CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Customs Appeal No. 51715 of 2025

[Arising out of Order-in-Original No. 20/2025/VCG/Pr.Commr/ICD-Import/TKD dated 10.07.2025 passed by the Principal Commissioner of Customs (Import), New Delhi]

M/s. Promark Techsolutions Private Limited, **...Appellant**
Morinda by pass, Ludhiana Highway (Nh-5),
Adjoining Preet Palace, Village Baddi Madouli,
Morinda, Dist. Ropar – 140 413 (Punjab)

VERSUS

Principal Commissioner of Customs
Import ICD TK – New Delhi **...Respondent**
Inland Container Depot,
Tughlakabad,
New Delhi - 110020

APPEARANCE:
Shri Amit Jain, Advocate for the Appellant
Shri Ajay Jain, Special Counsel for the Respondent

CORAM:
HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MRS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

DATE OF HEARING: 23.03.2026
DATE OF DECISION: **21.07.2026**

FINAL ORDER NO. 51234/2026

DR. RACHNA GUPTA

The present order disposes of an appeal filed to assail the Order-in-Original No.20/2025 dated 10.07.2025. The facts relevant for the said adjudication are as follows:

1.1 M/s. Promark Techsolutions Private Limited, the appellant herein, had filed Bill of Entry No. 6280725 dated 23.10.2024 for clearance of the goods as "Display Assembly (Interactive Flat Panel 75 inch)" under CTH 84733099 attracting 'Nil' rate of BCD. During the scrutiny of the aforesaid bill, the goods appeared to the department as classifiable under CTH 8528 attracting BCD at the rate of 10%. The consignment was accordingly examined on 29.10.2024. It was found to contain Display Assembly of 75 inch, 264 units, the parts of interactive flat panel. However, the goods were seized under the notion that the right classification for the goods is CTH 8528. The goods were, however provisionally released.

1.2 The alleged wrong classification had resulted into non-payment of the customs duty that the Show Cause Notice No. 573/2024-25 dated 18.02.2025 was served upon the appellants proposing the reclassification of the goods under CTH 85285900 for the aforesaid Bill of Entry dated 23.10.2024. Differential duty of Rs.32,10,922/- was proposed to be recovered from the appellants. The imported goods were proposed to be confiscated. The bank guarantee of Rs.4,17,199/- which was furnished for provisional release was proposed to be appropriated towards payment of redemption fine. In addition, the penalty under Section 112(a)(ii) of the Customs Act, 1962 was also proposed to be imposed. The show cause notice also demanded the differential customs duty amounting to Rs.12,96,49,240/- with respect to past imports (58 Bils of Entry) along with the proposal for the penalty under 112A(ii). The said proposal has fully been confirmed vide the order under challenge. Being aggrieved, the appellant is before this Tribunal.

2. We have heard Shri Amit Jain, learned Advocate for the appellant and Shri Ajay Jain, learned Special Counsel for the department.

3. Learned counsel for the appellant has submitted that the appellant had imported parts and assembled all interactive flat panels in SKD condition with standard accessories. The product comes with pre-installed Operating System Android N.14, RAM upto 8 GB, RAM upto 256 GB, CPU (Central Processing Unit), GPU (Graphic Processing Unit), OPS (Open Pluggable Specification) through which different OS can be installed and operated. The machines are equipped with calculators and are capable of performing arithmetical computations and have internet connectivity. Hence, the goods are impressed upon to be Automatic Data Processing Machine (ADPM) classifiable under CTH 8471. It is further submitted that department has wrongly classified the said product as Monitors classifiable under CTH 8528. The monitors of said tariff entry are capable of accepting and displaying the signals only when those monitors get attach to any of the devices as that of automatic data processing machine, video camera or recorder etc. The monitors of CTH 8528 do not have the capability to function independently or of two way communication. Those are not capable of processing any data on their own, nor these are capable of storing data. On the contrary, the product imported by the appellants can independently function. Hence the classification declared by the appellant is correct and the one alleged by the department is wrong.

