

**HARYANA AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
VANIJYA BHAWAN, SECTOR -5, PANCHKULA**

ADVANCE RULING NO. 2
(IN APPLICATION NO. 2, dated 27.12.2017)

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| Name and address of the applicant | : M/s Epcos India Pvt. Ltd., Plot No.32, Sector-5,HSIIDC Growth Center Bawal-123501,Rewari (Haryana) |
| GSTIN of the applicant | : 06AAACI6950Q1Z2 |
| Date of application | : 26.12.2017 |
| Clause(s) of section 97(2) of CGST/ GGST act, 2017, under which the question(s) raised | : (a) classification of any goods or services or both |
| Date of Personal Hearing | : 14.03.2018 |
| Present for the applicant | : Sh. Ashok Patil, GM Sh. Rajeev Kumar, Officer Taxation Sh. Rakesh Chatbar, C.A. (PoA) |

BRIEF FACTS OF THE APPLICATION

1.1 M/s Epcos India Pvt. Ltd., Plot No.32, Sector-5,HSIIDC Growth Center Bawal-123501,Rewari (Haryana) [hereinafter referred to as "the applicant"], is holding Goods and Services Tax Identification Number 06AAACI6950Q1Z2 and has filed an application dt.26.12.2017, form GST ARA-01, for advance ruling under Section 97 of the Central Goods and Services Act, 2017 / Haryana Goods and Services Act, 2017.

1.2. The applicant has submitted that they have made an additional investment in manufacturing of batteries for mobile phones; that they have started the production of the said mobile phone batteries and are supplying the same to domestic handset manufacturers.

1.3. That the product "Battery for mobile handset" being manufactured are basically of two types as detailed below:

- (a) Battery which is supplied along with mobile handset separately. Such product is detachable, i.e., it can be separated and re-connected to the mobile handset by the users.
- (b) Battery which is non-detachable and inseparable from mobile handset i.e., it is inbuilt in the handset itself. This battery pack has connector which is used to connect the mobile handset and cannot be removed by the user.

1.4. Following questions have been framed by the applicant, seeking advance ruling.

A. Whether the product 'Battery for Mobile Handset' whether it be separable or non-separable i.e., whether it be detachable or non-detachable, when sold to the mobile handset manufacturers who uses the same to make it form part of the mobile handset will, qualify to be classified under heading-85 having description "*Parts for manufacture of Telephones for cellular networks or for other wireless networks*" attracting GST Rate of 12% (CGST rate 6%, SGST rate 6%, IGST rate 12%) as mentioned under Serial No. 203 of Schedule II of the Notification No. 1/2017 Central Tax (Rate) dated 28 June,2017, Serial No. 203 of Schedule II of the Notification No. 35/ST-2 dated 30th June,2017 issued under Haryana Goods and Services Tax Act, 2017 and Serial No. 203 of Schedule II of the Notification No. 1/2017 Integrated Tax (Rate) dated 28 June 2017.

B. Whether the product 'Battery for Mobile Handset' whether it be separable or non-separable i.e., whether it be detachable or non-detachable, when sold to the customers other than mobile handset manufacturers who does not use the same in manufacture mobile handset, will qualify to be classified under heading-8507 having description.

"Electric accumulators, including separators therefor, whether or not rectangular (including square)", attracting GST Rate of 28% (CGST rate 14%, SGST rate 14%, IGST rate 10%)

Sanyal

Mitay Ks. Singh
Add. Officer Taxation Commissioner,
Panchkula

as mentioned under Serial No. 139 of Schedule IV of the Notification No.1/2017 Central Tax (Rate) dated 28 June 2017, Serial No. 139 of Schedule IV of the Notification No. 35/ST-2 dated 30th June, 2017 issued under Haryana Goods and Services Tax Act, 2017 and Serial No. 139 of Schedule IV of the Notification No. 1/2017 - Integrated Tax (Rate) dated 28 June 2017

