



सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण
CUSTOMS AUTHORITY FOR ADVANCE RULINGS
नवीन सीमाशुल्क भवन, बेलाई इस्टेट, मुंबई - ४०० ००१
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The 02nd of June, 2022

Ruling Nos. CAAR/Mum/ARC/14/2022

in

Application No. CAAR/CUS/APPL/21/2022 - 0/o Commr-CAAR-MUMBAI

Name and address of the applicant: M/s. Brightpoint India Pvt Ltd., 5th floor, Building A
Empire Plaza, LBS Marg, Vikhorli West, Mumbai- 400083

Commissioner concerned: The Commissioner of Customs (III),
Import Air Cargo Complex, Sahar, Andheri (East), Mumbai –
400099

Principal Commissioner of Customs (Chennai VII)
(Air Cargo Commissionerate), New Custom House,
Air Cargo complex, Meenambakkam, Chennai-600016

The Commissioner of Customs (Airport & General),
New Custom House, Near IGI Airport, New Delhi – 110037

The Principal Commissioner of Customs (Airport & ACC),
15/1, Strand Road, Custom House, Kolkata – 700001

Present for the applicant: Shri T. Vishwanathan, Advocate;
Ms Srinidhi Ganeshan, Advocate;
Ms Tridipa Banerjee, Advocate;
Shri Blasé D'souza, Director;
Shri Chandrashekhar Thakur, Sr. Manager;

Present for the Department: None

Ruling

M/s. Brightpoint India Pvt Ltd. (hereinafter, the applicant) situated on the 5th Floor, Building A, Empire Plaza, LBS Marg, Vikhroli West, Mumbai-400083 and having IEC No. 0503077411, filed an application dated 08.03.2022 seeking advance rulings on the classification of Honeywell International Inc portable computers viz. vehicle-mounted computers, tablet computers and mobile computer, having the following model numbers: -



S.No.	Category of Portable Computer	Model	Product is with/without SIM
1	Vehicle-Mounted Computer	THOR VM 1A	Without SIM
2		THOR VM3A	Without SIM
3		THOR VM3	With SIM
4		THOR VM3	Without SIM
5		THOR CV31	Without SIM
6	Tablet Computer	RT10A	With SIM
7		RT10A	Without SIM
8		RT10W	With SIM
9		RT10W	Without SIM
10		SCANPAL EDA71	With SIM
11		SCANPAL EDA71	Without SIM
12	Mobile Computer	CK65	Without SIM
13		SCANPAL EDA61K	With SIM
14		SCANPAL EDA61K	Without SIM
15		CT45	With SIM
16		CT45	Without SIM
17		CT45XP	With SIM
18		CT45XP	Without SIM
19		CT40	With SIM
20		CT40	Without SIM
21		CT40 XP	With SIM
22		CT40 XP	Without SIM
23		CT60	With SIM
24		CT60	Without SIM
25		CT60 XP	With SIM
26		CT60 XP	Without SIM
27		SCANPAL EDA51	With SIM
28		SCANPAL EDA51	Without SIM



29		CN80	With SIM
30		CN80	Without SIM
31		CN80G	With SIM
32		CN80G	Without SIM

2. The applicant is a distributor of Information technology and telecommunication products. The applicant intends to import the above-mentioned types of portable computers, the essential features of which are listed below: -

Category of Portable Computer	Key Features/ functions performed
Vehicle-mounted computers	These are rugged mobile workstations that attach to industrial vehicles such as trucks, forklifts, and carts.
Tablet computers	Typically, these handheld computers have a screen of size 8 inches and above for undertaking processing and communication activities on the go.
Mobile computers	<ul style="list-style-type: none"> - These are small, durable devices that extend organisational knowledge into the field by combining scanning and processing functions into a single device. - These devices are capable of scanning 1D and 2D barcodes. - Securely access programs or databases stored in the cloud or office using the latest wi-fi technologies such as 802.11 a/b/g/n - Take advantage of high-speed WLAN or WWAN networks, such as the 4G HSPA+ worldwide network or the 3.5G EVDO/CDMA network. - Add additional memory using expandable card slots - Accurately pinpoint the locations of employees, assets, and businesses with optional GPS capabilities. - Easily sync with modems, printers, and headsets using bluetooth wireless connectivity. - Always stay connected via phone using integrated cellular service (for some models which can accommodate SIMs)



