

Judgment of the European Court of Justice regarding the tariff classification of active matrix liquid crystal devices (LCD) (C-16/08)

The Court of Justice has finally decided on the tariff classification of active matrix liquid crystal devices (LCD), in its judgment of 11 June 2009.

In June 2006, the Latvian Administrative Court of Appeal applied to the European Court of Justice (the ECJ) for a preliminary ruling concerning the tariff classification of goods in connection with a case which the Appeal Court was considering.

In the request sent to the ECJ, the court asked if [sub]heading [8528 21 90] of the Combined Nomenclature should be interpreted as being also applicable to active matrix liquid crystal devices as at 29 December 2004. Such devices constitute two glass plates, a layer of liquid crystal inserted between the two plates, vertical and horizontal signal drivers, a backlight, an inverter providing high-voltage power for the backlight and, finally, a control block – data transmission interface (control PCB or PWB) to ensure sequential transmission of data to each pixel (dot) of the LCD unit using specific technology – LVDS (low-voltage differential signalling).

The ECJ found that these devices may have a number of intended uses, but different vital components must be added to them in order for such parts to acquire the basic characteristics of a complete unit. Thus, subheading 8528 21 90 of the CN, proposed by the Riga Region Customs Office, which covers 'video monitors', i.e. finished articles, is not the appropriate subheading for classification of the liquid crystal devices at issue in the court proceedings.

Additionally in light of the description of the abovementioned parts supplied by the national court, their characteristics do not correspond to subheading 9013 80 20 of the CN, which covers 'active matrix liquid crystal devices, and which was used so far by the company involved in the proceedings. The devices in question are in fact also equipped with parts not listed in that heading

In the justification of the judgment, the ECJ stated that such liquid crystal devices cannot be classified under subheadings 9013 80 20 or 8528 21 90 of the CN.

Consequently, as these devices are parts which can be used in apparatus coming under heading 8528 of the CN ('Reception apparatus for television,

whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors'), they may therefore be classified in accordance with the Explanatory Notes to the HS, under heading 8529 of the CN ('Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528').

It is now for the national court to ascertain whether the liquid crystal devices in question have the objective characteristics and properties necessary to be regarded as parts suitable for use solely or principally with the apparatus covered under headings 8525 to 8528 of the CN.

The above judgment of the Court brings serious practical consequences for businesses involved in the active matrix LCD trade. It may prove the case that some of goods should be classified under a CN heading different than that currently applied, with a higher customs duty rate. Therefore, it seems reasonable to verify the classification method applied in accordance with the statement of the ECJ expressed in the judgment.

Should you be interested in further information concerning the above issues, please feel free to contact us

Contact details

Krzysztof Stefanowicz

Director

Tel.: + 48 (22) 528 11 63

Fax: + 48 (22) 528 11 59

kstefanowicz@kpmg.pl

Marek Szymański

Senior Manager

Tel.: + 48 (22) 528 10 34

Fax: + 48 (22) 528 11 59

mszymanski@kpmg.pl

Offices

Warsaw Office

ul. Chłodna 51

00-867 Warszawa

Tel.: + 48 (22) 528 11 65-71

Fax: + 48 (22) 528 11 59

tax@kpmg.pl

Cracow Office

al. Armii Krajowej 18

30-150 Kraków

Tel.: + 48 (12) 424 94 00

Fax: + 48 (12) 424 94 01

tax.krakow@kpmg.pl

Poznan Office

ul. Roosevelta 18

60-829 Poznań

Tel.: + 48 (61) 845 46 00

Fax: + 48 (61) 845 46 01

tax.poznan@kpmg.pl

Wroclaw Office

ul. Bema 2

50-265 Wrocław

Tel.: + 48 (71) 370 49 00

Fax: + 48 (71) 370 49 01

tax.wroclaw@kpmg.pl

Gdansk Office

ul. Piwna 28-31

80-831 Gdańsk

Tel.: + 48 (58) 321 96 00

Fax: + 48 (58) 321 96 01

tax.gdansk@kpmg.pl

Katowice Office

ul. Powstańców 43

40-024 Katowice

Tel.: + 48 (32) 200 65 05

Fax: + 48 (32) 200 65 10

tax.katowice@kpmg.pl

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

KPMG and the KPMG logo are registered trademarks of KPMG International, a Swiss cooperative.

© 2009 KPMG Tax M. Michna sp.k., a Polish limited partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International, a Swiss cooperative. All rights reserved.