



सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण

CUSTOMS AUTHORITY FOR ADVANCE RULINGS

नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई - ४०० ००१

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The 24th of April, 2023

Ruling Nos. CAAR/Mum/ARC/31/2023

in

Application No. CAAR/CUS/APPL/85/2022 - 0/o Commr-CAAR-MUMBAI

Name and address of the applicant: M/s. Intel Solutions & Services India Private Limited,
3rd floor, No. 136, Old Airport - Road, Kodihalli,
Bengaluru-560017, Karnataka

Commissioner concerned: Principal Commissioner of Customs, Airport
and Air Cargo Commissionerate Devanahalli,
Bangalore - 560300

Present for the applicant: Sonia Gupta, (Advocate)
Ashok Dhingra, (Advocate)

Present for the Department: --

Ruling

M/s Intel Solutions & Services India Private Limited (hereinafter referred to as 'the applicant') having address at 3rd Floor, No. 136, Old Airport Road, Kodihalli, Bengaluru-560017, Karnataka filed an application for advance ruling before the Customs Authority for Advance Rulings, Mumbai (CAAR, in short). The applicant has submitted a CAAR-1 application dated 17.11.2022 that was received in the secretariat of the CAAR, Mumbai on 06.12.2022 seeking advance ruling on the classification of Mobileye 8 Connect ('the product/subject goods') under the Customs Tariff Act, 1975 (hereinafter referred to as the 'CTA').

2. The applicant submits that it is an immediate subsidiary of Intel Technology India Private Limited ("Intel India") and ultimate subsidiary of Intel Corporation, USA. The applicant is registered under the Companies Act, 1956 and is in the business of providing marketing



support services to Intel Group companies worldwide and subscription and sale of products and solutions connected to data analytics, road safety, etc. It is submitted that Mobileye Connect is a surveying system used for collision avoidance and consists of three main components and functions of which are as under:

- (i) Camera Unit
- (ii) Display Unit
- (iii) GPS Unit



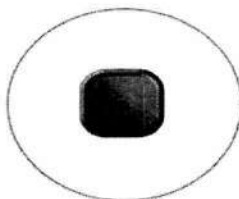
1

The forward-facing camera mounted on the inside of the windshield behind the rear view mirror constantly scans the road ahead and provides audio alerts when needed. The camera unit contains the camera, EyeQ® chip, and speaker.



2

The EyeWatch™ display for visual alerts, mounted in the bottom corner of the windshield.



3

The GPS unit, mounted in the bottom corner of the windshield.

2.1 The applicant has submitted that key component in Mobileye Connect is Camera unit mounted on inside of windshield behind rear-view mirror of the vehicle, which plays a critical role in correct functioning of entire system and constantly scans road ahead, mapping objects within vision range, and using complex algorithms for identifying, and labelling them accordingly e.g., vehicles, traffic and lane signals, pedestrians, trees, etc. Camera unit also includes a speaker which provide audio alerts when, based on road scanning and mapping, Mobileye Connect identifies a risk and triggers a sound alert, which is complementary to main function i.e., surveying, mapping and road scanning functionality.

2.2 The applicant further submitted that in addition to forward-facing camera, Mobileye Connect includes a GPS unit, which works in a way to determine location of images on the map grid, and also include Eye watch display for visual alerts, which is mounted in the bottom corner of windshield. The applicant submits that while all three i.e., camera unit, display unit and GPS unit are separately classifiable on standalone basis on merit under CTA, but when put together the combined system performs specified function of surveying and scanning the road ahead,

mapping objects and thereafter through visual and sound alerts, alerting the driver of a vehicle of potential collision.

2.3 According to the applicant, primary function of subject goods is surveying and plotting topography of area ahead from photographs or digital images taken from two different viewpoints at known distance apart, which are then restituted to obtain accurate information in respect of the shape, size and coordinates of objects in the image or photographs, process the same with proprietary software and alert the driver; and surveying function is constantly performed by camera unit and based on results of surveying function, other components trigger visual and / or sound signalling function. The applicant submits that the subject goods are presently used as collision avoidance system in vehicles.

