Circular No.36 / 2013 -Customs

F.No. 528/8/2012-STO (TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
Tariff Unit
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229-A, North Block, New Delhi,
5th September, 2013

To

All Chief Commissioners of Customs / Customs (Preventive)
All Chief Commissioners of Customs and Central Excise
All Commissioners of Customs / Customs (Preventive)
All Commissioners of Central Excise and Customs
All Directors General under CBEC.

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Sir / Madam,

Subject: Classification of "Bluetooth Wireless Headset for mobile phones / cell phones" under harmonised Customs Tariff - regarding.

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Doubts have been raised on whether "Bluetooth Wireless Headset for mobile phones / cell phones" is classifiable in heading 8517 or 8518 of the Customs Tariff. The relevant text of these headings is as under:

85.17 "...; *other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network*),..."

85.18 "...; *headphones and earphones, whether or not combined with a microphone*,..."

2. The illustrative product description for the purpose of classification of similar or identical headsets for "mobile phones / cell phones" is as follows: "*Wireless headset consisting of a single (monaural) over-the-ear earphone combined in the same housing with a microphone, a radio transceiver, a rechargeable battery, a power input, a LED indicator light and controls. The radio transceiver utilizes an open wireless technology standard (wireless protocol for exchanging data within a Personal Area Network (PAN) using short length radio waves over short distances (up to 10 meters)) with Enhanced Data Rate (EDR) technology, which enables the headset to communicate wirelessly with fixed and mobile devices, such as a mobile telephone for cellular networks. The controls are used functions like on and off, voice dialling, call waiting, redial of the last number, etc., if supported by the apparatus with which it is "paired" (transmitting to and receiving from). The product is put up in a set for retail sale in a box with an AC charger and two ear-hooks of different sizes and a quick start manua*l."

3. This issue has been examined by the Board in consultation with the Department of Electronics and Information Technology, Ministry of Communication and Information Technology. The Compendium of Classification Opinions reflecting the decisions taken by the Harmonized System Committee (HSC) (47thSession - March 2011) was also referred. As seen, the classification of goods in the First Schedule of the Customs Tariff Act, 1975 is governed by the General Rules for the Interpretation (GRI) of Import Tariff.

4. In the instant case, as "Bluetooth Wireless headset for mobile / cell phone", is presented together with a charger, ear hooks and user documentation and put up in a set for retail sale, therefore besides GRI 1, the legal

basis of classification would be the sequential application of Rules 2(a), 2(b), 3(a) and 3(b). It is the **headset** that confers it the essential character to this set. As seen, the "Bluetooth Wireless Headset for mobile phones/cell phones" comprises microphone / transmitter, headphone / receiver, wireless communication system**.** The communication function for mobile telephony characterizes its principal function for the purpose of Note 3 to Section XVI. This function is included in heading 85.17: "*other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network*". Thus, heading 85.17 would apply to "apparatus" used for communication in wireless networks, which is a simultaneously two-way audio and data streaming in the radio frequency band. Also, the HS Explanatory Note to subheading 8517.62 (*Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus)* provides that, "*this subheading includes cordless handsets or base units, when presented separately*." Headphones combined with a microphone of heading 8518 carry only audio signals and are not an active part of a network, whereas a Bluetooth headset with mobile telephony function is an active part of a wireless network, includes a software part for the wireless network and simultaneously receives/transmits voice and data in a wireless network. Thus, "Bluetooth Wireless headsets for mobile phones / cell phones" equipped with communication device fully comply with the subheading 8517.62.

5. In view of the above, the Board is of the view that "Bluetooth Wireless headsets for mobile phones / cell phones" is correctly classified in heading 85.17, subheading 8517.62, by application of GRI 1 (Note 3 to Section XVI), 3(b) and 6.

6. Accordingly, suitable instructions may be given to the field formations. Difficulty faced, if any, may be brought to notice of the Board.

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Yours faithfully,

(Subodh Singh),
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Internal circulation - As usual