



GOVERNMENT OF PAKISTAN
MODEL CUSTOMS COLLECTORATE APPRAISEMENT (EAST)
CUSTOM HOUSE KARACHI



No. C-69/KAPE/DC-PCT/2017

Dated: 03.02.2018

PUBLIC NOTICE 01/2018

Subject: CLASSIFICATION OF LASER LAND LEVELER FOR AGRICULTURE USE

FACTS:

MCC Islamabad forwarded a reference to the Classification Committee for determination of classification of Laser Land Levelers imported at AFU, Islamabad, by M/s. Farm Power International under PCT Code 8432.8090 with declared description as "Laser and leveling equipment along with necessary components for agricultural use Trimble Brand (Laser and level Transmitter, Laser Land Receiver and Control Box)". The subject goods consist of the following equipment.

- a) Laser Land Level Transmitters with NIMH Battery pack and charger Model No. AG 401.
- b) Rigid Mast Pack for Agriculture use Model No. AGGCS-100-00 consisting of
 - i. Laser Land Receiver LR40.
 - ii. Control Box CB-40.
 - iii. Cable Set with all standard Accessories.
- c) Laserometer with clamp Model No. HL-450.

2. The subject consignment was declared and assessed under PCT Heading 8432.8090 and later seized by Directorate General, Intelligence & Investigation, Islamabad on the ground that the importer had wrongly classified the goods under PCT Heading 8432.8090 and that the imported goods did not fall under the purview of machinery; rather were Laser survey equipment / instruments actually classifiable under PCT heading 9015.8000. The importer in the meanwhile filed Writ Petition before Honorable Islamabad High Court and the Court vide interim order in C.M No. 01 / 2017 ordered to release the seized goods provisionally upon furnishing of security. The matter was subsequently referred by the clearance Collectorate to Classification Committee for determination of correct PCT Code of these goods so as to finalize the provisionally released goods. A comparative Table of assessment of impugned goods by two departments, are as follows:

S.No.	Description	Declared & Assessed PCT	PCT ascertained by DG of I&I
1	Laser Land Level Transmitters with NIMH Battery pack and charger Model No. AG 401	8432.8090	9015.8000
2	Rigid Mast Pack for Agriculture use Model No. AGGCS-100-00:	-	-
(i)	Laser Land Receiver LR40	8432.8090	9015.8000
(ii)	Control Box CB-40	8432.8090	9015.8000
(iii)	Cable Set with all standard Accessories	8432.8090	9015.8000
3	Laserometer with clamp	8432.8090	9015.8000

ISSUE:

3. Whether the subject goods are appropriately classifiable under HS Code 84.32 as claimed by the importer and assessed by the Collectorate; or HS Code 90.15 as ascertained by the Directorate of Intelligence, or any other relevant headings of First Schedule of the Customs Act 1969.

PRODUCT ANALYSIS:

4. As per information provided by the Collectorate, the importer and the Directorate of Intelligence, as well as from perusal of the product literature provided during the meetings, the subject consignments consist of a Transmitter, a Rigid Mast Pack comprising of Receiver, Control Box, Cable Set and a Laserometer. The individual functions of each item are as under:

1. **Transmitter:** It is placed on the tripod which emits an infrared beam of light which is received by a receiver.
2. **Receiver:** Receiver senses the infrared beam of light emitting from Transmitter and converts it to an electrical signal.
3. **Control Box:** Electrical signal is directed by a Control Box to activate the hydraulic system which in turns raises & lowers the blade / scrapper of the Land Leveler to precisely grade the surface.
4. **Cable Set (with all Standard Accessories):** To connect the equipments with Tractor & Scrapper / Blade.
5. **Laserometer:** It measures elevation across the field / site and provides digital read out of elevation.

Besides the above mentioned items, a Laser Level System also includes a blade or scrapper that is attached to a tractor and actually levels the surface, and a hydraulic system which receives the signal from Control Box and raises and lowers the blade for desired leveling. These two components / equipments, however, do not form part of the equipment imported in the instant case.