3. The applicant has earlier imported 100 units and 20 units of Mobileye Connect from Mobileye Vision Technologies Limited, Israel, by classifying under CTH 9015 4000 of CTA vide Bill of Entry Nos. 2143538 dated August 24, 2022 and 2393735 dated September 12, 2022, which they believe is correct classification. However, to avoid disputes at a later date applicant has sought ruling on classification of the Subject Goods under the CTA. The applicant has deliberated and discussed about various headings and considered the following possible classifications under the CTA for Mobil Eye.

3.1 Classification under Chapter 85 of the Customs Tariff

3.1.1 Chapter Heading 8512 of CTA is as under: "Electrical lighting or signalling equipment (excluding articles of heading 85.39), windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles."

3.1.2 The applicant has considered Heading 8512 which primarily covers electric lighting or signalling equipment or windscreen wipers, defrosters and demisters of a kind used for cycles or motor vehicles. The applicant is of the opinion that signalling function is not principal function of subject goods but is output of principle function of surveying, mapping and plotting. Therefore, Mobileye Connect will not be classified under heading 8512.

3.2 Classification under Chapter 87 of the Customs Tariff :

Chapter 86 to Chapter 89 falls under Section XVII of the Customs Tariff Act which reads as "Vehicles, Aircraft, Vessels and Associated Transport Equipment". References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

3.2.1 Heading 8708 of the Customs Tariff covers 'Parts and accessories of motor vehicles of headings 8701 to 8705' and enlist specified parts of motor vehicles therein wherein surveying instrument is neither mentioned nor can be covered therein, which are specifically covered in Heading 9015 thereof and not used solely and principally with motor vehicles. Also, note 2(f) and Note 2(g) of Section XVII of the Customs Tariff specifically exclude articles of Chapter 85 and Chapter 90 thereof, respectively.

3.2.2 In terms of Section Note 2 to Section XVII of CTA, the expression parts and accessories will not apply to article interalia falling under Chapter 90, whether or not such article is identifiable as for goods of Section XVII. Therefore, article falling under Chapter 90 are specifically excluded from being classified under Section XVII. Further, in terms of Section Note 3 to Section XVII, reference in Chapter 86 to 88 to parts or accessories do not apply to



parts or accessories which are not suitable for use solely or principally with articles of Chapter 86 to 88.

3.2.3 As the three-layer test stipulated in Explanatory Notes to Section XVII of HSN for classification under Chapter 87 thereof is not met and articles of Chapter 90 thereof being specifically excluded from being classified under Section XVII thereof, Mobileye Connect cannot be classified under Heading 8708 of the Customs Tariff as parts and accessories of motor vehicles of heading 8701 to 8705.

3.3 Classification under Chapter 90 of the Customs Tariff

3.3.1 Heading 9015 of the Customs Tariff covers “Surveying (including Photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders”. Thus this tariff heading covers interalia surveying instruments and appliances including Photogrammetrical surveying instruments.

3.3.2 Note 3 of Chapter 90 of the Customs Tariff provide that Note 3 and Note 4 of Section XVI also apply to Chapter 90 thereof. Note 3 and Note 4 to Section XVI of the Customs Tariff reads as:

“3. 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 complimentary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

4. Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.”

3.3.3 In terms of Section Note 4 to Section XVI of the Customs Tariff, if a machine consists of individual components which are intended to contribute together to a clearly defined function covered by Headings in Chapter 84 or Chapter 85 thereof, then whole machine is to be classified in Heading appropriate to that function.

3.3.4 Explanatory Notes to Chapter 90 of HSN reads:

“General

(I) General Content and Arrangement of the Chapter

This Chapter covers a wide variety of instruments and apparatus which are, as a rule, characterized by their high finish and high precision. Most of them are used mainly for scientific purposes (laboratory research work, analysis, astronomy, etc.), for specialised technical or industrial purposes (measuring or checking, observation, etc.) or for medical purposes.

