

**THE AUTHORITY ON ADVANCE RULINGS  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU - 560009**

**Advance Ruling No. KAR ADRG 19/2019**

**Date : 26-08-2019**

Present:

1. Sri. Harish Dharnia,  
Additional Commissioner of Central Tax, . . . . Member (Central Tax)
2. Dr. Ravi Prasad M.P.  
Joint Commissioner of Commercial Taxes . . . . Member (State Tax)

1.	Name and address of the applicant	M/s Antrix Corporation Limited, Antrix Corporate Office, Anthariksh Bhavan Campus, New BEL Road, Bengaluru - 560094
2.	GSTIN or User ID	29AABCA4500B1ZE
3.	Date of filing of Form GST ARA-01	27.04.2018
4.	Represented by	Sri Ganesh Shankararaman, Advocate
5.	Jurisdictional Authority - Centre	The Commissioner of Central Tax, North Commissionerate, Bengaluru
6.	Jurisdictional Authority - State	NA
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act vide CIN ICIC18042900406268 dated 25.04.2018

**ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS & SERVICES  
TAX ACT, 2017 AND UNDER 98(4) OF THE KARNATAKA GOODS &  
SERVICES TAX ACT, 2017**

1. M/s Antrix Corporation Limited, (called as the 'Applicant' hereinafter), Anthariksh Bhavan Campus, New BEL Road, Bengaluru - 560058, having GSTIN number 29AABCA4500B1ZE, have filed an application for Advance Ruling under Section 97 of CGST Act 2017 & KGST Act 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.



2. The Applicant is a Private Limited Company and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

*Whether Leasing of Satellite Transponder which is covered under SAC Code 997319 be charged at 5% GST as per HSN Code 8803 – Parts Goods of Heading 8802 (Satellites)?*

3. The applicant furnishes the following facts relevant to the stated activity:

a. The applicant stated that they are a company wholly owned by the Government of India (GOI) and under the administrative control of the Department of Space, incorporated under the provisions of the Companies Act, 1956 as a private limited company on 28<sup>th</sup> September, 1992 –

- (a) For the promotion and commercial exploitation of space based services and products,
- (b) To provide technical consultancy services;
- (c) To carry out transfer of technologies developed by Indian Space Research Organisation (ISRO); and
- (d) To facilitate development of space related industrial capabilities in India.

b. The applicant is engaged in a variety of activities, inter-alia, including

- (a) Leasing of space segment capacity on INSAT/GSAT satellites;
- (b) Leasing of space segment capacity procured from Foreign Satellite Service Providers / Operators ("FSSP");
- (c) Launch services;
- (d) Satellite Services;
- (e) Remote Sensing and Data Services;
- (f) Host Facility Services;



- (g) Scientific and Technical consultancy services; and
  - (h) Integrated ground station establishment (eg. IMDPS Project)
- c. The applicant is authorised by the Government of India, acting through Department of Space, to conduct a variety of commercial activities, subject to the terms and conditions and in line with the policy of the Government of India, in order to effectively implement the commercial aspect of India's space programme and allied services, in consonance with Department of Space and ISRO.
- d. The applicant stated that the communication satellite has the following basic parts:
- (i) Satellite housing – This is the outside container of a Satellite;
  - (ii) Power System – This consists of Solar Panels as well as batteries to power the satellite;
  - (iii) Antenna System – This is to receive signals to make the Satellite's operation in Orbit;
  - (iv) Command and Control System – This monitors the satellite to ensure that all vital operating parameters are working
  - (v) Transponders – Electronic Systems that amplify the frequency of an uplink signal for retransmission to earth.

A Communication Satellite cannot be without any of the aforesaid parts. There will not be utility for such equipment without transponders.

- e. The Applicant stated that a transponder is an electronic system of a satellite that receives the frequency of an uplink signal and amplifies it for retransmission to the earth in a downlink frequency. The applicant leases out these transponders to its customers based on their requirement.
- f. The applicant stated that in their understanding, leasing of transponders are covered under the SAC Code 997319 – "Leasing or rental services concerning other machinery and equipments with or without operator". The rate of GST applicable is covered vide Notification No.8/2017 – Integrated



Tax (Rate) dated 28.06.2017 as amended till date under the following entry:

Sl.No.	Heading	Description of Service	Rate of Tax
17	9973	(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi) and (vii) above	Same rate of integrated tax as applicable on supply of like goods involving transfer of title in goods

As transponder is a part of satellite, it is covered under HSN 8803 - Parts of goods of Heading 8802.

