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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 1773 of 2010
(Arising out of Order-in-Appeal No.80/2009-Cus. (B) dated 9.4.2010 passed by the Commissioner of Customs (Appeals), Bangalore.)

The Commissioner of Customs Appellant(s)
Queen's Road, Bangalore – 560 001.

Versus

M/s. Snom Technology India Pvt. Ltd.
No.1, 5th Cross, Respondent(s)
BTM Layout, II Stage, Bangalore – 560 076.

Appearance:

For the Appellant
Mr. K. A. Jathin, AR
None For the Respondent

CORAM:

HON'BLE MR. P. A. AUGUSTIAN, MEMBER (JUDICIAL)

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20026 /2024

Date of Hearing: 06/07/2023 Date of Decision: 04/01/2024
Per : R. BHAGYA DEVI

M/s. Snom Technology India Pvt. Ltd., Bangalore, the respondent had imported 'Crossmatch L Scan Guardian F LSE' of 160 Nos. The importers had claimed that this item to be parts of Automatic Data Processing Machines and accordingly classified items under Chapter Heading 8471 6050 as part of the computers. On examining the samples, the operation manual and the catalogue of the goods, it was found that the item imported functions as a fingerprint reader and not as a part or accessory of the computer; challenging the assessment order, the respondent filed an appeal before Commissioner (A). The learned Commissioner (A) held that:

5. ……..From the records presented and the catalogue, I find that the same works as a unit which identifies the individual via his/her fingerprints. The scanner is also compact in as much as it can accommodate only four fingers to scan at a time. Thus, it is very clear that this cannot be used for scanning any other object less be used as a multipurpose scanner. Further, the CTH 8471 seems to be the most suitable heading for the goods under import as it identifies the person, sends the signals to the Automatic Data Processing Machine, which in turn recalls all the data available about the person whose fingers were scanned. This is nothing but an instrument which is used to identify the person/employee."

Aggrieved by the above classification, Revenue is in appeal before us.

2. The grounds on which the appeal is filed by the Revenue is that the Commissioner (Appeals) had ignored the fact that the item was not a data processing machine or any part or accessory of the same. The Fingerprint reader is a device which only reads the Fingerprint of the user and hence t is biometric reader. Scanner covered

under CTH 8471 6050 is a document scanner which is used for scanning the documents which are data and the Finger Print reader is not the one that is covered under the above CTH. A little consideration of the literature available on the web will show that the item is a machine having individual function and sold as finger print reader and not as part or an accessory of the computer. It may be seen that the scanners under the heading are covered under the broad category of input/input devices of a computer. The finger print reader imported by importer can by no stretch of imagination be considered as input/out unit of a computer.

3. The Authorised Representative on behalf of the Revenue reiterating the grounds of appeal submits that Fingerprint scanner is an equipment having individual function. It reads the fingerprint of the user and hence, it is a biometric reader. By virtue of Chapter Note 5(E) to Chapter 84, such devices do not fall under CTH 8471 but are classifiable under residual heading 8543 7099 as they are not specifically covered under any other heading. The item is a machine having individual function and sold as fingerprint reader and not as part or accessory of the computer. Scanner covered under CTH 8471 6050 is a document scanner which is used for scanning documents.

4. None appeared for the respondent.

5. We find that the issue has already been considered by this Tribunal taking note of the various aspects on the issue. This Bench vide **Final Order No. 21155/2023 dated 20.10.2023** in the case of **CC vs. Kronos Systems India Pvt. Ltd.** has held as follows:
"6. Now the question arises as to whether the item is classifiable under Chapter 8543 as claimed by the Revenue. .....
7. As seen from the above and as noted by the original authority, the device captures the data from the employee's card or the data of the particular employee who key in the PIN into the device. The device does not do anything except for collecting the data at the time of entry or exit and this data is transmitted to a central server for further processing like marking the attendance, preparation of payroll or for other purposes. These facts are not in dispute. Based on the General Rules of Interpretation and the Chapter Notes, the item needs to be classified in the heading akin to it or where the specific description is provided. In this case, the data collection device imported by the respondent is nothing but a card reader working in conjunction with the server. Thus, this device functions such as proximity readers/badge readers, which are specifically classified under Chapter Heading No.8543 and as per Chapter Note 5(E) to Chapter 84.
"Chapter Note 5(E) to Chapter 84 "Machines performing a specific function other than data processing and incorporation or working in conjunction with an automatic data processing machine are to be classified in the headings appropriate to their respective functions or, falling that in residual headings".

8. Since the specific function of the imported item is to mark attendance or to take note of the persons of the employees for the purpose of attendance or payroll or leave, they cannot be classified under Chapter 84 as it excludes from this Chapter as per the Chapter Note 5(e) discussed above.

9. In the case of **Commissioner of Customs, Bangalore vs. Scatia: 2019 (370) ELT 703 (Tri.- Bang.)**, a similar product viz., fingerprint scanner was classified under Chapter Heading 8543 7099 as per the observations made by the Tribunal at para 5.1, wherein it has held that:
"5.1 The Department contended that CTH 8543 70 99 is more applicable due to the fact that the item imported basically operates on electrical/electric technology. We find that the Head 8543 covers electrical machines and

apparatus having individual functions not specified or included elsewhere in the chapter. Therefore, the classification of the Finger Print Reader would be more appropriate under this heading. We also accept the Department's contention that when the item is *prima facie* classifiable under two headings in terms of Rule 3(c) of General Rules of Interpretation of Import Tariff, the goods should be classified under the heading which occurs last in numerical orders among those which equally merits consideration. We accept this contention. Going by merits as well as by the Rules of Interpretation, we hold that the impugned product merits classification under CTH 8543 70 99 as contended by the Department." Hence, based on the discussions above and by following the decision of this Bench, we find that the product is rightly classifiable under chapter 8543."

6. Subsequently, following the above order, in a similar set of facts in the case of **Enterprise Software Solutions Lab vs. CC vide Final Order No.21438/2023 dated 22.12.2023**, the products were classified under CTH 8543. Hence, we do not find any reason in not following the said orders of the Tribunal. Consequently, the product in question merits classification under CTH 8543 instead of CTH 8471 as claimed by the respondent.

7. In view of the above discussions, the impugned order is set aside and the appeal filed by the Revenue is allowed.
(Order pronounced in Open Court on 04.01.2024.)

(P. A. AUGUSTIAN) MEMBER (JUDICIAL)

(R. BHAGYA DEVI) MEMBER (TECHNICAL)

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