3.2 Learned counsel also mentioned that the General Rules for the Interpretation also support the classification of the impugned goods under CTH 8471 41 90. Otherwise also the issue of classification of the impugned product is no more res integra. The classification of the such goods, as in question, has already been decided to be under CTH 8471 41 90. Following cases have been relied upon:

(i) Ingram Micro India Private Limited Vs. Pr. CC (Import), New Delhi reported as 2022 (2) TMI 308 – CESTAT NEW DELHI

(ii) Final Order No. 50975/2025 dated 01.07.2025 of CESTAT, New Delhi in the case of Pr. CC (Import), New Delhi Vs. Globus Infocom Limited, affirmed by Hon'ble Supreme Court vide Order dated 25.02.2026 in Civil Appeal Diary No. 5364/2025

(iii) Cloudwalker Streaming Technologies Pvt Ltd Vs. CC (NS-V), Raigad reported as 2022 (1) TMI 1078 – CESTAT MUMBAI, affirmed by Hon'ble Supreme Court vide Order dated 23.02.2026 in Civil Appeal Diary No. 1401/2026.

(iv) Final Order No. 86397/2025 dated 01.10.2025 of CESTAT Mumbai in the case of Brio Interactive Technologies Pvt. Ltd. Vs. CC (NS-V)

(vi) Hitevision Tech India Pvt. Ltd. Vs. CC, Chennai, reported as 2026 (1) TMI 1240 – CESTAT CHENNAI

3.3 Learned counsel finallyr submitted that the show cause notice in the present case was issued in violation of the monetary provisions of Section 28(1)(A) of the Customs Act, 1962 for want of pre notice consultation. The confirmation of proposal of such show cause notice is liable to be set aside. With these submissions, the order under challenge is prayed to be set aside and the appeal is prayed to be allowed.

4. Learned Departmental Representative, while rebutting these submissions has reiterated findings arrived at by the adjudicating authority below in the impugned order. The observations in Para 7.1.2 and 7.2.3 of the order are impressed upon. The reliance of the adjudicating authority on the Board Circular dated 07.04.2025 has also been justified. The decision relied upon by the appellant are denied to be applicable to the given circumstances as those were the decisions prior the CBIC clarification dated 07.04.2025. With these submissions, the appeal is prayed to be dismissed.

5. Having heard the rival contentions and perusing the entire records, it is observed that the issue involved in the appeal is regarding the classification of the goods i.e. Display Assembly 75 Inch, Power Board Assembly & Main Board Assembly, all being parts of Interactive Flat Panel. The appellant has claimed classification of those goods under CTH 8471 4190 whereas the department has claimed it to be under CTH 8528 5900. For the purpose of appreciating the said contradiction vis-à-vis classification, we foremost have perused Tariff Entries of CTH 8471 and CTH 8528 which reads as follows:

Tariff Item	Description of Goods
8471	Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data on to data media in coded from and machines for processing such data, not elsewhere specified or included
	…………………………….
	-Other automatic data processing machines:
8471 41	-- Comprising in the same housing at least a

	central processing unit and an input and output unit, whether or not combined:
8471 41 10	--- Micro Computer
8471 41 20	--- Large or main frame computer
8471 41 90	--- Other
5471 90 00	- Other

<table>
<tr><th rowspan="2">Tariff
Item</th><th rowspan="2">Description of goods</th><th rowspan="2">Unit</th><th colspan="2">Rate of Duty</th></tr>
<tr><th>Standard</th><th>Preferential Areas</th></tr>
<tr><td>(1)</td><td>(2)</td><td>(3)</td><td>(4)</td><td>(5)</td></tr>
<tr><td>8528</td><td rowspan="4">Monitors and projectors, not incorporating television reception apparatus, reception apparatus for television, where or not incorporating ratio-broadcast receivers or sound or vides recording or reproducing apparatus

- Cathode-ray tube monitors
-- Capable of directly connecting to and designed for use with an automatic data processing machine of hearing 8471

-- Other

- Other monitors:

-- Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471</td><td></td><td></td><td></td></tr>
<tr><td>8528 42 00</td><td>u</td><td>10%</td><td>-</td></tr>
<tr><td>8528 49 00</td><td>u</td><td>10%</td><td>-</td></tr>
<tr><td>8528 52 00</td><td>u</td><td>10%</td><td>-</td></tr>
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We have also perused the HSN Explanatory Notes to CTH 85.28 which reads as follows:

(A) Monitors capable of directly connecting to and designed to use with an Automatic Data Processing Machine of Heading 84.71

This group includes monitors which are capable of accepting a signal from the central processing unit of an automatic data processing machine and provide a graphical presentation of the data processed. These monitors are distinguishable from other types of monitors and from television receivers.

