सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण
CUSTOMS AUTHORITY FOR ADVANCE RULINGS
नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई - ४०० ००१
NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI - 400 001
ई-मेल/**E-MAIL: cus-advrulings.mum@gov.in**

The 16th of June,2022
Ruling Nos. CAAR/Mum/ARC/19/2022
in
Application No. CAAR/CUS/APPL/22/2022 - O/o Commr-CAAR-MUMBAI

Name and address of the applicant:	Toyota Tsusho India Pvt Ltd, Unit No N 2002, 20th floor, World Trade Center, Brigade Gateway Campus, No 26/1, Dr Rajkumar Road, Malleshwaram, Rajajinagar, Bengaluru-560055
Commissioner concerned:	The Commissioner of Customs Bengaluru, C. R. Building, Queen's Road, P.B. No. 5400, Bengaluru-560001
Present for the applicant:	Shri. Pradyumna G.H, Advocate;
Present for the Department:	None

Ruling

M/s. Toyota Tsusho India Pvt. Ltd has sought an advance ruling on the classification of spot coolers. The said application was received in the secretariat of CAAR, Mumbai on 28.04.2022 along with its enclosures in terms of section 28H (1) of the Customs Act, 1962(hereinafter referred to as 'Act').

2. The applicant is a joint venture unit of Toyota Tsusho Corporation, Japan and KSL. The applicant is acting as a steel processing & integrated logistics service provider besides dealing with various materials with regard to import & export for Toyota Kirloskar Motor (TKM) and its parts suppliers. The applicant has been importing items by the name 'spot coolers' falling under the subheading 84186990 of the Customs Tariff Act, 1975. They have submitted a specimen bill of entry evidencing the import of the subject item under the above-mentioned subheading. Directorate General of Foreign Trade (DGFT) vide notification no. 41/ 2015-2020-DGFT, dated 15/10/2020 prohibited items falling under subheadings 84151010 and 84151090 of Schedule- I of Customs Tariff Act, 1975. In this context, the applicant has filed the present application for the future import of spot coolers.

2.1 The applicant submitted that the spot coolers are portable air-coolers used for improving the work environment with a steady flow of cool air. While an air conditioner circulates the internal air of the workplace over and over again, a spot cooler pulls fresh air from outside and then cools it down through environment-friendly refrigerant R407C. Because of the property of more effortless mobility and no requirement of closed room for effective functioning, spot coolers are in use in industrial workplaces. Stating that the spot coolers are different from air conditioners, the applicant has submitted that unlike an air-conditioner which circulates the internal air of the installed place repeatedly, a spot

cooler pulls fresh air from outside and cools down the working environment. Spot coolers take the hot air, continuously cool at the individual spots, and release hot exhaust in the same room. On the other hand, air conditioners make use of a complex system which cools the temperature of a closed environment. Not only do air conditioners cool the air, but they can also produce heat in cold weather and act as a dehumidifier when needed. The applicant submitted the comparison chart highlighting the difference between spot coolers and air conditioners as below: -

Spot Cooler	Air Conditioner
It just cools down the air	It can cool down as well as heat up the air
It is portable and easy to transfer from one place to another	It is really big and heavy in size and has to be installed on the wall in a window
They work on lesser energy as they are not very powerful	They are very powerful machines and require a lot of energy to function properly
These are suitable for any spot	These are restricted to closed rooms.
It throws cooled air around 6C-12C less than ambient temp and is not controllable.	Temperature can be controlled.

Table 1: Comparison chart,

Therefore, as per the applicant, industrial spot coolers are functionally distinguishable from air conditioners.

2.2 The applicant has further stated that DGFT vide notification no 41/2015-2020, dated 15th October 2020 has amended the policy concerning the import of air conditioners falling under subheadings 84151010 and 84151090 (Others) where the said items hitherto freely importable became prohibited. As per the applicant, spot coolers, being functionally different from the air conditions (split systems and others) falling under subheadings 84151010 and 84151090, are not subject to the changed policy. The applicant submitted that the impugned goods merit classification under subheading 84186990.

3. The applicant in their CAAR-I form declared that they intend to import the impugned goods from the ICD/PPG, Bengaluru. The application was forwarded to the jurisdictional commissioners of customs for comments. However, no reply has been received, though reminders have also been sent.

4. The application was listed on 24.05.2022 for hearing. Shri Pradyuman G, advocate appeared on behalf of the applicant. No one appeared on behalf of the commissioners of customs. Shri Pradyuman explained the application in detail. It is his apprehension that due to DGFT Notification No. 41/2015, dated 15.10.2020, customs may insist on changing the classification of spot coolers.

