Circular No.01 / 2013- Customs

F.No. 528/48/2012-STO (TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

229-A, North Block, New Delhi
1st January, 2013

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 Cordless Infrared Devices for the Remote Control – reg.

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The issue of classification of cordless infrared devices for the remote control was taken up for discussion in the May, 2012 Mumbai Conference of Chief Commissioners of Customs and Directors General. The entries in National Import Data Base (NIDB) in tariff item 84159000 (Parts of heading 8415), 85299090 (Part of TV, etc), indicated that cordless infrared devices for the remote control is often being treated as a part of the main device / equipment, while the entry in heading 85437099 – "Other", under the heading 8543 provided that it is treated as, "electrical machines and apparatus having individual functions, not specified or including elsewhere in this chapter". During the conference it was decided to further examine this issue in the Board.

2. Accordingly, this issue was examined in the Board. It emerged that when cordless infrared devices for the remote control are imported along with the main equipment as a set, then the "essential character rule" of GRI 3(b) has to be applied in order to determine under which single heading the set had to be classified. However, when this product is presented separately, then the classification is to be determined by application of the General Rule 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.

Chapter Note 1(m) to Chapter 95 reads as:

"*Pumps for liquids (heading 84.13), filtering or purifying machinery and apparatus for liquids or gases (heading 84.21), electric motors (heading 85.01), electric transformers (heading 85.04), discs, tapes, solid-state non-volatile storage devices, "smart cards" and other media for the recording of sound or of other phenomena, whether or not recorded (heading 85.23), radio remote control apparatus (heading 85.26) or cordless infrared remote control devices (heading 85.43);". Heading 8543 provides for "Electrical ... apparatus, having individual functions, not specified or included elsewhere* ... ".

Chapter Note 7 to Chapter 85 reads as:

"Heading 8537 does not include cordless infrared devices for the remote control of television receivers or other electrical equipment (heading 8543).

3. The Explanatory Notes to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the CTA, 1975 by offering guidance in understanding the scope of the headings and the GRIs, and for the harmonised Customs Tariff Heading 85.43, it states that, "the heading includes, "*Cordless infrared devices for the remote control of television receivers, video recorders, or other electrical equipment*". In addition, the exclusion clause in the Explanatory Notes to Chapter 8537 provides that the heading excludes, "*Cordless infrared devices for the remote control of television receivers, video recorders, or other electrical equipment (8543)*".

4. In view of the aforesaid, the Board of the considered view that:

(a) When cordless infrared devices for the remote control are presented in a set put up for retail sale, that is, they are put up in a manner suitable for sale directly to users without repacking, along with principal / main device

with which they are to be used, they shall be classified along with the principal / main device by application of GRI 3(b) and 6.

(b) In cases where cordless infrared devices for the remote control are presented separately, they shall be classified under heading 8543, sub-heading 8543.70, by application of GRI 1 and 6

5. Accordingly, all pending assessments, if any, may be finalized and suitable instructions may be given to the field formations.

5. Difficulties, if any, faced in the implementation of this circular, may be immediately brought to the notice of the Board.

Yours faithfully,

(Subodh Singh),
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