

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 1**

CUSTOMS APPEAL NO. 50059 OF 2020

[Arising out of Order-in-Original No. 15/2019 dated 30.08.2019 passed by the Principal Commissioner of Customs (Imports) Inland Container Depot, Tughlakabad, New Delhi]

M/S MICROMAX INFORMATICS LTD. APPELLANT

H.O., Plot No. 288A, Ground Floor,
Udyog Vihar, Phase – Iv,
Gurgaon, Haryana – 122 017

Vs.

**PRINCIPAL COMMISSIONER OF
CUSTOMS (IMPORTS), ...RESPONDENT**

Inland Container Depot, Tughlakabad,
New Delhi – 110 020

Appearance:

Shri B L Narasimhan, Shri Anurag Kapur, Ms. Rubel Bareja And
Shri Anista Arya, Advocates for the Appellant

Shri Mihir Ranjan, Special Counsel for the Respondent

**CORAM:
HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)**

FINAL ORDER NO. 50210/2026

DATE OF HEARING : 17/11/2025

DATE OF DECISION : 30/01/2026

P.V.SUBBA RAO

1. M/s Micromax Informatics Ltd.¹ filed this appeal to assail the order dated 30.08.2019² passed by the Principal Commissioner of Customs (Imports) Inland Container Depot, Tughlakabad in which he decided the proposals made in the show

**1 Appellant
2 Impugned order**

cause notice³ dated 12.05.2017 covering the period 18.9.2012 to 7.5.2015. He confirmed demand of customs duty of Rs. 49,25,03,108/- under section 28(4) of the Customs Act, 1962⁴ with interest under section 28AA of the Act and imposed an amount equal to the duty as penalty under section 114A of the Act and further imposed redemption fine of Rs. 50,00,000/- in lieu of confiscation of goods valued at RS. 4,42,02,44/- seized on 5.6.2012 which were provisionally released on bond on 12.6.2015.

2. The appellant claims to be one of the leading consumer electronics companies in India and that it has been importing LCD Panels for manufacture of LCD/LED TV Sets. During the period from 18.09.2012 to 07.05.2015 it self-assessed duty classifying the imported goods as LCD/LED Panels under **Customs Tariff Item⁵ 8529 90 90** and availed the benefit of exemption under Sl. No. 432 of Notification No. 12/2012-Cus dated 17.03.2012⁶. This notification provided for standard rate of duty of 20% for LCD and LED TV panels of 20 inches and above.

3. The Special Intelligence and Investigation Branch⁷ of the Commissionerate investigated the appellant's imports and came to the conclusion that the imported goods were not LCD/LED TV panels but were Open Cells/semi-finished assemblies, missing critical components such as diffuser sheets, reflector sheets, LED

3 SCN

4 Act

5 CTI

6 2012 Notification

7 SIIB

bars, etc. and hence were correctly classifiable under **CTI 9013 80 10** to which the benefit of notification no. 12/2012 (S.No. 432) was not available. The SCN was issued accordingly proposing to classify the imported goods under **CTI 9013 80 10**, deny the benefit of the 2012 notification and demand duty of Rs. 49,25,03,108/- under section 28(4) of the Act invoking extended period of limitation along with interest, to impose penalty and to confiscate the goods which were seized and provisionally released. These proposals were confirmed in the impugned order. Hence this appeal.

4. The first point of dispute is whether the imported goods were LCD/LED TV panels or 'Open Cells'. According to the appellant, the disputed goods were LCD Panels which come embedded with a T-Con/Driver Board which is not severable. The T-Con/Driver Board is an essential part of the LCD Panel, and it helps the LCD glass to function as a working display. It may be embedded on the source Printed Circuit Board Assembly (PCBA) or separately connected. According to the appellant, LCD Panel can be used as an Open Cell but an Open Cell without T-Con/Driver Board cannot be used as an LCD Panel.

5. According to the Revenue, on the other hand, the imported goods were 'Open Cells'.

6. The finding in the impugned order that the imported goods were 'Open cells' is based on the statement of Mr. Ravinder Singh Malhotra, Managing Director of M/s Malhotra Electronics Private Ltd. and a letter dated 03.12.2015 issued by Shri Anurag Thakur

of M/s Samsung India Electronics Pvt. Ltd., wherein it was stated that the sample shown to them was Open Cell and not LCD Panel.

