



# BUREAU OF CUSTOMS

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## CUSTOMS MEMORANDUM CIRCULAR NO. 91-2023

**TO :** ASSISTANT COMMISSIONER  
DEPUTY COMMISSIONERS  
DIRECTORS AND DIVISION CHIEFS  
DISTRICT AND SUB-PORT COLLECTORS  
ALL OTHERS CONCERNED

**SUBJECT :** TARIFF CLASSIFICATION DISPUTE RULING

This has reference to the herein attached Tariff Commission Circular Dispute Ruling No. 22-039 issued on 26 May 2023 pursuant to Commission Order No. 2018-1 (Rules of Procedure on Disputes involving Tariff Classification) on the shipment of "Engine Control System DCU 305R3 06607", consigned to Jan De Nul Phils. Inc. (Import Entry/Customs Reference No. C-101216, Ninoy Aquino International Airport) the dispositive portion of which provides, to wit:

**WHEREFORE**, premises considered, subject article is hereby classified as follows:

Product	AHTN 2022 Code	2022 MFN Rate
Engine Control System DCU 305R3 06607	8537.10.12	5% <i>ad valorem</i>

For information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.

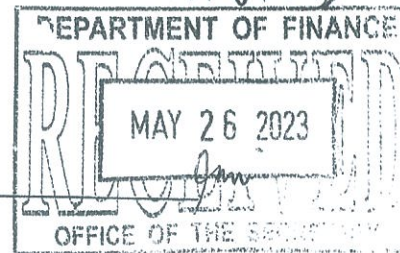
**BIENVENIDO Y RUBIO**  
Commissioner



JUN 14 2023



REPUBLIC OF THE PHILIPPINES  
TARIFF COMMISSION



RE: REQUEST FOR TARIFF CLASSIFICATION DISPUTE RULING ON "ENGINE CONTROL SYSTEM DCU 305R3 06607", CONSIGNED TO JAN DE NUL PHILS. INC.

TCC (DR) NO. 22-039

(Import Entry/Customs Reference No. C-101216, NAIA)

Issued on: 26 May 2023

TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for Tariff Classification Dispute Ruling (TCDR), pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), on the shipment of Engine Control System DCU 305R3 06607 imported by Jan De Nul Phils. Inc. (Importer/Consignee) from Belgium. The request of the Importer/Consignee for TCDR was accepted by this Commission on 15 November 2022.

The shipment of the said article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 8409.99.79, with a Most Favoured Nation (MFN) rate of duty of 1% *ad valorem*, was processed under Import Entry/Customs Reference No. C-101216 at the Bureau of Customs (BOC), Ninoy Aquino International Airport (NAIA). The BOC contested the declared heading and reclassified subject article under AHTN 2017 subheading 8537.10.99, with an MFN rate of duty of 5% *ad valorem*.

Hence, this request for Tariff Classification Dispute Ruling.

Pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 12 December 2022 for comments on the request for TCDR on Engine Control System DCU 305R3 06607. In a letter dated 02 February 2023, Atty. Halleck A. Valdez, Deputy Collector for Assessment, BOC-NAIA, submitted BOC's comment through a Memorandum (with Position Paper) prepared by Mr. Jones S. Rose, Customs Operations Officer (COO) III, stating the reasons why subject article was reclassified from the declared AHTN 2022 subheading 8409.99.79 (with an MFN rate of duty of 1% *ad valorem*) to AHTN 2022 subheading 8537.10.99 (with an MFN rate of duty of 5% *ad valorem*). The reasons for this reclassification decision, as stated in the Memorandum, were as follows:

"1. Item no. 1, declared as **ENGINE CONTROL SYSTEM DCU 305R3** was inappropriately classified by the broker under **AHTN 2022 8409.99.79** with a **1% MFN rate of duty - Other -- Other --- Other (Chapter 84.09 - Parts suitable for use solely or principally with the engines of heading 84.07 or 84.08.)** wherein, according to the Explanatory Notes, this heading covers parts of the internal combustion piston engines of heading 84.07 or 84.08 (e.g. pistons, cylinders and cylinder blocks, cylinder heads, cylinder liners, inlet or exhaust valves, inlet or exhaust manifolds, piston rings, connecting rods, carburetors, fuel nozzles, etc.);

