IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Customs Miscellaneous Application (Cross) No. 40349/2021
and
Customs Appeal No. 40614 of 2021

(Arising out of Order in Original No. 84604/2021 dated 31.5.2021 passed by the Commissioner of Customs, Chennai – II)

Commissioner of customs **Appellant**
Chennai Import Commissionerate
Custom House, 60, Rajaji Salai
Chennai – 600 001.

Vs.

M/s. Mobis India Ltd. **Respondent**
G-1, SIPCOT Industrial Park
Irrungattukottai, Sriperumbudur Taluk
Kancheepuram District
Tamil Nadu – 602 117.

APPEARANCE:

Smt. Anandalakshmi Ganeshram, Auth. Representative for the Appellant
Smt. A. Aruna, Advocate for the Respondent

CORAM

Hon'ble Shri P. Dinesha, Member (Judicial)
Hon'ble Shri M. Ajit Kumar, Member (Technical)

FINAL ORDER NO. 40800/2025

Date of Hearing : 11.02.2025
Date of Decision: 07.08.2025

Per M. Ajit Kumar,

This appeal is filed against Order in Original No. 84604/2021 dated 31.5.2021 passed by the Commissioner of Customs, Chennai – II (impugned order). The respondent has filed cross-objection reiterating the findings contained in the impugned order passed by the Ld. Commissioner.

2. Brief facts of the case are that the respondent M/s. Mobis India Ltd. had imported "Unit Assy – BCM" (**B.C.M**. – Body Control Module)

and "Unit Assy – I.B.U." (**I.B.U.** – Integrated Body Unit), declaring their classification under CTH 9032 8910 @ 0% BCD by claiming the benefit of No. 152/2009 Sl. No. 953. The investigation branch of the Custom House i.e. SIIB, investigated the case and were of the view that the subject items B.C.M. and I.B.U. differ from an electronic automatic regulator and are classifiable under CTH 8537 1000 attracting 5% BCD under Notification No. 152/2009 (Sl. No. 858). However, after issue of SCN, the Ld. Commissioner in the impugned order held that the imported B.C.M. and I.B.U. are classifiable under CTH 9032 8910 as declared by respondent and not under 8537 1000 and accordingly dropped the demand and consequent liabilities. Hence department is before this Tribunal in appeal.

3. Ld. Authorized Representative Smt. Anandalakshmi Ganeshram, appeared for the appellant-department and Smt. A. Aruna, Ld. Counsel appeared for the respondent.

3.1 Smt. Anandalakshmi Ganeshram the Ld. AR representing Revenue submitted that the Ld. Adjudicating Authority erred in holding that the impugned item is classifiable under CTH 903289 on the grounds that the impugned item is not a board/ panel/ console/ desk/ cabinet simpliciter, the function are much more than that of numerical control apparatus and the goods do not fall under the exclusion mentioned in the HSN Explanatory Notes for the heading 9032. The Ld. AR stated that the impugned BCM/IBU are basically a communication device using channels such as CAN (Controller Area Network), LIN (Local Interconnect Network). It works on the master/ slave model of communication and are only "Programmable Controllers". They do not control/ regulate the functions as envisaged under Tariff 9032. In view

of the above, subject goods cannot be categorized as "Automatic Regulating or Controlling instruments and apparatus" and not classifiable under CTH 9032. The Ld. A.R. stated that it is clear that from the functions of the impugned items and based on the HSN Explanatory Notes that the items Viz. IBU & BCM are only "Programmable Controllers" consisting of a microprocessor which controls various electronic parts as per the pre-programmed instructions stored in the memory for implementing specific functions of various output devices of an automobile and is rightly classifiable as 'Programmable Controller' Voltage not exceeding 1000V under the CTH 8537 10 00. The Ld. Adjudicating Authority has erred in his findings and hence the appeal may be allowed.

3.2 The Ld. Counsel Smt. A. Aruna submitted on behalf of the respondent that, the impugned goods Unit B.C.M. and I.B.U. are 'Programmable process controllers' controlling & regulating various automated processes in the vehicle's body electronics without human interference. A typical BCM/IBU consists of (i) Input or measuring device, (ii) a control device/ microprocessor and (iii) output device or operating device. Additionally, there are parts provided on the BCM/IBU platform for the purpose of communication with different ECUs, Instrument Cluster, Sensors, Actuators, etc. The BCM & IBU are a kind of Electronic Control Units (ECU) specialized for the vehicle body functions such as Automatic Wiper control, Cabin Climate control, Automatic Head lamps, Immobilizer, Seat belt warning system etc. She hence prayed that the appeal may be rejected.