The monitors of this group may be characterized by the following features:

(i) They usually display signals of graphics adaptors (monochrome or colour) which are integrated in the central processing unit of the automatic data processing machine;

(ii) They do not incorporate a channel selector or video tuner;

(iii) They are fitted will connectors characteristic of data processing systems (e.g., RS-232C interface, DIN, D-SUB, VGA, DVI, HDMI or DEP (display port) connectors);

(iv) The viewable image size of these monitors does not generally exceed 76 cm (30 inches);

(v) They have a display pitch size (usually smaller than 0.33mm) suitable for close proximity Viewing:

(vi) They may have an audio circuit and built-in speakers (generally, 2 watts or less in total);

(vii) They usually have control buttons situated in the front panel;

(viii) They usually cannot be operated by a remote control;

(ix) They may incorporate tilt, swivel and height adjusting mechanisms, glare-free surfaces, flicker-free display, and other ergonomic design characteristics to facilitate prolonged periods of viewing at close proximity to the monitor;

(x) They may utilize wireless communication protocol to display data from a automatic data processing machine of heading 84.71

6. We observe it to be an admitted fact that the goods in question have a pre-installed operating system, namely, Android N.14, RAM 8GM and 256 GB, CPU, GPU, OPS etc. The said Android version is a customized operating system for these Interactive Flat Panels in question. Further, the goods also have an OPS slot. With the use of the OPS Slot, additional hardware can be connected to these goods and the OPS Slot can also be used for installing other operating software such as Windows, etc. on the goods. These admitted features of the goods in question with in-build speakers, Bluetooth, wifi etc. and touch operations distinguishes the impugned goods from simple monitors of CTH 8528. Thus, the goods are machines on which the user is able to load and execute a program. In other words, the goods are capable of executing any application/program which is stored in its memory. A user can, with the use of either Android or other operating systems, download and install new programmes in accordance with their needs and usage. There is no denial to all these characteristics of the imported goods, nor department has produced any evidence contrary thereto. Thus, goods are machines which can be freely programmed in accordance with the need of the user and hence,

satisfy all four conditions of Chapter Note 5(A) to Chapter 84 as below:

> *5(A) For the purposes of heading 8471, the expression "automatic data processing machines" means machines capable of:*
>
> *(i) storing the processing programme or programmes and at least the data immediately necessary for the execution of the programme;*
>
> *(ii) being freely programmed in accordance with the requirements of the user;*
>
> *(iii) performing arithmetical computations specified by the user; and*
>
> *(iv) executing, without human intervention, a processing program which requires them to modify their execution, by logical decision during the processing run.*

7. It is also abundantly clear from the description of the Interactive Flat Panel display, the goods in question in the catalogue on record that these do contain a central processing unit and does operate on software that requires an input device which, though not be different from that for computes and other automatic data processing machines, functions on its own as different from monitors of CTH 8528. Therefore, the goods in question cannot be said to be merely projectors or monitor. As already held above that all the four essential conditions contained in Note 5(A) to Chapter Note 84 are satisfied, the goods in question qualify to be called as Automatic Data Processing Machine (ADPM) Classifiable under CTH 8471.

8. The goods of Chapter 85 and from the HSN Explanatory Notes to CTH 8528, it is more than apparent that CTH 8528 would cover monitors which are capable of receiving and displaying the signals when attached to any of the devices like ADPM, video camera or recorder. Such monitors do not have the capability of functioning

independently or through two way communications. They are also not capable of processing any data on their own, nor are they capable of storing any data. The HSN Explanatory Notes to CTH 8528 also mention that the viewable image sizes of the monitors do not generally exceeid 30 inches and that they usually cannot be operated by a remote control. The goods, in the present case, are of 65 inches and 86 inches flat display and do have a remote control. The goods, as imported by appellants ,therefore, would not merit classification under CTH 8528.

9. The classification of the product in question is determinable as provided in Rule 1 of the Rules of Interpretation of the Central Excise Tariff i.e. in terms of the relevant headings of the tariff and the relevant Section of Chapter Notes, hence, the other Rules of Interpretation do come into play. We draw our support from the decision of this Tribunal in the case of **Hindustan Packaging Co. Ltd. Vs. Collector of Central Excise, Vadodara reported as 1995 (75) ELt 313 (Tri.).** Also rules of Interpretation as contained in Chapter Notes prevail over the General Rules of Interpretation as was observed by the Supreme Court in **Commissioner of Central Excise, Pondicherry Vs. Acer India Ltd. reported as 2004 (172) ELT 289 (SC):**

> *"60. Rule 1 of the Rules for the Interpretation of the First Schedule states that the titles of Section and Chapters are provided for ease of reference only. However, for legal purposes, the classification is to be determined according to the terms of the headings. The subject matter of the heading is important. Once a particular subject matter falls within the specified classification, the determination of Valuation for the purpose imposition of duty must be done according to the terms of the heading and any*

relative Section or Chapter Notes unless such headings or Notes otherwise do not require. For our purpose, therefore, the rule of interpretation as contained in Chapter Notes would be given effect to for the purpose of classification in preference to the general rules of interpretation.