7. In defence, the appellant produced an expert opinion dated 01.09.2015 of a Professor from IIT, Delhi that the imported goods were incomplete LCD/LED panels and were not Open cells. In his opinion, he stated that an Open Cell consists of two high light transmission glass plates pressed together with a 3-4 μm color LCD sheet in between with the required density of pixels and an integrated TFT matrix. He further said that an Open Cell is an incomplete LCD Panel which, when added with T-Con/Driver Board to drive LCD pixels for images, becomes the complete LCD Panel. Furthermore, when the backlight source and electronics, power supply, audio etc. components are added to this LCD Panel, then it becomes an LCD TV or LED TV.

Submissions on behalf of the appellant

8. Learned counsel for the appellant made the following submissions:

- (i) The appellant had correctly classified the disputed goods under **CTI 8529 90 90**. Alternatively, they are classifiable under **CTI 9013 80 10**.
- (ii) **CTH 9013** covers Liquid Crystal Devices (LCDs) which are not covered under any other heading. 'Liquid Crystal Devices' are defined under the HSN Explanatory Notes to CTH 9013 as follows:

"Liquid crystal devices consisting of a liquid crystal layer sandwiched between two sheets or plates of glass or plastics, whether or not fitted with electrical connections, presented in the piece or cut to special shapes and not

constituting articles described more specifically in other headings of the Nomenclature.”

(iii) The disputed goods imported by the appellant are

Liquid Crystal Devices manufactured by sandwiching the liquid crystal layer between sheets of glass, cut into special shapes so that they can be used as display of television. Therefore, they are correctly classifiable under **CTI 9013 80 10** which attract nil rate of duty.

(iv) As per Note 2(a) to Section XVII of the Customs

Tariff, parts which are goods independently classifiable under Chapters 84, 85, 90 or 91, would continue to be classified in their respective headings. Since the imported goods were parts of television, they are correctly classifiable under CTH 9013 by applying Note 2(a) of Section XVII of the Customs Tariff. Reliance is placed on the following:

(a) **Commissioner of Central Excise, Aurangabad vs. Videocon Industries Ltd.**⁸, affirmed by Supreme Court⁹

(b) **Secure Meters vs. Commissioner of Customs, New Delhi**¹⁰, affirmed by Supreme Court¹¹

(c) **Xiaomi Technology India Limited vs. The Commissioner of Customs**¹²

(v) The disputed goods are not Open Cells because an

Open Cell does not contain T-Con/Driver Board. As per the Expert Opinion dated 01.09.2015 obtained by the appellant from IIT, Delhi an Open Cell consists of two

8 2023 (3) TMI 1338

9 2023 (384) ELT 628 (SC)

10 2015 (5) TMI 241

11 2015 (319) ELT 565 (SC)

12 (2023) 11 Centax 303 (Tri-Bang)

highly transmission glass plates pressed together with a 3-4 μm color LCD sheet in between with the required density of pixels and an integrated TFT matrix. An Open Cell is an incomplete LCD Panel to which, if T-Con/Driver Board to drive LCD pixels for images are added, becomes the complete LCD Panel and if the backlight source and electronics, power supply, audio etc. are added, it becomes an LCD TV or LED TV.

(vi) The SCN relied on the statement of Mr. Ravinder Singh Malhotra, Managing Director of M/s Malhotra Electronics Pvt. Ltd. and Letter dated 03.12.2015 issued by Mr. Anil Thakur, Assistant Manager Applied R&D (VD Division), M/s Samsung India Electronics Pvt. Ltd.

(vii) During cross examination, Mr. Ravinder Singh Malhotra contradicted his earlier statement and also stated that he was not a technical expert but had stated what his Customs House Agent told him. The statement of Shri Anil Thakur cannot be relied upon because the appellant was not given an opportunity to cross examine him and because there is nothing on record to show that samples of goods shown to him were the same as the one's imported by the appellant. Thus, the department has not produced any cogent evidence to show that the disputed goods imported by the Appellant were Open Cells and not LCD Panels.

