F.No. 528/102/2011-STO (TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
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229-A, North Block, New Delhi
14th May, 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 the machines commercially referred to as "Tablet Computers" – regarding.

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Doubts have been raised regarding classification of products commercially referred to as Tablet Computers under the Customs Tariff which is harmonised with the Harmonized Commodity Description and Coding System, commonly known as "HS Nomenclature". The two major competing headings are 8517 and 8471.

2. The issue has been examined by the Board. The classification 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. Note 5.(A) to Chapter 84 states that, "*For the purposes of heading 8471, the expression "automatic data processing machine" means machine capable of : (i) storing the processing programme or programmes and at least the data immediately necessary for the execution of the programme; (ii) being freely programmed in accordance with the requirements of the user; (iii) performing arithmetical computations specified by the user; and (iv) executing, without human intervention, a processing programme which requires them to modify their execution, by logical decision during the processing run"*. In addition to the above relevant 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*".

3. A Tablet Computer is designed to be primarily operated by using its touchscreen. It can process data, execute programs, and connect to the Internet via a wireless network in order to, for example, exchange and manage e-mails, exchange or download files, download software applications, conduct video or VoIP ("Voice over Internet Protocol") communications, etc. In addition, it can also be connected to a cellular network to make voice calls.

4. It is seen that “Tablet Computers” can be programmed in a variety of ways thereby qualifying as machines capable of being freely programmed in accordance with the requirements of the user, as required by Note 5 (A) (ii) to Chapter 84. It is also held that the products at issue have essentially the same functionality as a laptop. The function as an Automatic Data Processing Machine (ADP) is the **main function** of the product, while **other functionalities** of said machines are not different from the **auxiliary functions** that could be seen on any computer, such as desktop or laptop computers. The mobile phone calling function could be provided by the products only as a supplementary function because it could not be activated without running an operating system of the “Tablet Computer”, and in order to use the function a headset had to be used. The size of such machines when exceeding the dimensions mentioned in Note 8 to Chapter 84 relating to the “pocket-size” machines of heading 8470, is too big to be used principally for making voice calls. The tablet computers are not intended to be a substitute for a mobile phone to make voice calls, but, according to its main technical features is designed as a substitute for laptops. The difference between a “Smartphone” and a “Tablet Computer”, is not based on whether the product has a voice calling function or not, but on the principal features that a producer has intended for the device when designing and developing it.

5. In view of the foregoing, it is held that products at issue meet all the requirements stipulated in Note 5 (A) to Chapter 84. Therefore, it is decided that machines commercially referred to as “Tablet Computers” are more appropriately classifiable in heading 8471, subheading 847130, by application of General Rules for Interpretation (GRI) of Import Tariff, 1 (Note 3 to Section XVI and Note 5 (A) to Chapter 84) and 6. This decision is consistent with WCO HSC decision to classify certain machines commercially referred to as “Tablet Computers” in heading 8471, subheading 847130.

6. Accordingly, pending classification may be finalized, and difficulties, if any, faced in the implementation of this circular, may be immediately brought to the notice of the Board.

Yours faithfully,

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