The Chapter includes in particular:

(A)...

(B) Instruments and apparatus designed for certain specifically defined uses (surveying, meteorology, drawing, calculating, etc.).

....

Some of these instruments are specified in certain headings, for example,, other instruments and apparatus are covered by more general descriptions in headings which refer to a particular



science, industry, etc. (e.g., astronomical instruments of heading 90.05, surveying instruments and appliances of heading 90.15, ...) ...

3.3.5 Explanatory Note to Chapter 90 of HSN provide that Chapter 90 thereof include instrument and apparatus designed for specifically defined uses i.e., surveying, which also clarifies that some of the instruments are specified in certain Headings and interalia provide example of surveying instrument and appliances of Heading 9015 thereof.

3.3.6 Explanatory Note (II) to Heading 9015 of HSN discusses Photogrammetrical Instruments and Appliances and explains that these are mainly used for plotting topographic maps and for other purposes, etc. The maps are plotted from photographs or digital images taken from two different view-points a known distance apart, which are restituted to obtain accurate information in respect of shape, size and coordinates of objects in the image or photographs.

3.3.7 A comparison of function of Photogrammetrical Instruments and Appliances provided in Explanatory Note (II) to Heading 9015 of HSN with the function of Mobileye Connect, it transpires that functioning of Mobileye Connect is identical to a Photogrammetrical Surveying Instrument wherein Camera Unit takes digital images from multiple view-points of the view ahead and with proprietary algorithm processes the same to provide information to Display Unit and Speaker alerts the driver.

3.3.8 Further, in terms of Note 3 to Chapter 90; Note 3 and Note 4 of Section XVI will be applicable to Chapter 90. Note 4 of Section XVI of CTA provide that when a combination of individual machines intended to contribute together to a clearly defined function is covered by one of the Headings of Chapter 84 or 85, which in instant case means Chapter 90, then whole is to be classified under Heading appropriate to that function. Additionally, Explanatory Notes VII to Section XVI of the HSN provide that the expression '*intended to contribute together to a clearly defined function*' covers only those machines and combinations of machines essential to performance of the function specific to the functional unit as a whole and excludes machines or appliances fulfilling auxiliary functions, which do not contribute to the function of the whole.

3.3.9 The Applicant submitted that surveying instruments and appliances are specifically covered under Heading 9015 of CTA and functioning of Mobileye Connect is identical to a Photogrammetrical Surveying Instrument; primary function of Mobileye Connect is to survey and plot topography of area ahead from photographs or digital images taken from two different view-points a known distance apart, which are restituted to obtain accurate information in respect of shape, size and co-ordinates of objects in the image or photographs, process the same with proprietary algorithm/ software and alert driver; and surveying function is constantly performed by camera unit and based on results of surveying function, and other components trigger visual and sound signalling function, as delivery of output of primary function. Hence, in terms of Note 3 to Chapter read with Note 4 of Section XVI, Mobileye Connect is to be classified based on its principal function of surveying. Further, in support of this argument, the applicant placed reliance on Supreme Court decision in Atul Glass Industries Limited Vs. CCE [1986 (25) ELT 473 (SC)]; OK Play (India) Limited Vs. CCE [2005 (180) ELT 300 (SC)]; Holostick India Limited Vs. CCE [2015 (318) ELT 529 (SC)] and Logic India Trading Co. Vs. CC [2016(337) ELT 65 (Tri.)], affirmed by Hon'ble Supreme Court.



3.3.10 On the basis of functional test, above submissions and various other arguments and case law cited in the statement of interpretation to the present application, the applicant submits that Mobileye Connect is classifiable under Heading 9015 of Customs Tariff Act, 1975.

