

Customs & Trade in Israel

A Legal Newsletter

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Classification as a System or as a Component - Which is the Proper Classification?

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Many disputes between importers and the Customs Authority revolve around questions of classification for customs purposes. These disputes impact not only the duty percentage levied upon the goods, but also issues relating to import regulation issue, i.e. the certificates required for import, and more.

When a cargo of goods composed of several components with separate, independent classification is imported, several sub questions may arise:

1. Should each component be classified separately according to its defining characteristic or should the goods be classified as a whole?
2. Does the imported component possess the defining characteristic of the goods as a whole? In other words, is it a component which can be seen as dedicated part of a specific product, or rather a part for general use?

The courts deliberated these questions in more than one occasion, as we will present below.

A communications system or a screen?

In a recent ruling, the Tel Aviv Magistrate Court ruled that a "video conference" visual communications system will be classified under HS code 85.17 as a communications system, as per the argument of the importer, as opposed to the position of the Customs Authority, which argued for an HS code 85.28 (a screen) classification.

The goods in question are a visual communications system composed of screens and microphones through which picture and sound may be transmitted via communication lines.

The visual system's purpose is to connect two parties, and it is intended for use in court testimonies, global business calls, and more.

The Customs Authority argued that the proper classification of the visual communications system is actually as a "screen", an 85.28 HS code titled: "**Screens and displays not integrated within television sets; television sets if integrated within radio devices or sound producing or sound or video recording devices**".

On the other hand, the importer argued that the proper classification of a visual communications system is actually as a "communications system", an 85.28 HS code titled: **"phone devices including phones for cellular networks or other wireless networks; other devices for transmitting or receiving sound, picture or other data including communication devices on wired or wireless networks (such as local (LAN) or regional (WAN) networks), except for transmitting or receiving devices detailed in HS codes 85.43, 85.25, 86.27 or 85.28"**.

The Tel Aviv Magistrate Court rejected the Customs Authority's arguments, ruling that visual communications systems are communication systems, that is their defining characteristic and they should not be classified as screens or any other classification. In order to determine the question of classification, the main use of the goods - connecting two or more distant parties through microphones, screens and communication components - was examined.

The court's examination found that the screen are not a central component of the system, merely communication components, as the system may be used without the screens.

Another reasoning behind the classification is the refinement of the tax collection interest, to make clear there is no justification for classifying the visual communications system as a screen just to allow a higher tax rate. And so stated the Magistrate Court:

"The plaintiff proved that the purchase duty rates for "screen" are between 15-30%. It is possible that these tax rates were a consideration in classifying a communication system as a "screen". It would not be unfounded to claim that aside from the tax collection interest which allows for a higher tax rate there is no logical basis for defining the visual communications system as a "screen"."

[TA 21411-06-14, **Bynet Data Communications Ltd. & Others V. The State of Israel**, ruling given on 10.10.18]

Detectors - Relays or parts of burglar alarms?

In another case the court deliberated whether to classify burglar alarm detectors as parts of an alarm system or as relays.

In this case, the Customs Authority argued that the detectors should be classified as relays and not as part of a burglar alarm system. The court examined the purpose and actual use of the detectors, as well as the essence of their functionality, coming to the conclusion that according to these two parameters, the detectors should be classified as part of an alarm system.

As for the purpose and actual use, the court determined that while the detectors may be used in principle in other devices, and not only in alarm systems, this was the use intended by the importer.

It should be noted that following this ruling, in 2008 the Customs Authority revised the Customs Tariff Order and added a specific HS code relating to "detectors" which is dutiable.

[TA 99086/00, **Optex Israel Security Center Ltd. V. The State of Israel - Customs**, ruling given on 5.2.06]

A detector or a part of a detector?

In another, similar case, there was a dispute between importers and the Customs Authority regarding the classification of detectors and detector parts.

In this case, the importer argued that the component is one of several components of the detector and cannot activate as an independent unit, and should therefore not be considered a detector. On the other hand, the Customs Authority argued that the component should be classified as a complete item as it possesses the essential characteristic of a complete item.

Unlike the cases mentioned above, the court determined that an electronic component which is part of a detector cannot be considered a detector for custom purposes. The court examined the characteristics of the component and determined that it is one component of an array of components, and it in itself does not possess the characteristics of the final detector.

In this case the court reached a different conclusion than in the case mentioned above, probably due to the fact that each case relates to different goods.

[TA 5899-10-10, **RISCO Ltd. & Others V. The State of Israel - Customs**, ruling given on 18.8.15]

**The above review is a summary. The information presented is for informative purposes only,
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