Circular No.27 / 2103 - Customs

F.No. 528/36/2013-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.

Sir / Madam,

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Subject: Harmonised Customs Tariff Classification of multifunction devices, referred to as "multifunction speaker system" - regarding

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Representatives of trade have claimed classification of "multifunction speaker system" (combination of one or more of the following: *Universal Serial Bus (USB)* port, USB playback, Frequency Modulation (FM) radio as loudspeakers under heading 8518 based on premise that the principal function is that of a speaker system which involves conversion of digital signal to analogue, amplification, and relay to the listener.

2. This issue was 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. Broadly following types of "multifunction speaker system", were taken up for discussion, viz. (a) Speaker with USB port but without USB playback or FM radio, (b) Speaker with USB Port having USB playback but without FM radio (c) Speaker with USB port having FM radio but without USB playback (d) Speakers with USB port, FM radio, and USB playback.

3. The competing headings are:

8518 - *Loudspeakers, whether or not mounted in their enclosures: headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers: audio-frequency electric amplifiers: electric sound amplifier sets;*

8519 - *Sound recording or reproducing apparatus;*

8527 - *Reception apparatus for radio-broadcasting whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock*.

4. The view that in case of a "multifunction speaker system", the "reception apparatus for radio-broadcasting (heading 8527)" or "reproduction function of sound as provided by USB play back (heading 8519)" is less important than the function of amplification and relay of sound, thereby leading to the inference that such products are classifiable in heading 8518, overlooks the fact that the HS nomenclature only mentions functions and does not refer to the complexity or sophistication of these functions. It appears that any sound reproducing playback device or reception apparatus for radio-broadcasting will need speakers for its effective functioning.

5. 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. In this regard, Note 3 to Section XVI stipulates that, "*unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of per-forming two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function*".

6. During discussions held at the time of Conference, there was general agreement that in case of:

(a) "Speaker with USB port but without USB playback or FM radio", the product would be classified in heading 8518, by application of General Rules 1**.** Speakers classified under heading 8518 include both passive speakers and active speakers. Active speakers, like many subwoofers, contain a built-in audio amplifier. The subheading under which speakers are classified depends on the number of 'drive units' - the actual loudspeaker cones or ribbons - in each cabinet or enclosure. Speakers with a single drive unit in each cabinet are classified under subheading 851821. Speakers with more than one drive unit in each cabinet - for example one woofer and one tweeter - are classified under subheading 851822. Speakers that are not mounted in a cabinet or enclosure are classified under subheading code 851829**.**

(b) "Speaker with USB Port having USB playback but without FM radio", the principal function of the device is imparted by USB playback facility. Therefore the said multifunction speaker system is classifiable in subheading 851981 of the Harmonized Customs Tariff, which provides for Sound recording or reproducing apparatus: Other apparatus: Using magnetic, optical or semiconductor media: Other: Other.

(c) "Speaker with USB port having FM radio but without USB playback" the principal function of the device is imparted by Radio (reception apparatus for radio-broadcasting) and hence the multifunction speaker system classifiable under subheading 852799 by virtue of General Rules 1, Note 3 to Section XVI and 6.

(d) "Speaker with FM, USB port and USB playback"**,** if it is held that the principal function of the device is imparted equally by Radio (reception apparatus for radio-broadcasting) and USB playback facility then it would be classified by sequential application of GRI, according to Rule 3(c). According to this rule, of all the possible heading or subheading that could equally apply the heading / subheading that comes last in numerical order is used to classify the goods. Hence the said product is classifiable under subheading 852799 by virtue of General Rules 1, Note 3 to Section XVI, 3(c), and 6.

7. The issue has also been examined by the Board. In view of the general consensus arrived at the Conference, Board desires that as mentioned in para 6 above, based on the specifications "multifunction speaker systems" may be classified under heading 8519, heading 8527 or the appropriate heading as the case may be.

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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