Circular No. 2 / 2014 - Customs

F. No. 528/33/2013-STO (TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
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New Delhi, dated the 9th January, 2014

To

All Chief Commissioners of Customs/ Customs (Prev.)/ C&CE,
All Directors General of CBEC,
All Commissioners of Customs / Customs (Prev.) / C&CE
All Commissioners of Customs & Central Excise (Appeals).

Sir / Madam,

Subject: Classification of "Transmission shafts / Power takeoff (PTO) shafts" in the HS Harmonised Customs Tariff - regarding

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Doubts have been raised on whether "Transmission shafts / Power takeoff shafts" would be classifiable under 8433 or 8432 as parts of agricultural machinery. This issue was also discussed in the Conference of Chief Commissioners of Customs and Directors General on Customs Tariff and Allied Matters, held on 05-06 June 2013, at Vishakhapatnam and subsequently examined by the Board. The competing headings, subheadings and Tariff Items are as follows:

8432 *Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports- ground rollers*

84329010, parts of agricultural machinery falling within subheadings 843210 (Ploughs), 843221(Disc harrows), 843229 (Other), 843230 (Seeders, planters and transplanters), 843240 (Manure spreaders and fertiliser distributors), and 843290 (Others)

8433 *Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437"; parts* of goods of heading 8433 is covered in subheading 843390.

8483 *Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)*

848310 Transmission shafts (including cam shafts and crank shafts) and cranks;

84839000 *Toothed wheels, chain sprockets and other -transmission elements presented separately; parts*.

2. Classification of goods is to be determined by application of the General Rules of Interpretation (GRI"s) of the First Schedule to the Customs Tariff Act, 1975. GRI 1 requires that in classifying articles, for legal purposes, *it "shall be determined according to the terms of the headings and any relative section or chapter notes, ..*". Hence, all relevant legal texts must be considered. In this regard, Note 2 (a) to Section XVI of Customs Tariff and HS

Explanatory Notes to Section XVI reads as, "*parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings* ". The Note 2(b) to Section XVI reads as, "*Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of 8479 or 8543) are to be classified with the machines of that kind or in 8409, 8431, 8448, 8466, 8473, 8503.00.00, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of 8517 and 8525 to 8528 are to be classified in 8517*".

3. As regards, goods covered in Chapter 84 and 85, parts are classified consistent with the provisions of Section Note 2 to Section XVI. When the products in question qualify as transmission shafts, then irrespective of the intended or actual final use, such shafts get covered under Note 2(a) of Section XVI. Subsequent Sections 2(b) and 2(c) will not apply at all. As per Section Notes, Chapter Notes and in accordance with the headings, shafts merit classification under heading 8483 and not under 8432 or 8433. It is seen that HS Explanatory Notes to headings 8432 and 8433 as regards parts falling thereon, stipulates that classification of parts of machines of heading 8432 and 8433 are: "*Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI)...*" . The parts in question that is, "the Power takeoff (PTO)" shaft of "Power Tiller" or "Rotary Tiller", specifically designed and intended to be used solely and principally with machines of heading 8432 / 8433, merit entry in heading 8483, and subheading 848310, and hence the classifications of shafts would not be excluded from Section Note 2(a) of Section XVI. Additionally, there is no specific exclusion of Transmission shafts manufactured for use in specific equipment or machinery of 8432 / 8433 in the relevant Section Notes, Chapter Notes, and headings and subheadings pertaining to goods of Chapter 84 and 85.

4. In the Conference of the Chief Commissioners of Customs and Directors General on Customs Tariff and Allied Matters, there was consensus on classifying such products at issue under heading 8483. In view of the same, the Board desires that such products should be classified under 8483, subheading 848310, Tariff Item 84831099 by application of General Rules for the Interpretation (GRI) of Import Tariff, Rule 1, Section Note 2(a) to the General Explanatory Note to Section XVI, and 6.

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5. All pending assessments, if any, may be finalized accordingly. Difficulty faced, if any, may be brought to notice of the Board.

Yours faithfully,

(R. P. Singh),
Director (Customs)