4. We have carefully gone through the appeal and the judgments relied upon. We have also heard the rival parties. The dispute centers on whether the goods qualify as:

- **Automatic Regulating or Controlling Instruments and Apparatus (CTH 9032)**, which require continuous or periodic measurement and regulation of variables like flow, level, pressure, temperature, or electrical quantities to maintain a desired value. As stated by the appellant; or
- **Programmable Controllers (CTH 8537)**, which are digital apparatus using programmable memory to control machines via logic, sequencing, timing, counting, and arithmetic functions. As stated by revenue.

5. The classification of choice by the rival parties is as below (underlined);

Appellant

9032		AUTOMATIC REGULATING OR CONTROLLING
9032 10	-	Thermostats:
9032 10 10	---	For refrigerating and air-conditioning appliances and machinery
9032 10 90	---	Other
9032 20	-	Manostats:
9032 20 10	---	For refrigerating and air-conditioning appliances and machinery
9032 20 90	---	Other
	-	Other instruments and apparatus
9032 81 00	--	Hydraulic or pneumatic
9032 89	--	Other
9032 89 10	**---**	**Electronic automatic regulators**
9032 89 90	---	Other
9032 90 00	-	Parts and accessories

Revenue

8537		Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90 and numerical control apparatus, other than switching apparatus of heading 8517
8537 10 00	**-**	**For a voltage not exceeding 1,000 V**
8537 20 00	-	For a voltage not exceeding 1,000 V

6. The exemption / concession of Import duty claimed by the appellant as per Sl. No. 953 of Notification No. 152/2009-Customs dated 31.12.2009 (as amended) is reproduced below:-

Sl. No.	Chapter, Heading, Sub-heading or Tariff Item	Description of goods	Rate (in percentage unless otherwise specified)
953	903289	All goods	0.00

7. Para 28 of the impugned order states the functions of the said products and is reproduced below;

> "28. Before delving into the classification, the nature of the product has to be known. The show cause notice has itself furnished the details of function of the impugned products. It goes like this:
>
> "the functions of the items "Unit assy -IB.U & Unit assy -B.C.M which are as follows:
>
> i) It is a **comprehensive body control module system** which is aimed at communicating and integrating the work of all electronic modules through the vehicle bus
>
> j) BCM is an **embedded system that controls load drivers and coordinates activation of auto electronics units.**
>
> k) The microcontrollers and connectors **integrated into a BCM constitute the central structural unit of the system responsible for the controlling part. Operating data is transmitted to the control module through input devices**
>
> l) After **input signal is processed by the module**, a response sigrial is generated through integrated output devices, including relays and solenoids
>
> m) A typical Body Control Module (BCM) consists of a microprocessor **to control the various-functions of the vehicle's body electronics (power window, wiper, side view mirror, immobilizer, central locking system etc.**). **Additionally there are parts provided on the BCM platform for the purpose of communication with different ECUs (Electronic Control Units), Instrument Cluster, Sensors, Actuator etc.** BCM consists of (i) Input devices: Devices that feed the signal to the BCM and include sensor (Potentiometer, variable resistors, magnetic pickup etc.) and (ii) Output devices: Devices that are tasked with generating a response to the signal received from the input devices (Relays and solenoids are typical examples of output devices in the context of BCM).
>
> **It is a multi-faceted electronic component that supports multiple functions, the foremost being the monitoring, controlling and regulating a gamut of automotive body electronics. They receive data from input devices and control the output devices, based on such data received through input devices, through actuators**.
>
> n) BCM works on the basis of input received from the input devices and the output generated by devices like relay and solenoids. **Between these two, are the algorithms and APIs**

(Application Programming Interface) that define what the action would be and how it will be performed.

o) **Further, it also functions as power distribution centre** that supervise and controls functions related to car body such as lights, windows, security, door locks and access control and various comfort controls. It also operates as a gateway for bus and network interface to interact with remote electronic control units (ECU) for other systems

p) BCM communicate with other on-board computers via the car's vehicle bus, and its main application is controlling load drivers actuating relays that in tum perform actions in the vehicle such as locking the doors or dimming the interior lighting etc".

From the above, especially bold ones, that the impugned products control the various features of an automobile. No where there is talk about the involvement of human interface in the operation viz.,a wiper, automatic head lights, etc. Therefore, it becomes obvious that the impugned products function namely control of the various features of the car without any human interface and thus automatic.