LAW AND ANALYSIS

5. The matter was considered by the Classification Committee during the meetings held on 02.12.2017 and again on 06.01.2018 on the request of Directorate of Intelligence as representatives of the Directorate could not attend the first meeting. The representative of the importer Mr. Nadeem Nisar Ahmed referred to Note 3 and 4 of Section XVI of Pakistan Customs Tariff and Explanatory Note. According to Note 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*". According to Note 4: "*Where a machine (including a combination of machines) consist 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 and Chapter 85, then the whole falls to be classified in the heading appropriate to that function.*" Mr. Nadeem Nisar also referred to Serial No. 20 of Table to Part-I of Fifth Schedule of the Customs Act and said that Laser

and Leveler is classified in 8432.8090. He also added that Chapter 84, Note 3 under the title (B) General Arrangement of the Chapter of the EN provides: *"Heading 84.25 to 84.78 cover machines and apparatus which with certain exceptions, are classified there by reference to the field of industry in which they are used, regardless of their particular function in the field."* He argued that in terms of above mentioned Section and Chapter Notes, as the imported equipments to be used for agricultural land leveling, therefore, it is to be classified under the claimed PCT heading i.e. 8423.8090.

6. The representative of Directorate of Intelligence contented that importer has imported Survey Equipment falling under PCT 9015.8000. The main mechanical device i.e. Leveler / Scraper as well as the hydraulic system is missing, therefore, the imported consignment cannot perform the function of Land Leveling in the state it is presented to Customs. Therefore, importer had imported Laser surveying equipments and not Laser Land Leveler System.

After deliberations following HS Codes were considered by Classification Committee for further discussion:

1	84.32	Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers
2	90.15	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders.
3	90.32	Automatic regulating or controlling instruments and apparatus.
4		Respective Headings of Transmitter, Receiver, Control Box, Laserometer

7. The arguments of importer in favor of HS Code 84.32 were discussed in detail. As per Explanatory Notes, HS Code 84.32 covers machines, whatever their mode of traction, used in place of hand tools, for one or more of the following classes of agricultural, horticultural or forestry work, viz. :

- I) Preparing the soil for cultivation (clearing, breaking, tilling, ploughing, loosening, etc.).
- II) Spreading or distributing fertilizers, including manure, or other products to improve the soil.
- III) Planting or sowing.
- IV) The working or maintenance of the soil during the growing period (hoeing, weeding, cleaning etc.).

The machines of this heading may be hauled by an animal or by a vehicle (e.g., a tractor), or may be mounted on a vehicle (e.g., on a tractor). This heading includes machines like Ploughs, Harrows, Manure Spreaders etc. From product's physical analysis and it's provided Literature, it transpires that the subject consignment, in its present form as presented to Customs, can not perform any of the functions as mentioned at para 7(I-IV); nor can it be directly attached to a tractor, hence it falls outside the ambit of HS Code 84.32 in terms of its ENs. Moreover, Note 5 to Section XVI of Pakistan Customs Tariff explains the expression "machine" which means *"any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85."* Thus the argument given by the representative of the importer at Para 5 above does not hold ground in view of the explanation given at Note 5 as the imported goods i.e. Laser Level System comprising of a Transmitter and Receiver falls in HS Code 90.15 and are not machines of Chapter 84 or 85.

HS Code 90.15 as determined by the Directorate of Intelligence was discussed by the Classification Committee. The equipment imported is without ground/land scrapper and its hydraulic components, but it is with Laser Leveling equipment with control box. The Control Box gets signals from receiver and regulates the hydraulic system which in turn moves the scrapper / blade. Without the control box the goods (i.e. the Transmitter and Receiver) are to be classified under heading 90.15 as they perform the function of ground survey but with control box, the goods become a composite unit which is a combination of Laser Land survey equipment and a control equipment, comprising of Laser Land Level Transmitter, Laser Receiver, LaseroMeter and Control Box. Thus, it is excluded from HS Code 90.15, not being a simple survey system.