(viii) In Para 27.2 of the impugned order, it is held that exemption under Sl. No. 432 notification no. 12/2012- Cus is available to finished LCD Panel and LED Panel and since the appellant described the imported goods as LED Panels Semi-Finished they are not eligible for exemption. The appellant has correctly described the disputed goods as LED Panels-semi-Finished and if an LED bar is attached, it becomes finished LED Panel. Even though the disputed goods are not finished forms of LED Panels, they will still be eligible for exemption under Sl. No. 432 of the subject Notification as finished LCD Panels.

(ix) Extended period of limitation under section 28(4) is not invocable in the present case and the entire period of demand is for extended period of limitation.

(x) Even if it is assumed that the disputed goods imported by the Appellant are not eligible for exemption, even then the Appellant is not liable to pay any differential duty, interest, fine and penalty. Hence, the impugned order passed by Ld. Pr. Commissioner is bad in law and therefore liable to be set aside.

Submissions on behalf of the Revenue

9. Learned Special Counsel for the Revenue made the following submissions:

- i) The appellant imported goods declared as "LED TV panels- Semi-finished", self-assessed the Bills of Entry classified the goods under **CTI 8529 90 90** and claimed the benefit of exemption notification no. 12/2012- Cus. (S.No. 432). This notification allowed standard rate of 20% duty on LCD and LED TV panels of 20 inches and above falling under Customs Tariff Heading¹³ **8529**.
- ii) Officers of the Special Intelligence and Investigation Branch¹⁴ initiated an investigation and found that the imported goods were not complete LCD/LED TV Panels but were open cells/ semi-finished assemblies and lacked several critical components such as diffuser sheets, reflector sheets, LED bars, etc.
- iii) Statement of Shri Ravinder Singh Malhotra, a contemporaneous importer was recorded which confirmed that the imported goods was open cells. A letter from Shri Anil Thakur of Samsung India also confirmed that to convert them into LCD Panels, some more components such as plate diffuser, film diffuser, reflector sheets, film top, film middle, film bottom, Bar LED, Cushion gasket, Bezel, Back cover sheet and back light were required.
- iv) Shri Anil Thakur, however, did not make himself available for cross-examination but confirmed through a

13 CTH
14 SIIB

letter that the imported goods were not LCD/LED panels but were open cells.

v) Shri Uma Vashist, Manager, Consumer Electronics of the appellant, Shri Sanjay Nakashi, VP, Bhagwati Products Ltd. and Shri Mukesh Gupta, MD, Bhagwati Products Ltd. had also, in identically worded affidavits, stated that the imported goods were semi-finished LCD/LED Panels because they were embedded with T-Con Board.

vi) During investigation the imported also submitted an expert opinion dated 1.9.2016 by Shri A K Agarwala, Chief Design Engineer at IIT Delhi explaining the differences between open cell and LED/LCD Panels . He also confirmed that plate diffuser film, diffuser, reflector sheet, film top film middle and film bottom, bar, LED cushion/gasket, etc. were required to manufacture LCD/LED Panels.

vii) From the statements of both M/s. Samsung Electronics and another importer Shri Malhotra, it is evident that the goods were open cells and not LCD/LED TV Panels.

viii) The appellant's own affidavits also describe the imported goods as "semi-finished LCD/LED Panel", open cell with T-Con board, etc. None described the imported good as complete TV Panel or as LCD under 9013.

ix) The opinion of the expert from IIT Delhi submitted by the appellant also confirms that the imported goods were open cells + T-Con and were not complete LCD/LED Panels.

x) The Commissioner has correctly held that open cells or semi-finished LCD Panels are not eligible for exemption notification 12/2012-Cus (Sno. 432).

xi) Since the appellant mis-declared the imported goods as LCD /LED TV panels when they were actually open cells, extended period of limitation was correctly invoked by the Commissioner.

Findings

10. We have considered the submissions advanced by both sides and perused the records of the case. The five questions which fall for consideration in this case are:

(i) Whether the goods imported by the appellant were LCD/LED Panels as claimed by the appellant or 'Open cells' as held in the impugned order?

(ii) Consequently, whether they are classifiable under **CTI 8529 90 90** eligible to exemption under Sl. No. 432 of Notification No. 12/2012-Cus dated 17.03.2012 or whether they are classifiable under **CTI 9013 80 10** and hence not eligible to the exemption?

(iii) Was the extended period of limitation under section 28(4) of the Act correctly invoked in the impugned order?