2. Based on the submitted product literature, DCU 305 R3 Control Unit is an **electronic control unit** for the control and monitoring of diesel engines used as propulsion engines or generator sets. Switches and senders from the engine are connected to the control unit on the wire terminal card RK-66. The DCU 305 R3 consists of three basic items: the control panel, the terminal card RK-66, and two cables that connect these units. The control unit and the wire terminal card with cables make a complete genset monitoring system. Optional analogue cards and relay cards may be added to further enhance the functionality and flexibility. The control unit is configured using a laptop PC with the configuration software Rudolf™ installed. The configuration can be printed and stored on disk. (see attached brochure/product literature);



3. Moreover, the Tariff Commission had a previous issuance of a **Tariff Ruling under TCC (DR) No. 20-010 dated 26 March 2021 for Electronic Control Unit P/N: 50125599, 50126153, and 50125569** which are designed to control specific electronic functions of motor cars imported by **Intl. Wiring Systems Phils. Corp.** which was formally classified under **HS 8537.10.99C** with an **MFN rate of duty of 5%**. Though its application is for motor vehicles, it should not be considered as "parts and accessories" under the purview of heading 87.08 from which the same principle may also apply on the subject article as "parts and accessories" of diesel engine for generator under heading 84.09 since the said article (DCU 305 R3 Control Unit) is not among the essential mechanical parts of an engine as stated above."

In the evaluation of disputes on tariff classification, Section 8 of Commission Order No. 2018-01 provides that this Commission, if it deems necessary, shall conduct a hearing to clarify the facts necessary to resolve the pending disputes in tariff classification. In the present case, however, this Commission found that the submissions of the Importer/Consignee and the BOC were sufficient to make a correct determination on the tariff classification of the subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted technical specifications, installation manual, and user's manual, it was established that subject article is a configurable electronic control unit consisting of a front panel with liquid crystal display (LCD) screen and switch buttons, and a back panel with several ports. The control panel is to be connected to a personal computer (PC) for configuration using the Rudolf™ R3 Windows program.

Subject article is designed for controlling and monitoring diesel engines used as propulsion engines or gensets (generator sets). The LCD screen displays the engine parameters that are being monitored (e.g., engine oil pressure, coolant temperature, and fuel rate) with their corresponding status/measured values, while the switch buttons (e.g., start and stop) are used for controlling the engine. The control panel has a voltage rating of 24 V and overall dimensions of 160 mm x 260 mm x 35 mm (H x W x D). Subject article is imported together with the RK-66 interface module (wire terminal card), two connector cables, fastening material, and a quick installation guide.

The Importer/Consignee considered classification of the product under parts of heading 84.09 of the AHTN 2022 which covers *parts suitable for use solely or principally with the engines of heading 84.07 or 84.08*. The pertinent Harmonized System (HS) Explanatory Notes (EN) regarding parts state that:

**"Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts of internal combustion piston engines of heading 84.07 or 84.08 (e.g., pistons, cylinders and cylinder blocks; cylinder heads; cylinder liners; inlet or exhaust valves; inlet or exhaust manifolds; piston rings; connecting-rods; carburettors; fuel nozzles) [emphasis added]."**

On the other hand, the BOC considered classification of subject article under heading 85.37 of the AHTN 2022 which covers *boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 85.35 or 85.36, 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 85.17*. The pertinent HS EN for this heading state that:

**"These consist of an assembly of apparatus of the kind referred to in the two preceding headings (e.g., switches and fuses) on a board, panel, console, etc., or mounted in a cabinet, desk, etc. They usually also incorporate meters, and sometimes also subsidiary apparatus such as transformers, valves, voltage regulators, rheostats or luminous circuit diagrams.**

**The goods of this heading vary from small switchboards with only a few switches, fuses, etc. (e.g., for lighting installations) to complex control panels for machine-tools, rolling mills, power stations, radio stations, etc., including assemblies of several of the articles cited in the text of this heading.**

x x x

#### PARTS

**Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the goods of this heading are classified in heading 85.38."**

It should be noted that both HS EN mentioned above provide guidance on the classification of parts of the machines and devices of the aforementioned headings (i.e., 84.09 and 85.37) by referring to the general provisions regarding the classification of parts, which is Note 2 to Section XVI.

