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**Bloomberg Data Services (i) Pvt. Vs. Addl. Dr. Gen. D.R.i.**

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**SooperKanoon Citation : [sooperkanoon.com/37029](http://sooperkanoon.com/37029)**

**Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai**

**Decided On : Nov-05-2004**

**Reported in : (2005)(118)LC180Tri(Mum.)bai**

**Judge : S S Quadri, S Pal, B Agarwal**

**Appellant : Bloomberg Data Services (i) Pvt.**

**Respondent : Addl. Dr. Gen. D.R.i.**

**Judgement :**

Appellants: Bloomberg Data Services (I) Pvt. Ltd. Vs.

Syed Shah Mohammed Quadri, J. (Chairman), Somnath Pal and B.A. Agarwal, Members Held: Advance Ruling - Bloomberg Keyboard'--The said product has an integrated hardware and software which enables the use of internet as the transmission medium for telephone calls--Does the said product cease to be a 'keyboard' because of the additional facilities--Principal purpose of the product in question being that of a 'keyboard', therefore appropriately classified as under 84.71 6040 of the Schedule as an input of an automatic data processing machine.

1. An application has been filed by M/s. Bloomberg Data Services (India) Pvt. Ltd., (the name of the applicant as amended and to be referred to hereinafter as the 'applicant') seeking advance ruling under Section 28H(a) of the Customs Act, 1962. The issue, though not shaped in question form, on which an advance ruling has been sought by applicant, is in respect of classification of Bloomberg

Keyboard Keyboard under Customs Tariff Act. 1975.

2. In the statement of the relevant facts having bearing on the question on which the advance ruling is required, the applicant has stated that they are engaged in the business of providing on line financial information. For this purpose, they provide computer hardware facilities. In this regard the applicant is proposing to import keyboards used for personal computers. According to the applicant, the keyboard is having additional features to cater to the needs of the applicant. It also has an audio system consisting of speakers and a microphone for use with multimedia applications and to conduct telephone calls. The keyboard also contains a low-speed embedded processor and a liquid crystal display which shows keyboard status information.

In the statement containing the applicant's interpretation of law and of facts, it has been further stated that this product can perform more than one function i.e. it can also be used to receive and make telephone calls amongst applicant's networks. According to the applicant, the product would still fall under the heading 84.71 of the First Schedule Customs Tariff Act, 1975 (hereinafter referred to as "the Schedule"). The product, the applicant contends, is predominantly essential for data input function without which the subscribers of the applicant will not be able to gain access to the services offered by the applicant. The additional facilities particularly the telephone are only incidental and ancillary to the main function and use, which is inputting financial information. The product has essential character of a standard personal computer keyboard and needs to be classified as such under tariff item 8471.60 which reads as "input or output units whether or not containing storage units in the same housing". The applicant has referred to Rule 3 and Rule 4 of the General Rules for the Interpretation of the Schedule and also the HSN Explanatory Notes given in section XVI which covers multi-function machines and composite machines. Attention has been drawn in particular to Note VI thereof, according to which multi-function machines in general are classified according to the principal function of the machine. It has been further contended by the applicant that based on the appearance of the product and the details contained in the features list for the product, there can be little doubt that the principal function of the article is as a personal computer keyboard.

3. The applicant has also drawn our attention to the "Bloomberg Keyboard Technical information" leaflet as well as to the 'Installation and Reference Guide as on 28th September 2004 in further support of their view. They also furnished a copy of the communication dated 13.1.2004 apparently from H.M. Customs and Excise, International Trade Operations, Essex, U.K. addressed to M/s. Bloomberg LP, London giving a Binding Tariff Information for the goods described as "A PC keyboard that can be used with all standard windows applications and has additional keys specifically for use with Bloomberg applications. The keyboard incorporates stereo speakers and a microphone for use with multimedia applications and voice over internet protocol capabilities.

The keyboard also features an LCD to display keyboard status information" The classification of the goods has been indicated in the said communication as 8471 60 5000 in customs nomenclature.

4. The Departmental representative is also of the view that despite the add on functions, the essential function of this product basically remains to be data input to a personal computer. It cannot be used as a telephone set or a speaker system separately. The product contains essential characteristics of an input device of an automatic data processing machine and hence it appears classifiable under Customs Tariff heading 8471 being a keyboard with add-on functions to be used with a Personal Computer.