(iv) Consequently, was the penalty under section 114A of the Act correctly imposed?

(v) Were the goods which were seized on 5.6.2015 and provisionally released on 12.6.2015 correctly held to be liable to confiscation and the redemption fine of Rs. 50,00,000/- correctly imposed?

LCD Panels vs Open Cells

11. The imported goods were described in the Bills of Entry and also in all the import documents as LED Panels, semi-finished, LSC 400HM09-0 (parts of LED TV) as claimed by the appellant. The case of the Revenue is that they were not LCD/LED Panels but were open cells. This was the allegation in the SCN and the finding in the impugned order. The burden of proving that the goods which were described as LED panels, semi-finished in the documents were, in fact, Open Cells rests on the Revenue.

12. Revenue relied on the statement of Mr. Ravinder Singh Malhotra, Managing Director of M/s Malhotra Electronics Private Ltd. recorded under section 108 of the Act and a letter dated 03.12.2015 issued by Shri Anil Thakur of M/s Samsung India Electronics Pvt. Ltd., the manufacturer, wherein it was stated that the sample shown to them was an Open Cell and not an LCD Panel.

13. In its defence, the appellant relied on the expert opinion of Shri A K Agarwala, Chief Design Engineer from IIT Delhi dated 01.09.2015 affirming that the imported goods were LCD/LED panels. We proceed to examine the two sets of opinions.

14. In his statement recorded under section 108 of the Act, Shri Malhotra stated that he had a manufacturing company in Greater Noida and that he has been importing goods viz., open cell, plate diffuser, film diffuser, reflector sheet, film top, film middle, film bottom, Bar LED, Cushion/ Gasket, Besal, Back Cover sheet, Back light and claiming the benefit of notification no. 12/2012 dated 17.3.2016 [S.No. 432(b)], that Open cell was a part of LED Panel consisting of display screen and T-Con PCB without plate diffuser, film diffuser, reflector sheet, film top, film middle, etc. and on perusal of the samples drawn from his consignment and consignment of the appellant, he stated that it was an 'Open Cell'. To convert the open cell into an LCD Panel, 'Plate diffuser, Film diffuser, reflector sheet, film top film middle, film bottom, Bar LED, Cushion/Gasket, Bezel, Back Coversheet and Back light were required. Shri Malhotra was also cross-examined by the appellant.

15. The written opinion of Shri Anil Thakur of Samsung India was sought by a letter dated 24.11.2015 and after seeing the sample of the imported goods in the SIIB, he gave his opinion in writing on the official letterhead on 3.12.2015. As per this opinion, LCD/LED Panels have, in addition to 'Open Cells', have the following parts:

- (i) Front frame
- (ii) Middle Frame
- (iii) Diffuser sheet 1 (upper)
- (iv) Diffuser sheet 2 (Prism sheet)
- (v) Diffuser sheet 3 (lower)
- (vi) Reflector sheet
- (vii) LCD/LED Bar
- (viii) Back cover

16. Thus, according to both Mr. Malhotra, who was in similar business and according to Shri Thakur of Samsung India (which is the Indian unit of the manufacturer), the 'open cell' will become an LCD/LED Panel if the diffuser sheets, reflector sheet and the frame (front, middle and back) are added.

17. By contrast, according to this opinion of Shri Agarwala of IIT Delhi, an Open Cell consists of two high light transmission glass plates pressed together with a 3-4 μm color LCD sheet and a source PCBA embedded with the LCD glass or provided separately. If T-Con Board driver PCBA is added, the open cell becomes an LCD Panel. The following parts not, according to him, part of the LCD Panel but are only part of LED Panel:

- (i) Plate diffuser
- (ii) Film diffuser
- (iii) Reflector sheet
- (iv) Film top
- (v) Film middle
- (vi) Film bottom
- (vii) Bar LED
- (viii) Cushion/ gasket
- (ix) Bezle
- (x) Back cover

18. **Thus, the difference of opinion is the question whether the diffusers, reflectors, films, cushion and covers and bezle (i.e., outer frame) have to be included for an open cell to become an LCD panel or none of these were required and an open cell will become an LCD Panel if just T-Con Board is added.**

19. It must be pointed out that Shri Agarwala had given his report on a request from M/s. Bhagawati Products who bought

the goods from the appellant. His report does not say that he had examined samples of the imported goods.

