Circular No.28 / 2013

F.No. .No.528/52/2013 - STO (TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
Tariff Unit
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229A, North Block, New Delhi,
1st August, 2013

To

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

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Sir / Madam,

Subject: Classification of products - "Cockroach traps", and "Mosquito Repellent" in the harmonised Customs Tariff- regarding

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The Board has noted import data in National Import Data Base which shows that products like "Cockroach Traps", and "Mosquito Repellent", are classified under various Customs tariff headings 3506, 3822, 3808, 3926, 4823, etc. Accordingly, this issue of classification was taken up for discussion and decision in the Vishakhapatnam Conference of Chief Commissioners of Customs and Directors General on Customs Tariff and Allied Matters, held on 05-06 June 2013.

2. The product description illustrative in nature, for the purpose of classification of similar / identical goods, in the First Schedule of Customs Tariff Act, 1975, is as follows: (a) "*Cockroach traps consist of a paperboard sheet covered with both an attractant and a sticky substance but not containing any poison"*. (b) "*Mosquito repellents consist of an adhesive backed patch having a basis of citronella oil and eucalyptus citriodora oil - Provides mosquito protection for adults and children applying a self adhesive patch to clothing, tents and /or furniture"*.

3. The Customs Tariff headings considered are as follows:

3506 - "*Prepared glues and other prepared adhesives, not elsewhere specified or included; products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg";*

3822 - "*Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading3002 or3006; certified reference materials";*

3926 - "*Other articles of plastics and articles of other materials of headings 3901 to 3914";*

3808 - "*Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles(for example, sulphur-treated bands, wicks and candles, and fly-papers)";*

4823 - "*Other paper, paperboard, cellulose wadding and webs of cellulose fibers, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibers";*

4. The classification of goods is to be determined by application of the General Rules for the Interpretation (GRIs) of the First Schedule to the Customs Tariff Act (CTA), 1975. GRI 1 requires that, "in classifying articles, for legal purpose 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. The HS Explanatory Notes present an internationally accepted view of the scope of each Heading of the Customs Tariff. The scope of articles covered by the headings is explained in the World Customs Organization's Harmonized Commodity Description and Coding System Explanatory Notes.

5. Cockroach trap under consideration is identified as an insecticide, operating to attract and trap insects. Insecticide as used in heading 3808 refers to a substance or preparation for the killing of insects either by direct or indirect means. It also covers substances which operate as repellents or attractants, or which operate to control insect populations in other ways such as by sterilisation, by chemicals which interfere with biochemical and physiological processes in insects or by trapping. The Harmonized System Explanatory Notes give as an example *fly papers*(including those coated with glue not containing poisonous matter).

6. The products at issue are other than "*Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing",* and therefore classification under heading 3822 is ruled out. Also, based on the function of the product, which is to attract and trap insects, or to repel, classification under headings 3506, 3926 and 4823 is also ruled out. There was consensus in the Conference that the classification under heading 3506, 3822, 3926 and 4823 is not proper and appropriate classification is as under heading 3808, subheading 3808 91.

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7. The issue has also been examined by the Board. In view of the consensus arrived at the aforementioned Conference, Board desires that such products should merit classification under heading 3808, subheading 3808.91, and tariff item 3808 91 99 ("Other"), by application of GRIs 1 and 6.

8. Suitable instructions in the matter may be issued to field formations for strict compliance and pending cases if any, may be decided accordingly.

Yours faithfully,

(Subodh Singh)
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