5. I have considered all the materials placed before me in respect of the subject devices. I have gone through the submissions made by the applicant during the personal hearing. No reply has been received from the jurisdictional commissioners. Therefore, I proceed to pronounce my ruling on the basis of information available on record as well as information gathered from other reliable sources. The issue before me is the classification of the spot coolers. Spot cooling is a process that delivers conditioned air directly to a production line worker using spot coolers. Spot coolers work by sucking in the air around them and sending it across a closed-loop coil which contains refrigerant. The coil not only cools the air but also reduces its humidity. After the air passes over the coil, the supply vent pumps cold air back out into the room. The cooler releases any excess heat up through a flexible tube usually connected to a ceiling vent or pointed out of a window or door. Condensation from the cooling and dehumidifying process collects in a container. In respect of spot coolers, the applicant has submitted

the product catalogue of M/s Suiden Co. Ltd., Japan. The said company website, https://www.suiden.com/pdf/English_Catalogue.pdf, was referred to understand the working mechanism of these goods. The schematics in respect of the mechanism of spot cooler and mechanism of airflow, as specified in the product catalogue, are reproduced below: -

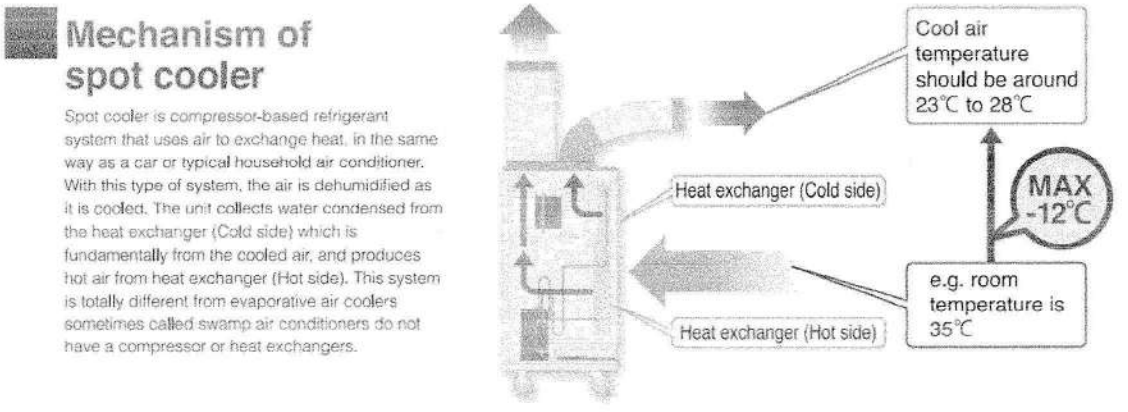

Fig 1: Schematic of the mechanism of spot cooler (Source: Suiden product catalogue)

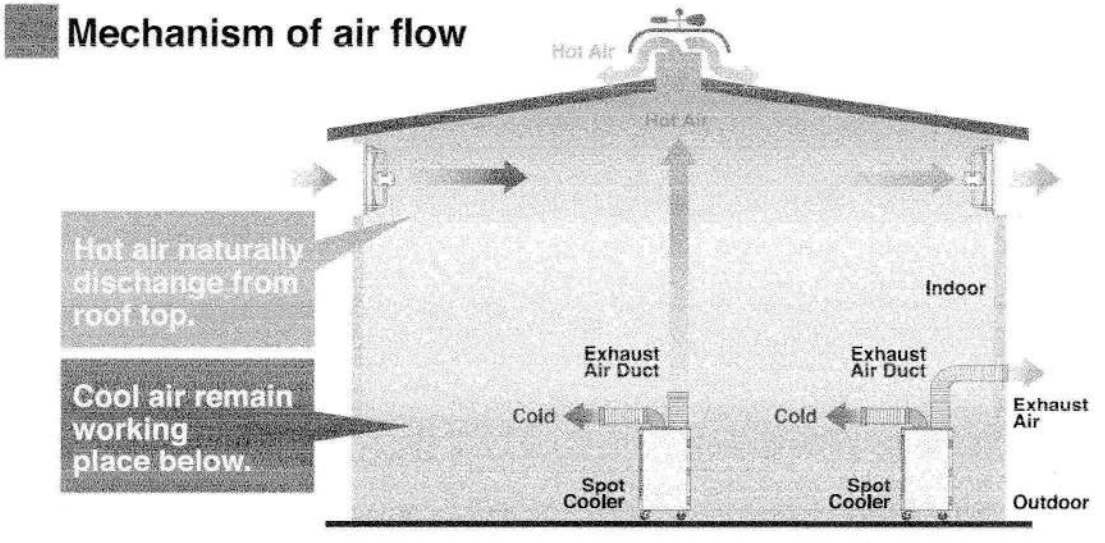

Fig. 2: Schematic of airflow (Source: Suiden product catalogue)