The applicant stated that each type of portable computer is available with SIM as well as without SIM connectivity. Communication functions, if any, are generally performed by these portable computers using wi-fi or wireless connectivity. Only when such wireless internet is not available, the devices can use the cellular network to function (if devices have SIM card capability and have been fitted with the SIM card). Thus, the cellular network is used sparingly in cases such as during last-mile delivery, when wi-fi is not readily available etc. In fact, the calling function provided in products with SIM is a supplementary function since the same has been provided as an additional mode of connectivity apart from bluetooth, wi-fi and GPS.

2.1 The applicant has submitted that the portable computers proposed to be imported by them are classifiable under heading 84.71 as automatic data processing (ADP) machines, for the following reasons:

- a. These devices satisfy the criteria set out in heading 84.71 to be classified as ADP machines;
- b. The principal function performed by these devices is that of processing data, and thus, they merit classification as suggested;
- c. The proposed imports are commercially known as "Mobile Computer", "Tablet Computers" and "Vehicle-Mounted Computers" and not as phone/communication devices/mobile phones.

2.2 As per the applicant, to qualify as an ADP machine, goods have to satisfy all the conditions mentioned in Note 5(A) to Chapter 84 and should not be covered by Note 5(D) and 5(E) ibid. The applicant has submitted that the portable computers in question comply with the above requirements, and therefore, are classifiable as ADP machine under CTH 84.71 as tabulated below: -

Condition to be fulfilled by an ADP machine, as mentioned in Note 5(A)	Compliance of the condition by the proposed imports
i. Storing the processing program/s and at least the data immediately necessary for the execution of the program;	These devices can receive the inputs in form of barcodes, text fields, phone numbers, images, signatures and even check boxes etc. The data so received is processed by these to provide the desired output. These machines have storage capability and also store programs which can be changed from job to job. They process data in a coded form.
ii. Being freely programmed in accordance with the requirements of the user;	The devices come configurable with off-the-shelf, end-user applications allowing the programming of the various functions in accordance with the needs of the user. Different apps can be installed and accordingly the products .are freely programmable.



<p>iii. Performing arithmetical computations specified by the user;</p>	<p>These devices automatically capture details pertaining to inventory, invoicing, and real-time delivery and subsequently process the same to perform relevant functions. These functions are performed in a logical sequence, comprising of data input, data processing and data output. Further, these portable computers are freely programmable with various external applications in order to cater to a variety of user needs.</p>
<p>iv. Executing, without human intervention, a processing program which requires them to modify their execution, by logical decision during the processing run.</p>	<p>These devices while performing tasks like scanning, asset/inventory management/invoicing etc., are essentially functioning without manual intervention on the basis of a preprogrammed logical sequence of operations.</p>

As per the applicant, Chapter notes 5(C), 5(D) and 5(E) are not applicable to the impugned devices as the products are in itself ADP machines. Thus, the proposed imports satisfy all the conditions to be fulfilled by ADP machines.

2.3 The applicant further stated that without prejudice, even if it is assumed that these devices viz. mobile computers, tablet computers and vehicle-mounted computers models proposed to be imported are capable of performing more than one function, i.e., capable of functioning other than as an ADP machine, the function of the ADP machine is the principle function and therefore, shall be treated as an ADP machine in terms of Note 3 to Section XVI. The proposed imports are marketed to businesses for ease of logistics and not as a substitute for a communication device. That the portable computer is used to transmit other data, apart from the inventory-related data, the function is only an incidental function and the classification is to be based as if the principal function were the sole purpose. Commercially too, the products are known as “computers” and not as “phone/communication devices”. As per the trade parlance, the proposed imports are known in the market as “mobile computers, tablet computers and vehicle-mounted computers” and not as smartphones or telephones.

