

**Cascade Systems Vs. the Commissioner of Customs**

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**SooperKanoon Citation :** [sooperkanoon.com/42285](http://sooperkanoon.com/42285)

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

**Decided On :** Mar-27-2006

**Reported in :** (2006)(108)ECC445

**Judge :** S Peeran, J T T.K.

**Appellant :** Cascade Systems

**Respondent :** The Commissioner of Customs

**Judgement :**

1. This appeal has been filed against the OIA No. 300/2003-Cus dated 16.07.2003 passed by the Commissioner of Customs (Appeals), Bangalore.

2. The short point involved is the classification of Pentium-II/Celeron Microprocessors imported by the appellants. The competing entries in the Customs Tariff are 8542.19 claimed by the appellants and 8473.30 decided by the Department. Aggrieved by the OIO, the appellants approached the Commissioner (Appeals). The Commissioner (Appeals) upheld the order of the original authority who relied on the amendment to Customs Notification No. 23/98 by Notification No. 97/98 wherein a new serial number 187A has been inserted. In this Notification, in Column No. 2, the classification of Microprocessors is indicated as 847330. The Commissioner (Appeals) has observed that there is an exclusion clause in sub-heading 85.42 of the HSN Explanatory Notes, which states that an assembly consisting of number of electronic microcircuits mounted on an appropriate shaped carrier and designed as a part of digital data processing

machine, storage would fall under heading 84.73. He has also held that the impugned goods are specifically designed for computers and, therefore, they are classifiable as parts of automatic data processing machines under 8473.30. The appellants strongly challenge the findings of the lower authorities.

3. Shri M.S. Srinivasa, the learned Advocate appeared for the appellants and Shri K. Sambhi Reddy, the learned JDR for the Revenue.

(i) From the Show Cause Notice and the order of the Adjudicating Authority, it may be seen that the goods imported are populated PCBs and the issue is whether such populated PCBs are classifiable as parts of computers under CSH 8473.30 or as Integrated Circuits under Chapter Heading 8542.

(ii) A Notification cannot be used to decide the classification of a product as held by CEGAT in the case of CCE v. Sinter Plast Containers .

(iii) The Commissioners ought to have followed the clarification of the Department of Electronics as the same is binding on them.

(iv) The CEGAT in the case of A.B. Controls Ltd. v. Collector of Customs held that the items are covered under CH 8542.

(v) The Adjudicating Authority has given a categorical finding that the imported goods are in the nature of Populated Printed Circuit Boards (PCBs). Therefore, the Commissioner ought to have classified the goods under CH 8542.

(vi) CH 8542.19 is a specific heading dealing with Integrated Circuits whereas CH 8473.30 is a general heading dealing with computer parts. As per Rule 3(a) of the Rules for the Interpretation of the Schedule, the heading which provides the most specific description shall be preferred to heading providing a more general description.

(vii) In the case of Jindal Aluminium Ltd. v. Collector , it has been clearly held that Populated Printed Circuit Boards are classified under CH 8542. In view of the above, the Commissioner ought not to have held that the goods are classifiable under Chapter Heading 8473.30. Bharat Electronics Ltd. v. CCE, Bangalore 6. We

have gone through the records of the case carefully. CH 8542 covers Electronic Integrated Circuits. According to the Oxford Advanced Learner's Dictionary, Integrated Circuit is actually a small microchip that contains a large number of electrical connections and performs the same function as larger circuits made from separate parts. According to the McGraw-Hill Dictionary of Scientific and Technical Terms, Integrated Circuit means;- An interconnected array of active and passive elements integrated with a single semiconductor substrate or deposited on the substrate by a continuous series of compatible processes, and capable of performing at least one complete electronic circuit function.

Abbreviated IC. Also known as integrated semiconductor.

7. From the above it is very clear that the term Integrated Circuit is a very general term, which actually represents a complicated electronic circuit etched in a single piece of semiconductor. Then what is a Microprocessor? A Microprocessor is also an Integrated Circuit.

However, to be more accurate, it is a single silicon chip on which the arithmetic and logic functions of a computer are placed. To put it differently, a Microprocessor contains all the functions of the Central Processing Unit of a Computer. Hence, it is very clear that Microprocessor is also an Integrated Circuit but all Integrated Circuits need not be Microprocessors. The Microprocessor is specially meant for Computer. In the present case, in the Bill of Entry, it is clearly mentioned in the description of the goods that the item is a Processor. The term Processor and Microprocessor are used synonymously.

Moreover, it is on record that the impugned items are actually Pentium-II/Celeron Microprocessor. In these circumstances, it is very clear that the impugned items are actually parts of Computer classifiable under 8473.30. It is also seen that in the existing Tariff, Microprocessors are mentioned in 8473.30.10. Hence, we do not find any merit in the appeal. The impugned order is legal and proper.

The impugned items are correctly classifiable under 8473.30. Therefore, we reject the appeal by upholding the impugned order.