4. A personal hearing in the matter was held on December 21, 2022 wherein Ms. Sonia Gupta and Mr. Ashok Dhingra, advocates, appeared on behalf of the applicant and reiterated the submissions made in statement of interpretation of law and explained the content of the CAAR-1 application. They discussed various decisions of the apex court and the CBIC Instruction no. 1/2022 dated 5/1/2022 in support of their claim to classification under CTH 9015 4000 based on the criteria of performance of principal function. They also cited advance rulings from the US and the German Customs authorities w.r.t. exactly similar products and requested to issue a ruling. Shri. S. Balakrishna, Additional Commissioner from the jurisdictional Airport and Air Cargo Commissionerate, Bangaluru Customs attended the hearing through online mode.

4.1 I have gone through the submissions made in the CAAR-1 application and also considered all the documents and relevant papers placed before me in respect of the subject goods. M/s Intel Solutions & Services India Private Limited is a subsidiary of Intel Technology India Private Limited and providing marketing support services to Intel Group companies worldwide and sale of products and solutions connected to data analytics, road safety, etc. As per applicant's submissions the subject goods called as Mobileye Connect is a surveying system used for collision avoidance and consists of three main components namely the Camera Unit, the Display Unit, and the GPS Unit. To avoid repetition of the facts, products' technical and functional aspects are discussed briefly in para 2 and its sub-paras supra. The applicant submits that while all three units i.e., Camera Unit, Display Unit and GPS Unit are separately classifiable on standalone basis on merit under various CTHs of the CTA, but when put together the combined system performs specified functions of surveying and scanning the road ahead, mapping objects and thereafter through visual and sound alerts, alerting the driver of the vehicle of potential collision. According to the applicant primary function of subject goods is surveying and plotting topography of area ahead of the vehicle from photographs/digital images taken from two different viewpoints at known distance apart, which are restituted to obtain accurate information in respect of the shape, size and coordinates of objects in the image or photographs, process the same with proprietary software and alert the driver; and surveying function is constantly performed by Camera Unit and based on results of surveying function, other components trigger visual and/ or sound signalling function. The applicant submits that the subject goods are presently used as collision avoidance system in vehicles. The applicant had earlier imported 100 units and 20 units of Mobileye Connect from Mobileye Vision Technologies Limited, Israel, by classifying under CTH 9015 4000 of CTA vide Bill of Entry Nos. 2143538 dated August 24, 2022 and 2393735 dated September 12, 2022, which applicant believes is correct classification. However, to avoid disputes in case of future imports applicant has sought ruling on classification of the subject goods under the CTA basing its arguments on the test of functionality.

4.2 Applicant has submitted comprehensive submissions which include Section notes, Chapter notes, descriptions of multiple contending CTHs and relevant HSN Explanatory notes explaining the scope of CTH 8512, Chapter 87 and CTH 9015. Comments from the jurisdictional Principal Commissioner/Commissioner of Customs, Airport and Air Cargo Commissionerate, Bangaluru were invited in respect of the application for advance ruling. However, no comments were received from the jurisdictional Principal Commissioner/Commissioner of Customs. The applicant is seeking advance ruling on the classification of the subject goods namely 'Mobileye 8 Connect' and has also submitted three



advance rulings delivered by the US and German Customs authorities in support of their claim as well as many case laws on which they have put reliance upon. Hence, in this context, it is necessary to examine the contending tariff headings alongwith the relevant Section notes, Chapter notes and Explanatory notes for the said products. Therefore, I proceed to deliberate upon the issue on the basis of documents and submissions placed on record.

4.3 I find that the rulings submitted by the applicant in support of their claim delivered by the German Customs authorities are for “Mapping System/Mobile mapping system” and do not appear to be similar to the goods in question. The said rulings are for (i) Mobile mapping system – vehicle mounted device mainly used to create three-dimensional maps of, among other things, urban areas, infrastructure and landscapes, thus clearly being used for surveying; (ii) VLX Indoor mapping system - to create interior maps or to create a virtual tour of a museum; and (iii) M6 Mobile mapping system - to create interior maps or to create a virtual tour of a museum. All the above equipment are bulky and need to be assembled prior to use. Each one of them employs multiple high-resolution cameras (6 at times) with multiple laser scanners as well and a recording device. The said mapping systems are used for indoor/outdoor scanning and mapping.