Satellites are charged at Nil Rate of tax as per Sl. No. 140, HSN - 8802 60 00 - Space craft (including satellites) and sub-orbital and space craft launch vehicles vide Notification No.2/2017 - Integrated Tax (Rate) dated 28.06.2017 as amended till date.

Parts of goods of Heading 8802 (Transponder) is charged at 5% Rate of tax as per Sl. No. 245, HSN 8803 - Parts of Goods of Heading 8802 of Schedule I of Notification No.1/2017 - Integrated Tax (Rate) dated 28.06.2017 as amended till date.

Similar Notifications exist under the CGST and SGST Acts also.

#### **PERSONAL HEARING: / PROCEEDINGS HELD ON 29.05.2018.**

4. Sri Ganesh Shankararaman, Advocate and duly authorised representative of the applicant appeared for personal hearing proceedings held on 29.05.2018 & reiterated the facts narrated in their application and also made the following written submissions inter alia stating that:

(a) A Communication Satellite has the following basic parts:

(i) Satellite Bus:

- a. Satellite Structure: This is the mechanical structure of the satellite which supports and integrate various sub-systems.
- b. Power System - This consists of Solar Panels as well as Batteries to power the Satellite.



- c. Antenna System – This is to receive / transmit signals between earth stations.
- d. Command and Control System – This monitors the Satellite to ensure that all vital operating parameters are working.
- e. Thermal System – This protects the satellite and its systems from external environment
- f. Propulsion System – This is used for station keeping and orbit correction, to ensure that the satellite stays in its orbit.

(ii) Satellite Payload:

- a. Transponder – Electronic system that receive the signal, amplify it and transmit it back to earth on a different frequency.
- (b) In a communication satellite, transponders are the only systems through which various services like TV Broadcasting, DSNG, DTH, VSAT, Telephony, etc., are rendered to the users. Rest of the satellite systems, as detailed under Satellite Bus) are the supporting systems for proper functionality of transponders.
- (c) The Transponder has the following parts
  - (i) Band Pass Filters
  - (ii) Low Noise Amplifier
  - (iii) Mixer
  - (iv) Oscillator
  - (v) High Power Amplifier

The Band Pass Filter is a device that passes frequencies within a certain range and rejects (attenuates) frequencies outside that range.

5. Further the applicant, while furnishing the alternate classification of the transponder, contends that the transponder can't be classified under heading 8525 60 92 as "Other Satellite Equipment" but merits classification as a part of Satellite under 8803 and submits as under :



5.1 The Satellite network consists of Ground Segment as well as Space Segment. The Ground segment comprises of the following:

- (a) Uplink Station (to send signals from Earth to Satellite)
- (b) Downlink Station (to receive signals from Satellite to Earth)

The Space segment comprises of Satellite located at a specified orbital slot.

5.2 The tariff heading 8525 60 92 -"Other Satellite Communication Equipment" covers those equipments which are in the Uplink Station and Downlink Station which are not part of Space Segment. Some of the equipments are as follows:

- a. Amplifiers are used to regenerate and amplify signals
  - b. Antennas (receiving antennas or transmitting antennas) are structures used to radiate electromagnetic waves
  - c. Modulators : Digital data is sent to the modulator which takes the data and converts it into a modulated signal in the Intermediate Frequency Range.
  - d. Block up converters (BUC) are used to convert a band or a block of frequencies from lower to higher frequencies.
  - e. Low-noise block converters (LNB) are down-converters that are used to receive (downlink) satellite signals.
  - f. Equalizers : are satellite communications equipment used to alter or adjust the frequency response of a device.
- b) Considering the above, the applicant states that it is clear that Transponders cannot be categorized in the Tariff heading Other Satellite Communication Equipment covered under 8525 60 92.

5.3 The applicant further placed reliance on the following judgments wherein a discussion on HSN Code 8525 60 92 and various equipments covered in the context of exemptions under notifications is dealt with. These decisions are referred only with the intent to show that the entry "Other Satellite Equipment" refers to the equipments which are in either Uplink Station or Downlink Station (together can be categorised as On Ground) and not in Space Segment. Further, Satellite Communication Equipments as such are categorized as HSN 8525 60 92 - Other Satellite Communication Equipment.



