Circular No.19 / 2013 - Customs

F.No. 528/90/2012-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
9th May, 2013

To

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

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Sir / Madam,

Subject: Classification of Filters referred to as "Disposable Sterilized Dialyzer" and "Microbarrier": for filtering blood" - regarding

Doubts have been raised regarding classification of the filters referred to as "Disposable Sterilized Dialyzer" and "Microbarrier": for filtering blood, whether under heading 9018, in tariff item 90189031 which provides for "renal dialysis equipment (artificial kidneys, kidney machines and dialysers)" or under 8421 in tariff item 84212900 as -"Other", filter.

2. Brief product description is as follows:

(A) **Disposable Sterilized Dialyzer:** is a disposable dialyzer sterilized with ethylene oxide; it consists of a 25-cm-long cylindrical casing, of rigid plastics, with stoppers at both ends and two 3-cm threaded tubes 19 cm apart on one side; the stoppers and tubes are also made of rigid plastics. The article contains hollow fibres and is presented packed in a flexible plastic wrapper. In order to function, the article has to be connected, by means of a circuit of tubes, to a special appliance (probably an artificial kidney) which enables the blood and the dialysate to circulate and toxic matter to be evacuated.

(B) **Microbarrier:** consist essentially of a filtration mesh of materials like polyester in a transparent housing designed for filtering blood. Microaggregates consisting of leukocytes, platelets, cell fragments and proteins, in sizes ranging from 30 to 200µm, are removed from stored blood.

The aforesaid product description is illustrative in nature for the purpose of classification of similar / identical goods in the First Schedule of Customs Tariff Act, 1975.

3. The available information reveals that, in medicine, Dialysis is also called Hemodialysis, Renal Dialysis, or Kidney Dialysis. It involves the process of removing blood from a patient whose kidney functioning is faulty, purifying the blood by dialysis, and returning it to the patient's bloodstream. The hemodialyzer or artificial kidney is a machine that provides a means for removing certain undesirable substances from the blood or of adding needed components to it. By these processes the apparatus can control the acid-balance of the blood and its content of water and dissolved materials. In fact, Dialysis, a technique frequently used in biochemistry, is a membrane-separation method used for removing dissolved salts from solutions of proteins or other large molecules. As seen the complete machine which performs this process is classifiable in subheading 9018.90 which reads as, "*other instruments and appliances*".

4. The complete blood purifying system i.e., blood and dialysis fluid circulation systems consists of semipermeable membrane, entire process monitor and controller, etc., is covered in tariff item 90189031 which provides for "renal dialysis equipment (artificial kidneys, kidney machines and dialysers)". It includes the aforementioned "Disposable Sterilized Dialyzer" and / or "Microbarrier". They find use as filters and qualify as parts of blood purifying system of subheading 9018.90. Therefore, as required by Chapter Note 2 (a) to Chapter 90, the question to be decided is whether these parts or accessories of blood purifying system are included in any of the headings of Chapter 90 or of Chapter 84, 85 or 91.

5. In this regard, the classification of goods in First Schedule of the Customs Tariff Act, 1975 is governed by the principles contained in the General Rules for the Interpretation (GRI) of Import Tariff. The GRI 1 provides that "*the titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes*.." In accordance with Rule 1 and Note 2 (a) to Chapter 90, subject to Note 1 to Chapter 90, "***parts and accessories*** *for machines, apparatus, instruments or articles of this Chapter,.. which are goods included in any of the headings of this Chapter or of Chapter 84, 85 or 91 (other than heading No. 84.85, 85.48 or 90.33) are in all cases to be classified in their respective headings*; ... "**.** Further, the second paragraph of Part III of the HS General Explanatory Note to Chapter 90, gives guidance for the application of Chapter Note 2(a) to this Chapter. According to this Note, "*parts which in themselves constitute articles falling in any particular heading of Chapter 90, 84, 85 or 91 are in all cases to be classified in their respective headings"*.

6. The heading 84.21 covers, inter alia, *filtering or purifying machinery and apparatus for liquids*. Therefore, in accordance with the stipulation mentioned in paragraph 5 above, the aforementioned articles, viz. "Disposable Sterilized Dialyzer" and "Microbarrier", are classifiable in heading 84.21, subheading 8421.29, and tariff item 84212900.

7. To sum up, it is clarified that both the articles, viz. "Disposable Sterilized Dialyzer" and "Microbarrier", as filters would be classified in heading 84.21, subheading 8421.29, tariff item 84212900 - - Other, by application of GRI 1, Note 2 (a) to Chapter 90.

8. In this regard, suitable instructions may be issued to field formations for strict compliance.

Yours faithfully,

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