5. From the "Bloomberg Keyboard Installation & Reference Guide as on 28th September, 2004, version: 2.5" submitted by the applicant, we observe that it is described as a standard P.C. Keyboard that has been specially designed for use with the Bloomberg Professional service.

Under the heading "Keyboard features" the following aspects, inter alia, have been specified.

(ii) The keyboard is equipped with keys that have been specifically designed for use with the Bloomberg Professional service.

(iii) The keyboard has integrated Vo IP (Voice over Internet Protocol) hardware that supports voice communication over the Bloomberg network.

(iv) The keyboard contains high quality stereo speakers and a directional microphone that support Windows multimedia audio and Bloomberg Vo IP.6. In the pictorial depiction of the "keyboard overhead" as given in the leaflet titled "The Bloomberg Keyboard--Technical Information", also submitted by the applicant, various functional keys and other features have been clearly indicated. These include inbuilt "speakers for PC or Bloomberg Vo IP audio output", "Vo IP key" which "activates Bloomberg internet telephony features", "Microphone mute" which "activates & mutes the keyboard microphone" and "Microphone records to PC applications or Bloomberg internet telephony applications". It is thus evident that the integrated Vo IP as well as the stereo speakers and the microphone are all built in features of the keyboard itself.

Moreover, the Vo IP facility is operable through the Vo IP key" of the keyboard. As per the Webopedia--an online encyclopedia dedicated to computer technology--the "internet Telephony" is "a category of hardware and software that enables people to use the internet as the transmission medium for telephone calls. For users who have free, or fixed--price Internet access, Internet telephony software essentially provides free telephone calls anywhere in the world. To date, however, Internet telephony does not offer the same quality of telephone service as direct telephone connections.

There are many Internet telephony applications available. Some like Cooltalk and Net Meeting come bundled with popular Web browsers. Others are stand alone products. Internet telephony products are sometimes called I.P. Telephony, Voice over the Internet (Vol) or Voice over IP (Vo IP) products.

From the above, it appears to us that the Bloomberg Keyboard-the product in question'has an integrated hardware and software which would enable the people to use the internet as the transmission medium for telephone calls. It is an addition facility provided to the user of the Internet.

7. Turning now to the classification issue, we find that "keyboard" is specifically covered by the sub-heading 8471 60 40 of the Schedule under the sub-heading 8471 60 which reads as "Input or output units, whether or not containing storage units in the same housing", which in turn falls under the main tariff heading 8471-- "Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data on to data media in coded form and machines for processing such data, not elsewhere specified or included".

8. The short point which thus arises for our consideration is whether the product in question ceases to be a "keyboard" by virtue of the additional facilities built into it, particularly the Vo IP or the internet telephony. From the technical literature submitted by the applicant and the details highlighted above, we have no doubt in our mind that functionally the product is basically a keyboard which can function as a keyboard even without the additional facilities which have been integrated into it. As per the Chapter note 5(D) of Chapter 84 of the Schedule, Printers, Keyboards, X-Y co-ordinate input devices and disk storage units which satisfy the conditions of paragraphs (B)(b) and (B)(c) of the Chapter note 5, are in all cases to be classified as units of heading 8471. The said conditions namely, "it is connectable to the central processing unit either directly or through one or more other units, "and" it is able to accept or deliver data in a form (codes or signals) which can be used by the system", are satisfied in the case of the product in question. We, therefore, find it reasonable to hold that the product under consideration would be classifiable as a unit of the heading 8471. It would indeed be too much to treat it as a telephone set falling under the heading 8517. The principal purpose is to use the product as a keyboard while the Vo IP, stereo speakers and microphone are ancillary to this principal purpose.

Chapter note 7 of Chapter 84 of the Schedule stipulates that "a machine which is used for more than one purpose is, for the purposes of classification, to be treated as if its principal purpose were its sole purpose." The principal purpose of the product in question being that of a keyboard, it has therefore to be appropriately classified as per its principal purpose and accordingly it would fall under the heading 8471 60 40 of the Schedule.

9. In the light of what has been discussed above, we rule that the product in question namely 'Bloomberg keyboard' would be classifiable as an input unit of an automatic data processing machine, falling under the specific tariff item 8471 60 40 of the Schedule (2004-2005).

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