1.5. The applicant submitted that the product 'Battery for Mobile Handset whether the same is detachable/separable or non-detachable/non-separable from the mobile handset, when sold to the mobile handset manufacturers who uses the same to make it form part of the mobile handset, will qualify to be classified under heading 85 having the description "Parts for manufacture of Telephones for cellular networks or for other wireless networks", attracting GST Rate of 12% as mentioned under Serial No. 203 of Schedule II of the respective notifications mentioned herein above under CGST Act, Haryana GST Act or IGST Act. However where the same is sold to the consumers who does not use it in manufacture mobile handset, would qualify to be classified under heading 8507 having description of "Electric accumulators, including separators therefor, whether or not rectangular (including square)", attracting GST Rate of 28% (CGST rate 14%, SGST rate 14%, IGST rate 14%) as mentioned under Serial No. 139 of Schedule IV of the respective notifications mentioned herein above under CGST Act, Haryana GST Act or IGST Act.

1.6. In support of their contention, the applicant referred to GST Rate FAQ released in the CBEC website (<http://www.cbec.gov.in/resources/htdocs-cbec/gst/GST-Rate%20FAQs%2027.072017%20after%20Fitment%20Committee.pdf>, wherein under Sl. No 20 against the question "What is the HSN code and GST rates for Battery for mobile handsets?", it has been stated that "Battery for mobile handsets falls under heading 8506 and attracts 28% GST."

1.7. The applicant further submitted that they are of the view that the product 'Battery for Mobile Handset' whether the same is detachable/separable or non-detachable/non-separable from the mobile handset, when sold to the mobile handset manufacturers who uses the same to make it form part of the mobile handset, will qualify to be classified under heading-85 having the description "Parts for manufacture of Telephones for cellular networks or for other wireless networks", attracting GST Rate of 12% as mentioned under Serial No. 203 of Schedule II of the respective notifications mentioned herein above under CGST Act, Haryana GST Act or IGST Act.

1.8. In support of their contentions, the applicant placed reliance on the judgment passed by the Hon'ble Tribunal in the case of Commissioner of Cus. Bangalore Vs.NI Micro Technologies Pvt. Ltd. [2014 (311) E.L.T. 458 Tri. Bang.], wherein the Hon'ble Tribunal held that "*it is common knowledge that cellular phone cannot function without a battery. If that be so, the battery has to be considered as accessory, if not part/component, of cellular phone...*"

1.9.(a)Based on the judgment state supra, the applicant has contended that Battery for mobile handsets whether the same is detachable/separable or non-detachable/non-separable from the mobile handset, when sold to the mobile handset manufacturers who uses the same to make it form part of the mobile handset, would qualify to be considered as a part of the mobile handsets and thus would attract GST Rate of 12% as mentioned under Serial No. 203 of Schedule II of the respective notifications mentioned herein above under CGST Act, Haryana GST Act or IGST Act; and

1.9.(b). Where the said Battery for mobile handsets are sold to consumers/customers who do not use it in manufacture of mobile handset, would attract GST rate of 28% falling under HSN 8507 under Serial No. 139 of Schedule IV of the respective notifications mentioned herein above under CGST Act, Haryana GST Act or IGST Act.

Signature

Signature
Add. Excise & Taxation Commissioner,
Haryana GST Act, Haryana GST Act or IGST Act

Comments of the concerned officer U/S 98(1) OF THE CGST/HGST ACT, 2017

2. Comments/Report was sought from the concerned officer, as envisaged in Section 98 of the CGST/HGST Act, 2017 and the comments of the Proper Officer, Rewari, were forwarded by the Deputy Excise & Taxation Commissioner (ST), Rewari, vide Letter No.SPL-1/ETO (W-4), dated 27.02.2018 wherein he has stated that the rate of tax on the manufacturer of Lithium ion battery (as manufactured by Applicant, M/s EPCOS) whether sold to the mobile handset manufacturers or otherwise would be covered under Heading 8507 having description "Electric accumulators, including separators therefore, whether or not rectangular (including square)" attracting GST Rate of 28% (CGST rate 14%, SGST rate 14%, IGST rate 14%) as mentioned under Serial No. 139 of Schedule IV of the Notification No. 1/2017- Central Tax (Rate) dated 28 June 2017, Serial No. 139 of Schedule IV of the Notification No. 35/ST-2, dated 30th June, 2017 issued under Haryana Goods and Services Tax Act, 2017 and Serial No. 139 of Schedule IV of the Notification No. 1/2017 – Integrated Tax (Rate) dated 28 June 2017.