- a. U & I System Design Ltd. V. Commissioner of Customs (Appeals), Bangalore – 2007 (218) ELT 603 (Tri-Bang)
- b. Modern Communication & Broadcasting Systems P. Ltd v. Chief Commissioner, Kandla – 2009 (245) ELT 199 (Tri- Ahmd)
- c. Raj Television Network v. Commissioner of Customs, Chennai – 2007 (215) ELT 71 (Tri- Chennai).

5.4 The applicant has further placed reliance on the Notification No. 153/ 93 – Customs dated 13.08.1993 which was issued in the context of exemption to telematic infrastructural equipments. The annexure in the notification covers the following Satellite Communication Equipments –

**“ II. SATELLITE COMMUNICATION EQUIPMENT**

1. High Power Amplifier
2. Solid State Power Amplifier
3. Low Noise Amplifier
4. Ground Communication Equipment
5. Up/ Down Converter
6. Modulator / Demodulator
7. Antenna System
8. TDMA / DSI
9. Master Earth Station
10. Micro Earth Station
11. Radio Network Terminal
12. Interfacility Link
13. Pilot Receivers.”

These entries, which are classifiable under HSN Code 8525 60 92, refer to those equipments which are used to communicate with the Satellite and nowhere Transponders finds place in this List. This goes to prove that Transponders are not considered as part of the “Other Satellite Communication Equipment”.

5.5 Regarding the Customer Base Station and Applicant's role in Up-linking and Down linking, the learned representative stated that all the customers of the applicant who want uplink and/or downlink require base station at ground which may be owned by them or leased from the Teleport





operators. The customers, through the teleport or through their own ground equipment, uplink their data directly to satellite and it can be down linked in the area covered by satellite by using appropriate ground equipment such as antenna, down converters, de-modulators, set top boxes, etc. When a customer intends to start any communication service like, Television, Broadcasting, Digital Satellite news gathering, Outdoor Broadcasting, Direct to Home, VSAT (Very Small Aperture Terminal - ATM, Retail, Banking etc.) the Department of Space (DOS) identifies and allots Satellite Bandwidth Capacity (in MHz). Based on this, Transponder lease agreement with the Customer is entered into. The Customer starts using the allotted Satellite Bandwidth Capacity after obtaining other regulatory approvals/ clearance. No intervention of Antrix / DOS is involved in either up-linking or down linking.

5.6 The applicant's question relates to the classification of Satellite Transponders used in Communication Satellites. The transponders leased by the applicant to its customers form part of a communication satellite and do not form part of any other equipment / aircraft/ navigational device, etc. The applicant also submitted that the transponder is a specific part of the satellite without which the Satellite is of no use. Such a satellite transponder cannot be used in any other navigation equipment. It is specifically used only in a satellite. This Satellite Transponder is not of generic use. Any goods, specifically designed for a particular product (Satellite in this case) will be classified as part of that machine and not a part of generic use. This is the rule of classification. The applicant has placed reliance on the following pronouncements which explicitly brings out what is a part and also the classification of specific use of the part:-

(a) Commissioner of Central Excise, Delhi v. Insulation Electrical (P) Ltd - 2008 (224) ELT 512 (SC) - where in para 19, it is stated ... *"Chapter 9401 covers all types of seats and not only the seats of a car and a seat is complete even without the rail assembly from seat, adjuster / assembly slider seat and rear back lock assembly. They are not essential parts of the seat. Chapter heading 9401 covers only the parts of seats and not accessories to the seat. A "part" is an essential component of the whole without which the whole cannot function."*

In the aforesaid judgment, the Apex Court has held that a Part is an essential component of the whole without which the whole cannot function and in the applicant's case, the transponder is a part of the Communication Satellite without which the Communication Satellite cannot function.



(b) Eureka Forbes Limited v. Commissioner of Central Excise, Meerut 2001 (130) ELT 146 (Tri-Del) wherein it was held in Para 8 as under:

*"According to Note 2(b) parts which are suitable for use solely or principally with particular machines or apparatus are classified in the same heading as those machines or apparatus. This has been confirmed by the Appellate Tribunal and Courts in many cases, including the decision in Sealol Hindustan Ltd., supra, and Plastic Craft Industries, supra, relied upon by the Id. Advocate for the Appellants. The Board also clarified vide letter F. No. 145/12/87-CX4, dated 18-03-88 that Ice Trays, freezer doors, etc. would be classified under Heading 84.18 as parts of refrigerator. The Board, however, classified butter box under Chapter 39 as it was not solely designed for use with refrigerator. Accordingly, we hold that applying Rule 2(b) to Section XVI, hoses in question are appropriately classifiable along with vacuum cleaner under Heading No. 85.09 of the Tariff."*

In the Applicant's case, the transponder is used solely and principally with the Communication Satellite and hence is a part of the Satellite.