2.4 The applicant has contended that the product is an automatic data processing machine that cannot be classified under the heading 8517. The proposed imports are not primarily meant for communication purposes. Communication abilities like that of a traditional telephone/mobile telephone are only auxiliary functions that these portable computers perform. The applicant highlighted the following differences between conventional cellular phones/communication devices and impugned portable computers: -

Feature	Conventional Cell Phone / Smartphone	Portable Computer
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Scanning	Can scan only a few codes per hour, using apps.	Mobile computers can scan around 500-1000 codes per hour. Tablet computers can scan around 20-60 codes per hour. Quality and speed are much better than conventional phone scanning.
Ruggedness	Not rugged. Can break on fall	Mobile computers are extremely rugged. Designed to withstand huge falls and rough handling.
Data edit	Not available	Can edit codes and scan partial codes. This is useful for specific industrial uses, and users need not spend time scanning whole codes and can get specific inputs instantly.
Security	Has conventional security features which are not too good	Has exceptional enterprise-level security features.

The applicant contends that the products in question are not classifiable as smartphones under subheading 85171300 as the proposed imports are essentially ADP machines which have an additional feature of cellular connectivity. It is also to be noted that 18 out of the 32 models of portable computers (para. 1) do not have the cellular calling function and thus do not have the capability to accommodate a cellular network system. Even if it is to be classified under heading 8517, then they are classifiable under subheading 8517 1400 as "Other telephones for cellular networks or for other wireless networks" and not as smartphones under subheading 85171300. The Applicant submits that in such case, the aforesaid models of computers proposed to be imported by the Applicant are eligible for exemption under Notification No. 57/2021-Cus dated 30.06.2017 (S. No. 4) whereby, the applicable rate of basic customs duty shall be NIL.

2.5 In respect of subheadings 85176290 and 85176990, the applicant states that these are residuary entries and will only apply products not classified elsewhere. As explained above in detail, the imported portable computers are classifiable under heading 8471, and if not under 8471, then alternatively under subheading 851713 or 851714. Thus, these products cannot be classified under the residuary entry of 85176290 or 85176990.

2.6 In support of their contention, the applicant submitted Circular No. 20/2013 dated 14.05.13 wherein it was held that *"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. Accordingly, the 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"*. The Circular also reaffirms the ruling of the World Customs Organisation, regarding tablet computers. The applicant also relied upon the case of Commissioner of Customs (Acc & Import) v. Samsung India 41 Electronics P. Ltd. reported in 2019 (4) TMI 915 - CESTAT MUMBAI, where it was held that the tablets imported were more suited for the purpose of working/reading rather than for



the purpose of telephony, specifically as a mobile device, and thus were classifiable under heading 8471 and not heading 8517.

2.7 Contesting the decision of the 64th and 68th Session of the World Customs Organization in respect of the classification of RFID readers'/ bar scanners having inter-alia SIM capability as classifiable under heading 8517, the applicant stated that the opinions of WCO are not applicable to the products proposed to be imported for the following reasons:

- a. The WCO rulings did not consider the classification of heading 8471 in the aforesaid opinions.
- b. Unlike the ruling on tablet computers, which has been expressly accepted by CBIC, no similar circular has been passed accepting and adopting the above ruling.
- c. The proposed imports are portable computers and not merely RFID readers.
- d. The WCO ruling on tablet computers is more appropriately applied to the proposed imports.
- e. The models proposed to be imported do not satisfy the criteria specified in the WCO opinion of the 68th Session as explained below:
 - i. Many models (18 out of 32 models) do not contain the capability to make cellular phone calls.
 - ii. The vehicle-mounted computers do not have the capability of scanning.
- f. Further, the products under consideration are not only bar code readers and have multi-faceted functions which are all integral functions to those respective devices.

