

## CHAPTER V MIS-CLASSIFICATION OF GOODS

A few cases of incorrect classification of goods resulting in short-levy/non-levy of customs duties of ₹ 2.25 crore noticed in test check are discussed in the following paragraphs. These observations were communicated to the Ministry through five draft audit paragraphs.

### 5.1 Low Noise Block (LNB) converter

As per Note 2 (b) section XVI of Customs Tariff Act, parts if suitable for use solely or principally with a particular kind of machine or with a number of machines of same heading are to be classified with the machine of that kind or in heading 8409, 8431, 8448, 8466, 8503, 8522, 8529 or 8538 as appropriate. Accordingly, parts suitable for use with television reception apparatus are classifiable under heading 8529 and is leviable to Basic Customs Duty (BCD) at the rate of 10 per cent.

Low Noise Block (LNB) converter is specially designed for use with its parabolic reflector and other component of the Digital Satellite System (DSS)



for receiving television transmission relayed by satellite. The LNB is mounted at the focal point of the parabolic reflector, receives the signal in GHz from the satellites and after converting sends the signal in MHz over standard coaxial cable for distribution of television signals in private residences.

As the LNB is a part solely or principally used with the transmission and reception apparatus for television of CTH 8525/8528, it merits classification under CTH 85291019.

M/s Bharati Telemedia Ltd., and M/s Sun Direct TV Pvt. Ltd., had imported (October 2009 to July 2010) from China and Hongkong 32 consignments of 'Low Noise Block Converters' and 'Low Noise Boosters' for a value of ₹ 20.60 crore through Chennai (Sea), Commissionerate. The goods were incorrectly classified under CTH 85437069/ 85437099 as 'Electrical machines and apparatus having individual functions not specified or included elsewhere in chapter 85 of Customs tariff Act' and assessed to BCD at 7.5 per cent.

It was noticed from the supplier's website that the imported goods were actually parts suitable for use with DSS and merit classification under CTH 85291019 and assessable to BCD at 10 per cent instead of 7.5 per cent levied. Thus, incorrect classification had resulted in short levy of duty of ₹ 89.40 lakh.

When we pointed this out (March/June/August/October 2010), the department stated (January 2011) that LNB was the device on front of the satellite dish that receives the very low level microwave signal from the satellite, amplifies

it, changes the signals to a lower frequency band and sends them down the cable to the indoor receiver and thus, they are frequency amplifiers which merit classification under CTH 85437069.

The reply of the department explaining functioning of the LNB converter, further substantiates the audit contention because the imported item i.e LNB converter being reception apparatus for television transmission relayed by satellites is appropriately covered under CTH 8529. Its classification under CTH 8529 was also held internationally (United States International Trade Commission Rulings and Harmonised Tariff Schedule dated 28 October 2003).

This was communicated to the department in June 2011, their response has not been received (November 2011). However, it was noticed that the department had issued show cause notices to M/s Bharati Telemedia Ltd., and M/s Sun Direct TV Pvt Ltd for ₹ 35.90 lakh and ₹ 11.23 lakh respectively.

We reported (November 2011) the matter to the Ministry; its response had not been received (January 2012).

## 5.2 Machinery for the mechanical handling of materials, goods etc

As per Harmonised system of nomenclature (HSN) note, chapter heading 8428 covers wide range of machinery for the mechanical handling of materials, goods etc e.g, lifts, escalators and conveyors, even if these machines are specified for a particular industry. Further, 'Conveyors of bucket and screw type' are classifiable under CTH 84283200 and 84283900 respectively.



M/s Mulpuri Foods & Feeds Pvt Ltd., and two others had imported (October 2010 to January 2011) 12 consignments of 'Animal Feed machinery Screw Conveyor, Feedmill equipment and materials/inter systems- Drag Conveyors and accessories, Feedmill equipment and materials/inter systems-Bucket elevators & accessories' through Chennai (Sea), Commissionerate. The goods were classified under CTH 84361000/84369900 as 'Machinery for preparing animal feeding stuffs/poultry keeping machinery' and assessed to CVD at 'nil' rate.

Audit noticed that the imported goods merited classification under CTH 84283900/84283200 in terms of HSN and liable to CVD at the rate of 10 per cent under notification no. 2/2008-CE dated 1 March 2008 (serial no. 62). The incorrect classification had resulted in short levy of duty of ₹ 74.33 lakh.

When we reported (September 2011) the matter, the Ministry admitted the observation and stated (November 2011) that the less charge notice had been issued and proceedings initiated to recover duty short levied. The Ministry further stated that action is being initiated to put Risk Management System

(RMS) alert to prevent recurrence of such cases. Further progress was awaited (January 2012).