10. This Tribunal in **Ingram Micro India Private Limited (supra)** as referred by the appellants has held:

The impugned goods are IFP having an in-built CPU (ARM Cortex A.73 dual-core 1.2GHz Processor), a 2GB RAM and Android 7.0 Operating software. In addition, they also have an internal storage capacity of 16GB. Thus, goods are machines which are capable of storing data or programmes for the execution of programmes and satisfy condition no. (1) of Chapter Note 5(A) to Chapter 84.

The goods are capable of working as an ADPM on a standalone basis and can also be used in conjunction with other ADPM, but this would not mean that the goods would cease to be ADMP in their own right, capable of working on a standalone basis. The large size display (65 inches and 75 inches) is only a feature/specification of the product and this cannot be construed to be its function, much less its principal function. The Deputy Commissioner and the Commissioner (Appeals), therefore, committed an error in holding that the large size of display would mean that the goods are meant for display purpose to a large gathering and, therefore, in terms of Note 5(E) of Chapter Note 84, the goods would merit classification as per the specific use - Commissioner (Appeals) committed an error in rejecting the contention of the appellant that the goods were ADPM by taking recourse to trade parlance, namely, that buyers intending to purchase a computer will not select the goods because of the large size display and, therefore, the goods should be specified according to the use. The Commissioner (Appeals) also committed an error in holding that even if the goods are capable of being used as ADPM considering their features, they would still merit classification under CTH 8528 in view of the provisions of GRI (3)(c).

The goods in dispute, on the other hand, are much more than mere display devices and, therefore, cannot be classified under CTH 8528 as monitors. The HSN Explanatory Notes to CTH 8528 also mention *that the viewable image sizes of the monitors do not generally exceed 30 inches and that they usually cannot be operated by a remote control. The goods, in the present case, are of 65 inches and 75 inches and do have a remote control. The goods, therefore, would not merit classification under CTH 8528.*

What also needs to be noted is that classification of a product is determined according to the terms of the Headings and any relative section or Chapter Note. GRI (1) also provides that titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification is determined according to the terms of the Headings and any relative Section or Chapter Notes. It is only when such Headings or Notes do not otherwise require that the provisions (2), (3), (4), (5) and (6) of GRI would apply.

There is no manner of doubt that the goods would merit classification under CTI 8471 41 90 as claimed by the appellant and not under CTI 8528 52 00 as claimed by the Department-the differential duty of 13,37,043/- paid by the appellant by challan dated 28.01.2020 shall be refunded to the appellant with applicable rate of interest - appeal allowed - decided in favor of appellant.)

Thus the issue is no more res integra.

11. Coming to the plea that the show cause notice in the present case was issued in violation of the mandatory provisions of Section 28(1)(A) of the Customs Act, 1962 for want of the Pre-Notice Consultation. It is observed that firstly this finding is beyond the scope of the show cause notice thus amounts to be the violation of principles of natural justice. Reliance in the impugned order is placed on the proposals in the Finance Bill, 2025 and on the board circular dated 07.04.2025. The said Board Circular about classification of the goods under CTI 8528 59 00 has been issued by the Ld. Technical Officer, TRU. It cannot be construed to be a Circular issued by the Central Board of Indirect Taxes and Customs

in terms of the provisions of Section 151A of the Customs Act, and thus, has no sanctity in law. Moreover, these changes can have only prospective effect and cannot be made applicable to past imports. Reliance in the impugned order on the proposals made in the Finance Bill, 2025 is therefore misplaced, misdirected and unsustainable in law. Similarly, the reliance place on the Board Circular dated 07.04.2025 is also unsustainable in law.

12. In view of the discussion above, we hold that the allegations of mis-declaration by the appellant are wrong. No question arises for confiscation of the goods imported differential duty of customs is wrongly confirmed along with interest. There is no reason due to which penalty be imposed upon the appellant. We hereby set aside the order under challenged. Consequent thereto, appeal is allowed.

[Order pronounced in the open court on **21.07.2026**]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

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