2.8 In relation to the above-mentioned device, the questions on which advance rulings have been sought are as follows: -

1. Whether portable computers, viz., mobile computers, tablet computers and vehicle-mounted computers to be imported by the applicant are classifiable under the subheading 84713090?
2. If the answer to the above question is the negative, then what would be the correct classification of the portable computers, viz., mobile computers, tablet computers and vehicle-mounted computers under the Tariff of India?
3. The applicant in their CAAR-I form declared that they intend to import the impugned devices from the Air Cargo Complex, Mumbai. Their application, therefore, was forwarded to the jurisdictional commissioner of customs for comments. However, no reply has been received, though reminders have also been sent.
4. Personal hearing was held on 12.04.2022 at 1230 Hrs. Shri T Vishwanathan, advocate Ms. Srinidhi Ganeshan, advocate; Ms. Tridipa Banerjee, advocate; Shri Blaise D'Souza, director; Shri Chandrashekhar Thakur, sr. manager represented the applicant. No one appeared on behalf of the commissioner of customs. Sh. Viswanathan explained the product features with specimens for each of the product categories. My attention has been drawn to the relevant portions of the tariff, explanatory notes etc. Rulings of Singapore Customs on the handheld computer and the BIS certificate for the products were also submitted. An adjudication order passed by the Additional Commissioner of Customs, ACC, Mumbai has also been submitted in their support.
5. I have considered all the materials placed before me in respect of the subject devices. I have also gone through the submissions made by the applicant during the personal hearing. No reply has



been received from the jurisdictional commissioner. Therefore, I proceed to pronounce my rulings on the basis of information available on record. The issue before me is the classification of vehicle-mounted computers, tablet computers and mobile computers. These are portable devices used in enterprise environments to run mobile apps, capture barcodes, take photos and videos, and provide voice and data communications for workers and managers. These devices combine personal computer and scanning functions (applies to mobile computers and tablet computers) in a single device that can be outfitted with off-the-shelf or custom software applications that perform everyday tasks, such as monitoring deliveries, tracking assets, and managing inventory (except vehicle-mounted computer which do not have the capability of scanning). And because they run on familiar operating systems such as Windows/Android, they offer the same functionality of a desktop computer or laptop. These processors are also equipped with a barcode scan engine and act as their own host, which means one can instantly update and edit information as it is captured. The applicant has suggested heading 8471 as an appropriate classification for these devices. GRI 1 provides that the classification of goods shall be "determined according to the terms of the headings and any relative section or chapter notes." In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, GRIs 2 through 6 may be applied in order. . In order to merit classification under heading 8471, it is clear, that these devices need to satisfy the requirements of note 6(A) to chapter 84, the said chapter note is reproduced below: -

For the purposes of heading 8471, the expression "automatic data processing machines, 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.*

Therefore, there is a need to examine whether the features and specifications of the devices under consideration meet the criteria as laid down in the relevant chapter note reproduced above. The impugned devices, as seen in para 2.2, appear to be able to satisfy the requirements of an ADP machine. Note 6(C) to chapter 84 specifies the conditions for a unit to be classified as being part of an automatic data processing system. However, from the working and features of the impugned devices, it appears that these are not units of ADP machines, but ADP machines themselves. Note 6(D) to chapter 84 lists certain separately presented products that are to be excluded from heading 8471, even if they can be classified as part of an ADP system. Note 6(E) to chapter 84 mentions that a machine incorporating or working in conjunction with an automatic data processing machine and performing a specific function other than data processing are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings. As the impugned devices, as described by the applicant, appear to be akin to ADP machines performing capturing of data and its further processing, the notes 6(D) and 6(E) do not appear to have application in this case.

5.1. In respect of possible alternate heading 8517, there is a need to examine the features of these devices in the context of note 3 to section XVI of the tariff. Heading 8517 covers *telephone sets, including smartphones and other telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 84.43, 85.25, 85.27 or 85.28.* As the devices also have communication capabilities, including cellular connectivity in 14 out of 32 devices, classification under heading 8517 needs to be examined. Note 3 to section XVI of the tariff 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 performing 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". From the note, it is clear that a composite machine performing various functions is to be classified according to the principal function performed by such a device. In the instant case, these devices combine computing and scanning functions for monitoring deliveries, tracking assets, and managing inventory. They also have communication capabilities. However, for the products under consideration, the automatic data processing appears to be the main function, while other functionalities of said machines are not different from auxiliary functions that could be seen on any computer, such as desktop or laptop computers. In circular no. 20/2013- Cus, dated 14.05.2013, clarification has been given by the Board regarding the classification of "tablet computers" under heading 8471 stating that, "... 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 devices.... These devices 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 "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". Thus, as per the said circular, tablet computers are classifiable under heading 8471 and not under heading 8517 despite the fact that the product is having cellular connection functionality, considering its principal function as automatic data processing. Similarly, in this case, the principal function of the impugned devices is barcode scanning and data processing for monitoring deliveries, tracking assets and managing inventory. Therefore, these devices appear to merit classification under heading 8471 and not under heading 8517.