The functional description clearly states that the impugned goods are multi-faceted electronic components that supports multiple functions, the foremost being the monitoring, controlling and regulating a gamut of automotive body electronics. In a contrast Programmable Controller or Programmable Logic Controller of Heading 85.37 is generally seen in industrial automation, responsible for processing inputs, executing logic-based control programs, and generating outputs to control machinery and systems. From the examples of case study at para 9 of the impugned order it is seen that the impugned goods contains a measuring device which measure desired parameters with actuals and when found deficient it activates a warning on the dashboard or activate an appropriate response to set right the deficiency noticed. They are more than merely a communication device. They do not control any machines nor do their operations depends on set of pre-determined operations or by a human interface. They automatically monitor and maintain the desired variable at pre-determined levels. Revenue has stated that the impugned goods work as per pre-

programmed instructions stored in the memory. If the statement is referring to the verification of programmed pre-determined parameters, then it would continue to be a 'Programmable process controllers'.

7.2 Board has issued **Order No. 49/3/97-CX dated 09.05.1997** under section 37B of Central Excise Act, differentiating both Programmable Logic Controller and Programmable Process Controller. The same is reproduced below:-

> "2 .... The following specific differences have been pointed out between two types of controllers

Programmable Logic Controller	Programmable Process Controller
These are for controlling various types of machines	These are for controlling various types of processes
Operations depends on set of pre-determined operations	Operations depend on factor to be controlled
Operations based on desired sequence of operations	Operation operates basically by continuously monitoring and maintain the variable to be controlled such as pressure, flow, temperature, level etc. with/at pre-determined level
No regulatory function	Regulatory function by the continuously monitoring the desired value with actual value and bringing variable to be controlled to the desirable value
Conventionally it is relay based panel for electric control with timer and switches	Regulating apparatus for process control for continuous process governing
Relay based panel has been upgraded to programmable controller commonly known as programmable logic controller by using micro processor for storing and doing sequence of operations	Micro processors are used for doing complex storing and algorithms primarily for controlling. These are commonly known as controllers e.g. digital distributed control system, distributed control system

3. The matter has been re-examined by the Board in consultation with the Dept. of Electronics. Their opinion is reproduced below:-
(i) **The programmable controllers covered under heading 85.37**: They perform specific functions such as logic instruments timing etc. to control various types of machines in a plant.

(ii) **The automatic regulating or controlling instruments and apparatus under heading No. 90.32**: They may be considered as industrial process control systems satisfying criteria mentioned in No. 90.32. These are primarily used for controlling/maintaining the flow, level, pressure or variables of liquids or gases or for automatically controlling temperature of a process (may be refinery, steel, chemical industry) at the present level. They can perform functions both sequence logic and different control strategies like Proportional-integral differential (PID) control and other forms of control.

The Ld. Commissioner has examined the functions of the impugned goods with the above circular at para 34 and 35 of the impugned order which is reproduced below.

> "34. The impugned products do not control various types of machines. It controls various features of the car. Secondly, there are various features to be controlled for example automatic head light; automatic wiper control systems. Moreover, the desired factor to be controlled varies with the local situation. It is not at just one level that is predetermined. Thirdly, the impugned items gets inputs and compares them with the desired level and gives out put signals accordingly. This is a continuous one. Fourthly, the role of the impugned item as a regulatory one is beyond doubt. It compares the inputs received with the desired value and accordingly sends corrective signals. Fifthly, the impugned items are not just / more than the conventional relay based panel for electric control with timer and switches. Instead, its control /monitoring is a continuous one. Sixthly the impugned products use micro processors for storing the algorithms for control and is not just relay based panel. The availability of algorithm in the subject goods has been accepted by the show cause notice itself. It is obvious from the above referred order of the Board the PLC does not have algorithm. On the other hand the PPC uses zigorithm for controlling. Thus, it emerges that the impugned items fall under the category of "programmable process controller" only. They cannot be categorised as programmable logic controller.
>
> 35. The features of the impugned products have been brought out above in detail. Going by that and in line with the Order No.49/3/97-CX dated 9.5.1997 stated above, it could be seen that the impugned items answer the requirements envisaged in Notes 7(a) and (b) of Chapter 90 specifically for the heading 9032."

8. We find that the impugned order has given detailed reasons for the decision and has also followed the guidelines of the above Board's Circular dated 09.05.1997 which is binding on departmental officers.

[See: **Union of India & Others Vs Arviva Industries (I) Ltd & Others** [2007 -TMI - 1095 – (SUPREME COURT OF INDIA)]. Hence we do not find any merit in the appeal and the same is rejected. The appeal is disposed of accordingly. The cross-objection filed by the respondent stands disposed of accordingly.

(Order pronounced in open court on 07.08.2025)

(**M. AJIT KUMAR**) Member (Technical)	(**P. DINESHA**) Member (Judicial)

Rex