4.3.1 On the other hand, the Mobileye connect has three main components, namely: (i) Camera Unit consisting of a speaker, (ii) Display Unit and (iii) GPS Unit and they are connected to each other by cord/cordless (via Bluetooth) and function to alert the driver of any possible collision. It is observed that the ultimate function of the subject goods is not mapping or surveying but to alert the driver of the vehicle by way of visuals (through display) and sound (through speaker) signals. The ultimate function and utility of the products covered in the German rulings and the impugned goods are thus totally different. Thus, it cannot be said that the aforementioned equipment as described in the said rulings are similar to the impugned goods.

4.4 The US cross rulings e.g., N282922, N282920 and N282926 submitted by the applicant are evidently for classification of a specific item, namely (i) Leddar M16-L sensor module, (ii) Leddar Vu8 sensor module and (iii) Leddar M16 sensor module from Canada, respectively. The said products, are described and identified as optical LED sensor module which are suitable for a number of applications, including collision avoidance system in semi-autonomous and autonomous vehicles, machine safety and automation, they are fundamentally LiDAR sensors and have been classified under HTSUS 9015.80.2000.

4.5 FAQ sheet of the product Mobileye 8 connect is available @ https://www.munichre.com/content/dam/munichre/mram/content-pieces/pdfs/smart-mobility/Mobileye%20%20FAQs%2020200128.pdf/jcr_content/renditions/original/Mobileye%20%20FAQs%2020200128.pdf wherein the working of the product has been explained. It is also explained that “Mobileye 8 Connect is an alert system only, and does not intervene in vehicle operation”. Further, it is claimed that the Mobileye 8 Connect provides the following five alerts:

- a. Forward Collision Warnings (FCW) - FCW warns drivers of an imminent rear-end collision with a car, truck, or motorcycle ahead.*
- b. Headway Monitoring Warning (HMW) - HMW helps drivers maintain a safe following distance from the vehicle ahead of them by providing visual and audio alerts if the distance becomes unsafe. The HMW displays the distance, in seconds, to the vehicle in front.*



- c. *Lane Departure Warning (LDW) - LDW warns of deviation from the driving lane without the use of turn signals. (Absence of turn signal suggests deviation is unintentional.)*
- d. *Pedestrians and Cyclist Warning (PCW) - PCW warns of imminent collision with a pedestrian or cyclist ahead.*
- e. *Speed Limit Indicator (SLI) - SLI notifies of a new speed limit when the driver exceeds it. It detects and classifies various visible speed limit signs and provides visual indication when the vehicle's speed exceeds the posted speed limit by flashing a speed limit sign. The SLI is based on the most recent speed limit sign detected by the system.*

4.6.1 Chapter Heading 8512 of CTA reads as "Electrical lighting or signalling equipment (excluding articles of heading 85.39), windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles." The applicant while submitting an argument for classification of Mobileye 8 Connect in favour of CTH 9015 has ruled out possibility of classification under heading 8512 which primarily covers electric lighting or signalling equipment or windscreen wipers, defrosters and demisters of a kind used for cycles or motor vehicles. The applicant is of the opinion that signalling function is not principal function of subject goods but is output of principle function of surveying, mapping and plotting. Accordingly, the applicant has submitted that the Mobileye Connect will not be classified under heading 8512. From the perspective of HSN Explanatory Notes I find that the Note 2 to Chapter 90 provides as follows:

2.-- Subject to Note 1 above, parts and accessories for machines, apparatus, instruments or articles of this Chapter are to be classified according to the following rules: - -

(a) Parts and accessories which are goods included in any of the headings of this Chapter or of Chapter 84, 85 or 91 (other than heading 84.87, 85.48 or 90.33) are in all cases to be classified in their respective headings;

(b) Other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instrument or apparatus. or with a number of machines, instruments or apparatus of the same heading (including a machine, instrument or apparatus of heading 90.10, 90.13 or 90.31) are to be classified with the machines, instruments or apparatus of that kind;

(c) All other parts and accessories are to be classified in heading 90.33.