From the above, it is established that the spot coolers are compressor-based refrigeration systems. The basic principle is similar to that used in a car or a household air conditioner, i.e., reducing the temperature of the air by sending it across a closed-loop coil which contains a refrigerant. In this system, the air also gets dehumidified as it gets cooler. Therefore, spot coolers cool and dehumidify their immediate surroundings.

6. Chapter 84, which covers types of machinery and mechanical appliances is the relevant chapter for the spot coolers. As per the applicant, these goods merit classification under subheading 84186990. The rival contending headings for these goods are 8415 and 8418, as reproduced below: -

8415: Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated.

8418: Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 84.15

6.1 As per GRI 1, *the titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.* General explanatory note B(2) to Chapter 84 states that *headings 84.02 to 84.24 cover the other machines and apparatus which are classified mainly by reference to their function, and regardless of the field of industry in which they are used.* Therefore, the goods falling under these headings are mainly classified according to their function. The primary function of the impugned goods is the maintenance of temperature and humidity. HSN notes to heading 8415 states that "*this heading covers certain apparatus for maintaining required conditions of temperature and humidity in closed spaces. The machines may also comprise elements for the purification of air. They are used for air conditioning offices, homes, public halls, ships, motor vehicles, etc., and also in certain industrial installations requiring special atmospheric conditions (e.g., in the textile, paper, tobacco or food industries)*". The primary function of the impugned goods is similar to that of articles covered under heading 8415. The HSN notes further states that "*the heading applies only to machines : (1) Equipped with a motor-driven fan or blower, and (2) Designed to change both the temperature (a heating or cooling element or both) and the humidity (a humidifying or drying element or both) of air, and (3) For which the elements mentioned in (1) and (2) are presented together. In these machines, the elements for humidifying or drying the air may be separate from those for heating or cooling it. However, certain types incorporate only a single unit which changes both the temperature and, by condensation, the humidity of the air. These air conditioning machines cool and dry (by condensation of water vapour on a cold coil) the air of the room in which they are installed or if they have an outside air intake (damper), a mixture of fresh air and room air. They are generally provided with drip pans to catch the condensate...This heading also covers apparatus which, although not fitted with a device for separately regulating the humidity of the air, change the humidity by condensation.*". The apparatus under consideration fulfils the above-mentioned conditions. The impugned goods are fitted with a motor-driven fan/blower and a unit that changes both the temperature and, by condensation, the humidity of the air. As per HSN notes, these machines may be in the form of single units encompassing all the required elements or they may be in the form of "split systems" which operate when connected together. In the present case, the impugned apparatus is in the form of a single portable unit. Therefore, the goods appear to be classifiable under heading 8415.

6.2 The 3rd single-dash of heading 8415 covers devices "other" than "*of a kind designed to be fixed to a window, wall, ceiling or floor, self-contained or split-system (1st single-dash)*" or "*incorporating a refrigerating unit and a valve for reversal of the cooling or heat cycle (reversible heat pumps) (2nd single-dash)*". The subheading 841582, under the 3rd single-dash, covers other air conditioning machines, incorporating a refrigerating unit. Further, the compendium of classification opinions, available on http://www.wcotradetools.org/, was referred to, which contains the classification decisions taken by the harmonized system committee. As per the classification opinion, adopted in 2013, the following apparatus merits classification under subheading 841582:

> *The portable self-contained air conditioning machine consisting of two motor-driven fans, an evaporator, a condenser and a compressor in a single housing. The unit is mounted on four castors for ease of mobility and has two hand grips for shifting and moving. The unit can be attached with a flexible exhaust hose as an accessory for venting warm exhaust air through a window or wall.*

Based on the above discussion along with the classification opinion of the HS Committee, it appears that the impugned devices merit classification under subheading 841582 as other air conditioning machines, incorporating a refrigerating unit and more specifically as others under subheading 84158290.

