. It would attract NIL rate of duty."

10. In view of the aforesaid decision of the Tribunal in **M/s Vodafone India Limited**, the classification of Router Line Cards by the Principal Commissioner under CTI 8517 62 90, as claimed by the department cannot be sustained. In this view of the matter, the classification of Router Line Cards by the appellant would have to be maintained.

11. The order dated 24.02.2022 passed by the Principal Commissioner, therefore, deserves to be set aside and is set aside. The appeal is, accordingly, allowed.

(Order dictated and pronounced in Open Court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(C.J. MATHEW)
MEMBER (TECHNICAL)