5.2. In regards to the classification opinion of the 68th session of the Harmonized System Committee, it is observed that the committee has classified RFID/barcode readers with a mobile operating system capable of scanning and cellular connectivity under subheading 851713. This subheading covers smartphones. Note 5 to chapter 85 states that "For the purposes of heading 85.17, the term "smartphones" means telephones for cellular networks, equipped with a mobile operating system designed to perform the functions of an automatic data processing machine such as downloading and running multiple applications simultaneously, including third-party applications, and whether or not integrating other features such as digital cameras and navigational aid systems". The note clearly states that these devices are telephones for cellular networks designed to perform the functions of ADP machines. However, the devices under consideration are principally not telephones for cellular networks. In fact, 18 out of 32 models do not have the functionality of cellular connectivity, which shows that the SIM is not an integral part of these devices, as these devices are able to perform their primary function with or without the SIM card. These devices do not appear to be convenient for the purpose of telephony. As per circular no. 20/2013- Cus, dated 14.05.2013, "the difference between a "smartphone" and "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". The manufacturer is advertising these products as mobile computers/ handheld computers/ tablet computers. On their website (<https://sps.honeywell.com/us/en/products/productivity/mobile-computers>), the manufacturer mentions that their collection of mobile and vehicle-mounted computers are purpose-built for specialized operations, including retail-in-store, warehouses and distribution centres, transportation and logistics, courier/express/parcel delivery, manufacturing, service, fleet management, government. Elaborating on the mobile computers/ handheld computers they specify that "Honeywell rugged handheld mobile computers are small and lightweight yet provide industry-targeted features and functionality with a level of enterprise performance and rugged durability consumer-grade devices weren't designed for. On site or in the field from simple data capture scanning to using complex, data-intensive software - our handheld computers accelerate and error-proof many applications, including in-store



merchandising, inventory management, order picking, receiving and putaway, parts tracking, quality control and safety inspections and more". Therefore, these devices are essentially ADP machines with additional connectivity capabilities, including cellular connectivity for 14 models, as discussed in para. 5.1. Further, the difference between a smartphone and the devices under consideration is already outlined in para 2.4. The impugned devices have many features such as higher scanning capacity, data editing functionality, ruggedness and enterprise-level security features, which a smartphone for cellular connection lacks. These devices are used by enterprises to capture data. The products are used in inventory management, store receiving, order processing, package tracking, tracing delivering etc. These devices use wi-fi connectivity and bluetooth for information sharing. Cellular connectivity is essentially used for GPS and information sharing, where wi-fi is not available. Cellular connectivity is also used for making calls. However, as mentioned earlier, 18 out of 32 models do not have cellular connectivity. On a similar device, the TC77 series touch computer, which is a handheld mobile computer used for asset inventory management purposes, Singapore Customs ruled (ref. No. CRL-211217-0036) that the product is classifiable under subheading 84713090. Therefore, notwithstanding the WCO classification advice to the contrary, it is my considered opinion that the devices under consideration are not classifiable as smartphones. They merit classification under subheading 84713090.

6. In view of the foregoing discussions, I rule that the 32 devices listed in the first paragraph of the ruling are classifiable under heading 8471 and more specifically, under subheading 84713090 of the first schedule to the Customs Tariff Act, 1975.


(M. R. Mohanty)

Customs Authority for Advance Rulings,
Mumbai



This copy is certified to be a true copy of the ruling and is sent to: -

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(Handwritten signature)
2/6/2022

(P. Vinitha Sekhar)

Additional Commissioner and Secretary,
Customs Authority for Advance Rulings, Mumbai