6.3 As per the explanatory notes to heading 8415, the *heading excludes refrigeration units designed to maintain a fixed temperature well below 0 °C in a closed chamber (e.g., lorry, trailer or container), and fitted with a heating system to raise the temperature in the chamber, within certain limits, when the outside temperature is very low. Such equipment is classifiable in heading 84.18 as refrigerating or freezing equipment, the heating function being subsidiary to the equipment's essential function, which*

is to keep perishable products cool during transportation. However, the impugned devices are not refrigerating or freezing equipment. In their submission, the applicant asserted that the impugned devices merit classification under subheading 84186990. As per the explanatory notes to heading 8418, *the refrigerators and refrigerating equipment of this heading are in the main machines or assemblies of apparatus for the production, in a continuous cycle of operations, of low temperatures (in the region of 0 °C or less) at the active cooling element, by the absorption of the latent heat of evaporation of liquefied gases (e.g., ammonia, halogenated hydrocarbons), of volatile liquids or, in the case of certain marine types, of water*. However, the impugned devices are not designed to maintain a fixed temperature well below 0 °C in a closed chamber. They are portable air conditioning units for cooling and dehumidifying their immediate surrounding. As per the explanatory notes to heading 8418, *air conditioning machines incorporating a refrigerator unit or a refrigerator unit evaporator (heading 84.15) are excluded from the heading 8418.* Therefore, the goods under consideration are excluded from heading 8418, owing to explanatory notes to heading 8418. In respect of the comparison of spot coolers with air conditioners, as specified in Table 1 by the applicant, it is observed that the differentiating factors mentioned in the table do not disqualify the impugned devices from the purview of heading 8415. Spot coolers and air conditioners may have some operational differences, however, they have the same functionality, i.e., to modify the temperature and humidity of the surroundings. The essential conditions to be satisfied by the goods for classification under heading 8415 are already discussed in para 6.1, which the impugned devices satisfy. Therefore, the goods under consideration do not merit classification under subheading 84186990.

6.4 In regards to DGFT Notification No. 41/2015- 2020, dated 15th October 2020, it is to be noted that the said notification pertains to foreign trade policy and specifically to the import policy of India. The subject matter of advance rulings in customs, as specified in Section 28H (2) of the Customs Act, 1962, does not cover foreign trade policy. Therefore, I am not in a position to give a ruling on this aspect, as the issue is beyond my jurisdiction.

7. In view of my aforesaid discussions, I rule that the spot coolers merit classification under subheading 84158290 of the first schedule of the Customs Tariff Act, 1975.

14/02/2022

(M. R. Mohanty)
Customs Authority for Advance Rulings,
Mumbai

F.No. CAAR/CUS/APPL/22/2022 -0/o Commr-CAAR-MUMBAI Dated: 16.06.2022

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

1. M/s. Toyota Tsusho India Pvt Ltd Unit No N 2002, 20th Floor, World Trade Center,Brigade Gateway Campus, No 26/1, Dr. Rajkumar Road, Malleshwaram, Rajajinagar, Bengaluru-5600553.Email: dakshana@ttipl.co.in , mgkondandaram@gmail.com

2. The Commissioner of Customs Bengaluru,C. R. Building, Queen's Road,P.B. No. 5400, Bengaluru-560001 Email: commr.citycusblr@nic.in

3. The Customs Authority for Advance Rulings, 5th Floor, NDMC Building, Yashwant Place, Satya Marg, Chanakyapuri, New Delhi - 110021. Email: cus-advrulings.del@gov.in

4. The Principal Chief Commissioner of Customs, Mumbai Customs Zone-I, Ballard Estate, Mumbai - 400001. Email: ccu-cusmum1@nic.in

5. The Chief Commissioner (AR), Customs Excise & Service Tax Appellate Tribunal (CESTAT), West Block-2, Wing-2, R.K. Puram, New Delhi - 110066. Email: cdrcestat123@gmail.com, ccar.cestat-delhi@gov.in

6. The Member (Customs), Central Boards of Indirect Taxes & Customs, North Block, New Delhi-110001.Email: mem.cus-cbec@nic.in

7. The Commissioner (Legal), CBIC Offices, Legal/CX.8A, Cell, 5th floor, Hudco Vishala Building, C-Wing, Bhikaji Cama Place, R. K. Puram, New Delhi – 110066.
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9. Guard file.

16/6/2022

(P. Vinitha Sekhar)

Secretary/Additional Commissioner,

Customs Authority for Advance Rulings,

Mumbai

सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण, मुंबई
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