20. Shri Thakur of Samsung India gave his opinion after examining the goods in the office of SIIB.

21. Shri Malhotra also gave his opinion after seeing the goods. During cross examination (as recorded in pages 506 and 507 of the appeal), he was questioned by the appellant mainly on whether the sample was sealed, etc.

22. In our opinion, the above facts should not matter much because the question is a technical one. The goods were imported, they were seized by the SIIB and after seeing the goods both Shri Malhotra and Shri Thakur gave their opinions.

23. Although Shri Agarwala did not see the goods, his opinion specifically indicates at S.No. 4 of the table Samsung Part No. LSC 400HM09-0 and states that it was an LCD Panel and not an open cell. This is the same part number which is indicated in all the invoices of the appellant. Similarly, in our opinion, when the nature of the imported goods which were seized by the SIIB is not dispute, the question whether they were 'Open Cells' or LCD Panels is a technical one and we find no reason to doubt that Shri Malhotra and Shri Thakur gave their honest opinions after seeing the goods.

24. The appellant had an opportunity to ask Shri Malhotra technical questions during cross examination to buttress their view that diffusers, reflectors, films, covers, etc. were not

required for an open cell to become an LCD Panel and merely adding a T-Con Board is sufficient. However, the questions which were put to him during the cross examination were more on whether samples were sealed and if seals were opened and whether he knew what was a Timer Control Board (since he knew it only as T-Con Board). Questions about samples and seals would have been relevant if the nature of their samples, their contamination or if the samples have been switched, etc. were questions of dispute but such is not the case of the appellant.

25. Shri Thakur did not appear for cross-examination and the Commissioner recorded in the impugned order that he was not traceable.

26. The appellant sought to present experts from Samsung display from their side but this request was declined by the Commissioner. Shri Agarwala of IIT Delhi was also not examined by the Commissioner regarding his expert report.

27. The Commissioner concluded in the impugned order that the imported goods were 'Open cells' and not LCD Panels. We find that there is a clear difference of opinion between Shri Malhotra, Shri Thakur and Shri Agarwala, which, in short, is whether the diffusers, reflectors, films, cushions, frame and cover have to be added to the Open cell to make it an LCD Panel or merely adding a T-Con Board to the Open cell will make it an LCD Panel. There is no clear evidence either way. Shri Malhotra was in the business of same goods and would have known how they are known in the market. Shri Thakur is from Samsung

India—the Indian subsidiary of Samsung, Korea which manufactured the goods and hence should be familiar with the goods. On the other hand, Shri Agarwal is an expert from IIT Delhi. The dispute could have been resolved if the experts were examined and cross-examined and if the appellant was also allowed to produce its own experts from Samsung display (who, the department could have cross-examined). Since it is a case where the department alleged in the SCN that the imported goods were not LCD Panels but Open Cells, the burden of proof rests on the department. It has not been discharged in this case.

24. **We, therefore, find that the department has not established its case that imported goods were NOT LCD Panels but were open cells.**

Classification of the goods and exemption notification

25 The case of the department that the imported goods deserve to be classified under **CTI 9013 80 10** and were not eligible to the exemption under Sl. No. 432 of Notification No. 12/2012-Cus dated 17.03.2012 is based on the assertion that the imported goods were not LCD panels but were 'Open cells'. Since the department failed to prove that they were LCD Panels, the exemption notification no. 12/2012-Cus dated 17.3.2012 (S.No. 432) cannot be denied. It is therefore, not necessary for us to examine the alternative classification claimed by the appellant.

Extended period of limitation

26. We have found the case in favour of the appellant on merits. Even otherwise, in the light of conflicting expert opinions

regarding the nature of the goods, it was perfectly possible for the appellant to have entertained a belief different from that of the department. This is not a case of *collusion or wilful misstatement or suppression of facts* to invoke extended period of limitation under section 28 of the Act.

Confiscation and imposition of redemption fine and penalty under section 114A

27. Since we have found the case in favour of the appellant on merits, the finding that the imported goods were liable to confiscation, imposition of redemption fine in lieu of confiscation and penalty under section 114A also deserves to be set aside.

28. The impugned order is set aside both on merits and on limitation and the appeal is allowed with consequential relief to the appellant.

[Order pronounced on 30.01.2026.]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)