### 5.3 Monitors and projectors



‘Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus’ are classifiable under CTH 8528. Reception apparatus for television – LCD TV - others are classifiable under CTH 852872.

M/s Sharp Business (System) India Ltd., had imported (September 2010 to January 2011) 13 consignments of various models of ‘Sharp Brand LCD Monitors’ through Chennai Sea, Commissionerate. The imported goods were classified under CTH 85285100 as Monitors of a kind solely or principally used in automotives data processing system of CTH 8471 and assessed to BCD at ‘nil’ rate under notification no. 24/2005-cus dated 1 March 2005 (serial no. 17).

Audit noticed from the products catalogue that the imported goods were HD TVs having technical features like S-Video port, aspect ratio of 16:9, display pitch greater than 0.41 mm, frequency range less than 6 Mhz etc. which allows them to receive television signals or other video signals. Accordingly, the imported items were classifiable under CTH 852872 ‘other colour television sets’ in terms of the Board Circular no. 33/2007- cus dated 10 September 2007 and leviable to BCD at the rate of 10 per cent. The incorrect classification had resulted in short levy of duty of ₹ 37.53 lakh.

When we pointed this out (February 2011), the department reiterated (September 2011) that these monitors were correctly classified under CTH 85285100 as these were without built in TV tuners and could not be used as TV. These monitors were principally used in Automatic data processing machines (ADPM) for digital signals and display applications designed to meet diverse needs of various organisations. The department further stated that capability of these monitors in receiving TV or Video signals by itself could not detract them from their principal usage/classification.

The department reply is not acceptable because specification obtained from website of the company (Sharp-Model PN-E601 & E521) indicate that these were not merely monitors for ADPM but high definition TVs, accordingly they merit classification under CTH 852872.

We reported (November 2011) the matter to the Ministry; its response had not been received (January 2012).

## 5.4 Perfumery Products

In terms of Note 1 (a) to chapter 44 of the Customs Tariff Act, 1975, wood, in chips, in shavings, crushed, ground or powdered, of a kind used primarily in perfumery, inter-alia, is excluded from the purview of chapter 44 of the Customs Tariff Act, 1975 and is classifiable under chapter heading 1211 of the said Tariff Act.



M/s Jac Exim Pvt. Ltd. and nine others had imported (January, February and April 2010) 24 consignments of 'Saw Dust' through Chennai, (Sea), Commissionerate. The department classified the goods as 'Saw dust' and 'wood waste' under CTH 44013000 and levied BCD at the rate of 5 per cent. However, the imported saw dust was primarily meant for use in perfumery and therefore merited classification under CTH 12119039 as per the aforesaid chapter note and assessable to BCD at the rate of 15 per cent. The incorrect classification of goods resulted in short levy of duty of ₹ 13.98 lakh.

When we pointed this out (June 2010), the department accepted the observation and reported (February 2011) that demand notice has been issued. Further progress had not been furnished (January 2012).

We reported (September 2011) the matter to the Ministry; its response had not been received (January 2012).

## 5.5 Sugar

'Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form' are classifiable under CTH 1702.

M/s Anshul Agencies had imported (November 2010) three consignments of 'Tabletose 80 (Lactose Monohydrate), Granulac 200 (Lactose Monohydrate), Cellactose 80, Flowlac 100, Granulac 140, Sachelac 80, Spherolac 100' supplied by M/s Molkerei Meggle through Chennai (Sea), Commissionerate. The imported goods were incorrectly classified under CTH 29400000 as 'sugars other than lactose' and assessed to BCD at the rate of 7.5 per cent under notification no. 21/2002-cus dated 1 March 2002 (serial no. 553).



It was noticed from the website of the supplier company that the imported goods were actually lactose products which merit classification under CTH 17021910 and assessable to BCD at the rate of 25 per cent under aforesaid notification (serial no. 39). The incorrect classification resulted in short levy of duty of ₹ 9.54 lakh.

When we reported (September 2011) the matter, the Ministry admitted the observation and stated (November 2011) that the less charge notice had been

issued and proceedings initiated to recover duty short levied. The Ministry further stated that action is being initiated to put Risk Management System (RMS) alert to prevent recurrence of such cases. Further progress was awaited (January 2012).

**New Delhi**  
**Dated :**

**(SANDHYA SHUKLA)**  
**Principal Director (Customs)**

**Countersigned**

**New Delhi**  
**Dated :**

**(VINOD RAI)**  
**Comptroller and Auditor General of India**