Note 2 to Section XVI of the AHTN 2022 states that:

*"Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules :*

*(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;*

*(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17, and parts which are suitable for use solely or principally with the goods of heading 85.24 are to be classified in heading 85.29;*

*(c) All other parts are to be classified in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate or, failing that, in heading 84.87 or 85.48."*

In addition, the General EN to Section XVI for Parts state that:

*"In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the **exclusions** mentioned in Part (I) above. **Separate headings are, however, provided for :***

- (A) Parts of the engines of heading 84.07 or 84.08 (heading 84.09).**
- (B) Parts of the machinery of headings 84.25 to 84.30 (heading 84.31).
- (C) Parts of the textile machines of headings 84.44 to 84.47 (heading 84.48).
- (D) Parts of the machines of headings 84.56 to 84.65 (heading 84.66).
- (E) Parts of the office machines of headings 84.70 to 84.72 (heading 84.73).
- (F) Parts of the machines of heading 85.01 or 85.02 (heading 85.03).
- (G) Parts of apparatus of headings 85.19 or 85.21 (heading 85.22).
- (H) Parts of apparatus of headings 85.25 to 85.28 (heading 85.29).
- (I) Parts of apparatus of heading 85.35, 85.36 or 85.37 (heading 85.38).

**The above rules do not apply to parts which in themselves constitute an article covered by a heading of this Section (other than headings 84.87 and 85.48); these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine. This applies in particular to [emphasis added] :**

- (1) Pumps and compressors (headings 84.13 and 84.14).
- (2) Filtering machinery and apparatus of heading 84.21.
- (3) Lifting and handling machinery (heading 84.25, 84.26, 84.28 or 84.86).
- (4) Taps, cocks, valves, etc. (heading 84.81).
- (5) Ball or roller bearings, and polished steel balls of a tolerance not exceeding 1 % or 0.05 mm, whichever is less (heading 84.82).

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(6) Transmission shafts, cranks, bearing housings, plain shaft bearings, gears and gearing (including friction gears and gear-boxes and other speed changers), flywheels, pulleys and pulley blocks, clutches and shaft couplings (heading 84.83).

(7) Gaskets and similar joints of heading 84.84.

(8) Electric motors of heading 85.01.

(9) Electrical transformers and other machines and apparatus of heading 85.04.

(10) Electric accumulators assembled into battery packs (heading 85.07).

(11) Electric heating resistors (heading 85.16).

(12) Electrical capacitors (heading 85.32).

(13) Electrical apparatus for switching, protecting, etc., electrical circuits (switches, fuses, junction boxes, etc.) (headings 85.35 and 85.36).

(14) **Boards, panels, consoles, desks, cabinets and other apparatus for electric control or the distribution of electricity (heading 85.37) [emphasis added].**

x x x”

Following the general provisions regarding the classification of parts under Section XVI (i.e., Note 2 to said Section), the Commission has determined that subject article is a programmable electronic control panel designed for controlling and monitoring diesel engines used as propulsion engines or gensets (generator sets), which is specifically covered under heading 85.37 of the AHTN 2022.

Based on the information received from the Importer/Consignee and the BOC, and the clarifications provided by the foregoing Section Note and HS EN, subject article is properly classified under AHTN 2022 subheading 8537.10.12 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA).

WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2022 Code	2022 MFN Rate
ENGINE CONTROL SYSTEM DCU 305R3 06607	8537.10.12	5% ad valorem

This is for compliance by the BOC pursuant to Section 1100 of the CMTA.

So Ordered.

FOR THE COMMISSION

*MariLou P. Mendoza*  
Digitally signed

**MARILOU P. MENDOZA**  
Chairperson

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