4.6.2 On comparing the functions of Photogrammetrical Instruments and Appliances as provided in Explanatory Note (II) to Heading 9015 of HSN with the functionality of Mobileye Connect, I find that the same is claimed as identical to a Photogrammetrical Surveying Instrument, wherein the camera unit takes digital images from multiple view-points of the view ahead and with complex proprietary algorithm processes the same to give information to display unit and alerts the driver through speaker. The camera unit, as mentioned in the application, is one of the units of the subject goods which is placed on the top of windscreen behind the rear-view mirror of the vehicle. The Mobileye Connect employs a single camera to capture photograph/image and utilizes the same for further processing. HS Explanatory Note (II) to Section XVIII covers Photogrammetrical instruments and appliances. It is provided that these are mainly used for plotting topographic, archaeological, etc., maps, but they are also used for other purposes (e.g., study of tides, ground-swells, etc.). The maps, etc., are plotted from photographs or digital images taken from two different viewpoints a known distance apart, which must then be "restituted" to obtain accurate information in respect of the shape, size and co-ordinates of objects in the image or photograph. Therefore, to make a claim that the functionality of Mobileye Connect is akin to a Photogrammetrical Surveying Instrument would not be correct for the simple reason that the latter takes digital images from two different



viewpoints whereas, in case of the impugned goods, there is a single camera unit which is positioned/placed as stated above. Further, the said goods are used for surveying, mapping, for plotting topography and archaeological purposes. It can be said that the end use of such equipment/apparatus culminates in providing a report which is aiding survey or mapping for that matter. Thus, the subject goods are not even close in functionality as prescribed under Explanatory Note (II) to Heading 9015, thereby fail to be classified under Chapter Heading 9015 of HSN.

4.7 In view of the above discussion and findings, I find that the subject goods are different than the ones described in the aforesaid German and the US cross rulings. Further, a comparison of the functionality of Photogrammetrical Instruments and Appliances as provided in Explanatory Note (II) to Heading 9015 of HSN *vis-a-vis* that of Mobileye Connect, it is observed that the subject goods do not function the same way and thus do not merit classification under CTH 9015 of CTA, 1975.

5. As discussed in para 4.5 supra, the ultimate function of the subject goods appears to be to work as an alert system, i.e., to alert the driver of vehicle. Even the product is known in common trade parlance and marketed as “Advance Driver Assistance System” (ADAS). It is a matter of common experience that the identity of an article is associated with its primary function. It is only logical that it should be so. When a consumer buys an article, he buys it because it performs a specific function for him. There is a mental association in the mind of the consumer between the article and the need it supplies in his life. It is the functional character of the article which identifies it in his mind.

5.1 The Apex court in the case of *Porritts & Spencer (Asia) Ltd. Vs. State of Haryana* [1983 (13) E.L.T. 1607 (S.C.)] observed as “Taxing Statute — Words and expressions to be interpreted in ordinary sense in preference to scientific or technical meaning.

- Where a word has a scientific or technical meaning and also an ordinary meaning according to common parlance, it is the latter sense that in a taxing statute the word must have been used unless contrary intention is clearly expressed by the legislature. [para 5]”

5.2 In the case of *Holostick India Limited Vs. CCE* [2015 (318) ELT 529 (SC)], it was observed that

“It is important to remember therefore, that the primary use of the product is security and not the quality of being adhesive. Here again, a simple example will suffice. Take an adhesive tape with a monogram printed upon it. The primary use of such tape is by virtue of its adhesiveness to bind and package containers in which goods are to be stored and transported. Obviously, in such an example, the printed monogram of such adhesive tape would be incidental to the primary use of the said goods - the adhesive tape. By way of contrast, in the present case, the factor of adhesiveness is incidental to the primary use to which the goods are put, namely, that they are to be used for security purposes. Also, the HSN Explanatory Notes are relevant, which according to the judgment of this Court reported in ‘*Collector of Central Excise, Shillong v. Wood Craft Products Ltd.*’ [1995 (77) E.L.T. 23 (S.C.)] in para 12 are a safe guide in case of doubt.”