9. It was also discussed whether the goods can be classifiable in their respective headings, however, as the goods form a composite whole in which all components are linked together to perform a distinct function and there is no other function of these machines then to support land leveling, therefore, they are classifiable in a single relevant heading rather than respective headings of each component.

10. After excluding the above two HS Codes, the Committee considered other relevant codes where upon HS Code 90.32 was discussed. Part-II of ENs to HS Code 90.32 provides that this heading covers "*Automatic regulators of electrical quantities and instruments or apparatus for automatically controlling non-electrical quantities the operation of which depends on an electrical phenomenon varying according to the factor to be controlled.*" They consist essentially of the following devices:

- (A) A measuring device.
- (B) An electrical control device.
- (C) A starting, stopping or operating device.

ENs further explain that these regulators are used not only to control electrical quantities but also for other quantities such as "leveling". The imported goods consist of all the devices mentioned at para 10(A, B, C) above and also perform the function as mentioned in the definition given in EN to HS Code 90.32. These are without the scrapper and hydraulic system and they are also not simple surveying equipments; rather it is a complex arrangement of different equipment, constituting a composite unit. In this composite unit, transmitter is fixed on a tripod stand which transmits a laser beam and the same is received in the receiving unit and, thereafter, the same is further transmitted to control box as an electric signal to control the scrapper unit through hydraulic system. As a whole composite unit, imported goods are automatic control command unit (a regulating unit) correctly classifiable under HS Code 90.32 as explained in ENs as well as by virtue of Rule 1 of General Rules of Interpretation.

HOLDING:

11. From the above discussion, the Committee is of the opinion that the imported goods i.e. Transmitters, Rigid Mast Pack comprising of Receiver, Control Box, Cable Set and a Laserometer, imported for automatic regulating of laser land leveling for agricultural purposes, in application of Rule-I of General Rules of Interpretations, is correctly classifiable under PCT Code 9032.8990.

The above Ruling is based upon the documents/literature and samples provided by the applicant and other stakeholders and shall be treated as annulled, if it is found, at any subsequent stage, that the same was obtained by providing incorrect, false, misleading or incomplete information by the applicant.



(Mona Yehfozz)

Additional Collector IV
Chairperson Classification Committee

Distribution:

1. PS to Member (Customs), Federal Board of Revenue, Islamabad.
2. Chief Collector of Customs (Appraisalment-South), Custom House, Karachi.
3. Chief Collector of Customs (Enforcement-South), Custom House, Karachi.
4. Chief Collector of Customs (Central/North) Custom House, Lahore / Islamabad.
5. Director General, Intelligence & Investigation-FBR, Mauve Area-1, G-10/4, Islamabad.
6. Chief (Tariff), Customs Wing, Federal Board of Revenue, Islamabad.
7. Collector, MCC Appraisalment (East) / (West) / (Preventive), Custom House, Karachi.
8. Collector of Customs MCC, Port Mohammad Bin Qasim, Karachi.
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11. Director, Directorate of Customs Post Clearance Audit, 3rd Floor, Custom House, 24 Mauve Area, G-9/1, Islamabad
12. Director, Directorate of Intelligence & Investigation (Customs), Karachi / Lahore / Faisalabad / Rawalpindi / Quetta / Peshawar.
13. Collector of Customs Adjudication I & II, Customs House, Karachi.
14. Collector, MCC (Adj/Appeals), Lahore / Faisalabad / Rawalpindi / Peshawar / Quetta.
15. M/s Farm Power International, 50/71, G-Block, Model Town, Lahore, Pakistan.
16. Karachi Chamber of Commerce & Industry, Karachi.
17. Karachi Customs Agents Association, Custom House, Karachi.
18. Notice Board.
19. Master File.