RECORDS OF PERSONAL HEARING – 2NDPROVISO TO SECTION 98(2) OF CGST/HGST ACT, 2017

3. During the personal hearing held on 14.03.2018, the applicant reiterated the submission made vide their application dt.26.12.2017.

DISCUSSIONS AND FINDINGS OF THE AUTHORITY

4.1 The questions raised before the Authority for Advance Ruling, have been elaborated in para 4.1 and 4.2 above. The first aspect to be decided in the instant case is, as to under which of the chapter headings of the Customs Tariff Act, 1985, the said product "battery for mobile handsets", which is lithium-ion battery would be covered. In the various notifications mentioned in para 4above, which prescribe the rates of CGST on the goods in question, following has been provided vide an explanation:

Explanation. – For the purposes of this Schedule,-

(i).....

(ii)

(iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

4.2. To examine as to under which chapter heading lithium-ion battery which is used in mobile phones, is covered, "Rules for interpretation of Customs Tariff" read with Section 2 of the Customs Tariff Act, 1985, have to be considered. Rule 3 of these rules provide that where goods are, *prima facie*, classifiable under two or more headings, classification shall be under the heading which provides the most specific description shall be preferred to headings providing a more general description. In the instant case, lithium-ion mobile phone batteries, *prima facie*, appears to be covered under the two following headings.

8507 ELECTRIC ACCUMULATORS, INCLUDING SEPARATORS THEREFOR WHETHER OR NOT RECTANGULAR (INCLUDING SQUARE)

8507 60 00 - Lithium-ion

8517 TELEPHONE SETS, INCLUDING TELEPHONES FOR CELLULAR NETWORKS OR FOR OTHER WIRELESS NETWORKS: OTHER APPARATUS

Sanyal

Vijay Kr. Singh
Add. Excise & Taxation Commissioner,
Panipat

FOR THE TRANSMISSION OR RECEPTION OF VOICE, IMAGES OR OTHER DATA, INCLUDING APPARATUS FOR COMMUNICATION IN A WIRED OR WIRELESS NETWORK (SUCH AS A LOCAL OR WIDE AREA NETWORK), OTHER THAN TRANSMISSION OR RECEPTION APPARATUS OF HEADING 8443, 8525, 8527 OR

- 8517 12 -- *Telephones for cellular networks or for other wireless networks:*
 8517 70 - *Parts:*
 8517 70 10 -- Populated, loaded or stuffed printed circuit boards
 8517 70 90 -- Other

Out of the above two, sub-heading 85076000, meant for lithium-ion battery, is more specific classification for the product under consideration and heading 85177090 is a general heading for parts of mobile phone. Hence, mobile phone batteries are covered under chapter heading 8507.

4.3. After this conclusion that lithium-ion battery is classifiable under heading 8507, the next question arises is as to whether it is included in the description "parts for manufacture of telephones for cellular networks or for other wireless networks". Mobile phones are classifiable under heading 8517 and the parts of mobile phones are also classifiable under chapter heading 8517. However, it does not imply that any other goods, which are not covered by chapter heading 8517, would cease to be parts of mobile phones.

4.4. For example, while considering eligibility as automobile parts, components and assemblies, for the purpose of MRP based valuation, CBEC, vide circular No.167/38/2008-CX.4 dt.16.12.2008, clarified that all goods which are commonly known and sold in the trade as "parts, components and assemblies" are covered by the said entry, irrespective of their classification in the Tariff. It was further clarified that the term "parts, components and assemblies" of automobiles includes items like batteries, brake assembly, tyres, tubes and flaps, IC engines, ball bearing etc. Thus, it is established that it is not necessary that a part is to be classified in the same heading, in which the main item is covered.