5.3 On the question as to what test would be appropriate in a given case, this court pointed out in *A. Nagaraju Bros. Vs. State of A.P.* [1994 Supp (3) SCC 122 = 1994 (72) E.L.T. 801 (S.C.)], as follows:



“.....there is no one single universal test in these matters. The several decided cases drive home this truth quite eloquently. It is for this reason probably that the common parlance test or commercial usage test, as it is called, is treated as the more appropriate test, though not the only one. There may be cases, particularly in the case of new products, where this test may not be appropriate. In such cases, other tests like the test of predominance, either by weight of value or on some other basis may have to be applied. It is indeed not possible, nor desirable, to lay down any hard and fast rules of universal application.” Therefore, the respondents ought not to have overlooked the ‘predominant use’ or ‘sole/principal use’ test acknowledged by the General Rules for the Interpretation of the Schedule.

6. I do not fully concur with the reasoning given by the applicant as to why the subject goods cannot be classified under Chapter Heading 8512 or 8708 as discussed at *paras and sub-paras at 3.1 and 3.2 supra*. Therefore, it is imperative to examine the competing chapters and tariff headings of the CTA. HS Explanatory Notes to Section XVI provides as under:

3.- 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.

4.- Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended *to contribute together to a clearly defined function* covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

5.- For the purposes of these Notes, the expression “machine” means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85.

6.1. Chapter Heading 8531 of CTA provides as follows: Electric sound or visual signalling apparatus (for example, bells, sirens, indicator panels, Burglar or fire alarms), other than those of Heading 8512 or 8530.

8531 10 --- Burglar or fire alarms and similar apparatus:

8531 10 10 --- Burglar alarm

8531 10 20 --- Fire alarm

8531 10 90 --- Other

8531 20 00 --- Indicator panels incorporating liquid crystal devices (LCD) or light-emitting diodes (LED)

8531 80 00 --- Other apparatus

With the exception of signalling apparatus used on cycles or motor vehicles (heading 85.12) and that for traffic control on roads, railways, etc. (heading 85.30), this heading covers all electrical apparatus used for signalling purposes, whether using sound for the transmission of the signal (bells, buzzers, hooters, etc. or using visual indication (lamps, flaps, illuminated numbers, etc.), and whether operated by hand (e.g.; door bells) or automatically (e.g., burglar alarms).

7. However, the records of the case and the data displayed by the applicant in public domain, reproduced in para 4.5 earlier, undisputedly indicates that the impugned goods provide five types of alerts to the user of the apparatus. These are as follows;



- a. Forward Collision Warnings (FCW) - FCW warns drivers of an imminent rear-end collision with a car, truck, or motorcycle ahead.
- b. Headway Monitoring Warning (HMW) - HMW helps drivers maintain a safe following distance from the vehicle ahead of them by providing visual and audio alerts if the distance becomes unsafe. The HMW displays the distance, in seconds, to the vehicle in front.
- c. Lane Departure Warning (LDW) - LDW warns of deviation from the driving lane without the use of turn signals. (Absence of turn signal suggests deviation is unintentional.)
- d. Pedestrians and Cyclist Warning (PCW) - PCW warns of imminent collision with a pedestrian or cyclist ahead.
- e. Speed Limit Indicator (SLI) - SLI notifies of a new speed limit when the driver exceeds it. It detects and classifies various visible speed limit signs and provides visual indication when the vehicle's speed exceeds the posted speed limit by flashing a speed limit sign. The SLI is based on the most recent speed limit sign detected by the system.

7.1 In the context of above mentioned legal and factual positions, I find that the functionality of the Mobileye 8 Connect has to be defined from the user's perspective. Here the output generated by the impugned goods is far more important from functionality perspective rather than the technology employed in gathering the inputs. User of the impugned goods has nothing to do with technical mechanism employed for gathering the inputs. The applicant has tried to base their argument on the basis of input mechanism i.e. photogrammetrical surveying for classifying the goods which are essentially an alert system for vehicle drivers. However, on the basis of a detailed analysis in paras 4.6.1 & 4.6.2 *supra* it is observed that the impugned goods are not photogrammetrical surveying instrument or appliance from the user's perspective as photogrammetrical surveying is only a mechanism to collect inputs for overall functioning of the Mobileye 8 Connect. Applicant has tried to classify the goods on the basis of input mechanism, photogrammetrical surveying, rather than the output, an alert system for a vehicle driver, and by the manufacturer's own admission, discussed in para 4.5 above, these goods perform the function of generating five different alerts for the users of the goods- vehicle drivers.

7.2 As seen earlier the Chapter heading 8531 of CTA excludes from its purview Electric sound or visual signalling apparatus of Chapter heading 8512 or 8530. CTH 8531 clearly provides that this heading provides for classification of all products of electrical apparatus used for signalling purposes, whether using sound for the transmission of the signal (bells, buzzers, hooters, etc. or using visual indication (lamps, flaps, illuminated numbers, etc.), and whether operated by hand (e.g.; door bells) or automatically (e.g., burglar alarms) with the exception of signalling apparatus used on cycles or motor vehicles (heading 85.12). And precisely due to this exclusion, I find that the impugned goods do not merit classification under CTH 8531. Further, based on HSN explanatory notes to Section XVI, it can be safely inferred that the principal function of the impugned goods is to operate as an alert system for a user i.e. vehicle driver and customs tariff heading appropriate for classifying an apparatus performing such function is CTH 8512 only, notwithstanding any



mechanism or technology employed to receive the inputs that leads to provision of output in the form of alert while driving vehicle for the actual user. CTH 8512 covers under its ambit two options in sequential manner as follows:

8512: Electrical lighting or signalling equipment (excluding articles of heading 8539) of a kind used for motor vehicles

8512 20 –Other lighting or visual signalling equipment

8512 20 90 –Other

8512 30 – Sound signalling equipment

8512 30 90 - Other

7.3 Impugned good covered under present CAAR-1 application perform signalling function in both ways i.e. by visual mode and also by sound mode. There is no single eight-digit classification which can accommodate an apparatus or an equipment performing both visual as well as sound signalling function under the first schedule of the Customs Tariff Act, 1975 and hence I have to take recourse to General Rules of Interpretations of the Customs Tariff Act. Classification of goods under the Customs Tariff is governed by principles laid down in the General Rules for Interpretation of the First Schedule (the GRI), which stipulates that:

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:

2. (a)

2. (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

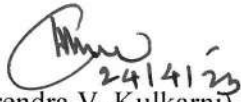
(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

7.4 Accordingly, Rule 3(b) of the GRI comes in to operation only if Rule 3(a) thereof fail and if both Rule 3(a) and Rule 3(b) fail, Rule 3(c) thereof will apply. Thus, the order of priority



for deciding the classification under the Customs Tariff Act, 1975 is Rule 3(a) specific description; Rule 3(b) essential character; Rule 3(c) Heading which occurs last in numerical order amongst those entries which equally merit classification.

8. I find that two eight-digit tariff entries are applicable to the impugned goods namely 8512 20 90 and 8512 30 90. However, due to application of General Rule of Interpretation 3(b) I rule that the Customs Tariff Heading 8512 and more specifically tariff entry 8512 30 90: Sound signalling equipment in the first schedule to the Customs Tariff Act, 1975, notwithstanding performance of signalling function in both ways i.e. by visual mode as well as by sound mode, are the most appropriate classification heading & tariff entry for the Mobileye 8 Connect proposed to be imported by the applicant.


24/4/23
(Narendra V. Kulkarni)

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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