4.5. In the case of State of Punjab Vs. Nokia India Pvt. Ltd. [2015(315)ELT162(SC)], the Hon'ble Apex Court ruled that part is that item without which the main item cannot be operated.

4.6. We also find force in the contentions raised by the applicant that a mobile phone cannot function, cannot be operated without a battery, whether the same is detachable/separable or not. Hence, mobile phone batteries qualify as part of mobile phone and accordingly, we answer the questions raised by the applicant, as under:

4.7. The next point to be decided is that whether "battery for mobile handset" can qualify for GST under S.No.203 of Schedule II of the Notifications mentioned in para 4 above.

Schedule II - 6%

| Sr.No. | Chapter/Heading/Sub-heading/Tariff item | Description of Goods |
|--------|---|--|
| 202 | 8517 | Telephones for cellular networks or for other wireless networks |
| 203 | 85 | Parts for manufacture of telephones for cellular networks or for other wireless networks |

Signature

Vijay Kr. Singh
 Addl. Taxation Commissioner,
 Chandigarh


Sr.No.203 covers all the goods falling under chapter 85, which are parts for manufacture of telephones for cellular telephones for cellular networks or for other wireless networks. Battery of mobile handsets are indeed covered under chapter 85 and they are parts of mobile phones, as already discussed in the preceding paras. Accordingly, when they are

used for manufacture of mobile phone handsets, they qualify to be covered vide S.No.203 of schedule II. In view of the above, we pass the following advance ruling.


ADVANCE RULING UNDER SECTION 98 OF THE CGST/HGST ACT, 2017

5.A. The product 'Battery for Mobile Handset' whether it be separable or non-separable i.e., whether it be detachable or non-detachable, when sold to the mobile handset manufacturers who uses the same to make it form part of the mobile handset will, qualify to be classified under heading-85 having description "*Parts for manufacture of Telephones for cellular networks or for other wireless networks*" attracting GST Rate of 12% (CGST rate 6%, SGST rate 6%, IGST rate 12%) as mentioned under Serial No. 203 of Schedule II of the Notification No. 1/2017 Central Tax (Rate) dated 28 June,2017, Serial No. 203 of Schedule II of the Notification No. 35/ST-2 dated 30th June,2017 issued under Haryana Goods and Services Tax Act, 2017 and Serial No. 203 of Schedule II of the Notification No. 1/2017 Integrated Tax (Rate) dated 28 June 2017.

5.B. The product 'Battery for Mobile Handset', when sold to the customers other than mobile handset manufacturers who does not use the same in manufacture of mobile handset, will qualify to be classified under heading-8507 having description "Electric accumulators, including separators thereof, whether or not rectangular (including square)", attracting GST Rate of 28% (CGST rate 14%, SGST rate 14%) and IGST rate 28% as mentioned under Serial No. 139 of Schedule IV of the Notification No.1/2017 Central Tax (Rate) dated 28 June 2017, Serial No. 139 of Schedule IV of the Notification No. 35/ST-2 dated 30th June, 2017 issued under Haryana Goods and Services Tax Act, 2017 and Serial No. 139 of Schedule IV of the Notification No. 1/2017 - Integrated Tax (Rate) dated 28 June 2017.


(Sangeeta Karmakar)
Member CGST

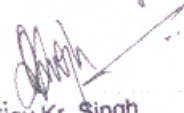
Dated 26.03.2018.


(Vijay Kumar Singh)
Member SGST

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Vijay Kr. Singh
Addl. Excise & Taxation Commissioner,
Haryana, Panchkula

Copy to:

- 1) The Deputy Excise and Taxation Commissioner (ST), Rewari.
- 2) The Assistant Commissioner, Central Tax Division, Rewari.