(c) Regarding the issue as to why a Transponder cannot be categorized as an equipment as it is also made of few more parts, the applicant has submitted that if a part is made of a different part, it does not mean that the resultant part will not be a part of a particular product/ equipment (in this case Satellite). In the context of Part of Part being considered as Part of Equipment, there are several judgments which goes to show case that, even if the primary part of an equipment is made of other parts, still the character of Primary Part of equipment doesn't get lost. The applicant has placed reliance on the following judicial pronouncements where there are decisions considering part of part being considered as part of equipment. There is no view that since part is made of other part, the main part will become an equipment on its own. In fact, even the so called equipment if it is intrinsic to a specific primary equipment, will be treated as part of that equipment:

- (a) Collector of Central Excise v. MP (I) Ltd - 1990 (46) ELT 68 (Tri)
- (b) Collector v. MP (I) Ltd - 1997 (95) ELT A142 (SC)
- (c) Motor Industries Company Ltd. V. Collector of Central Excise, Aurangabad - 1995 (75) ELT 65 (Tri)
- (d) Collector of Central Excise, Aurangabad v. Motor Industries Company Ltd. 2003 (152) ELT 36 (SC)





Considering the above, the applicant states that it is clear that Satellite Transponder, which is designed for specific use in Satellite is to be classified as Part of Satellite and classifiable under HSN 8803.

5.7 Regarding the Bill of Entry for the transponder assessed under Tariff Heading 88039000, the applicant submitted that for an import of Satellite Transponder earlier by the applicant, the classification under the Customs was under HSN Code 8803 9000. As the assessment has happened under this HSN Code, which is the same as sought in this Advance Ruling Application, the applicant is eligible to classify the transponder as parts of satellite under HSN Code 8803.

Hence the applicant has prayed that the classification of Satellite Transponders to be held to be under HSN Code 8803.

## 6. **FINDINGS & DISCUSSION:**

6.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Ganesh Shankararaman, Advocate and authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

6.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

6.3 The Applicant seeks advance ruling in respect of the following question:

*Whether Leasing of Satellite Transponder which is covered under SAC Code 997319 be charged at 5% GST as per HSN Code 8803 – Parts Goods of Heading 8802 (Satellites)?*

The applicant contends that leasing of satellite transponder is covered under SAC 997319 and the said transponder is classifiable under Tariff heading 8803 as part of satellite, which is classified under Tariff heading 8802, and hence is taxable at 5% GST.



6.4 A copy of the Memorandum of Understanding between the Department of Space and the applicant was submitted to explain the business activity of the applicant. The applicant is a company wholly owned by the Government of India and under the administrative control of the Department of Space. The applicant is engaged in a variety of activities, inter-alia, including leasing of space segment capacity on satellites, leasing of space segment capacity procured from Foreign Service Providers/Operators, launch services, satellite services, remote sensing and data services etc. In respect of Satellite services the applicant is empowered to market complete satellite systems. Further they are empowered to negotiate with the end user/customer for finalising the technical, commercial and contractual terms of the work proposed to be done. Further the applicant is christened as the 'Contract Manager' in all the agreements entered by the Department of Space with users for provision of INSAT transponder capacity with rights and powers to administer the agreements/MOUs in entirety. The MOU shows that the agreement is in respect of INSAT and GSAT satellites, which are purely communication satellites.

6.5 In the instant application the applicant is engaged in the service of leasing/rental of satellite transponders and seeks clarification on the rate of tax applicable in respect of the said service.

6.6 In the subject matter and in relation to the question for Ruling we examine the provisions of Notification No. 08/2017-Integrated Tax (Rate) dated 28.06.2017 and as amended subsequently. Serial Number 17 of the Notification, Heading 9973, pertains to *Leasing or rental services, with or without operator*. Against the aforementioned Heading the entries in Column (3) of the Notification from (i) to (vii) pertain to issues not related to the application. The entry at serial (viii) is a residual entry and applies to the applicant. Therefore the services provided by the applicant are aptly covered under Serial Number 17, sub-serial (viii) of the said Notification. In so far as the rate of tax applicable to the said service is concerned the Notification provides that the rate shall be as mentioned in Column (4) against the description of the service. The entry in Column (4) of the Notification against Serial No. 17(viii) reads as follows:

*Same rate of integrated tax as applicable on supply of like goods involving transfer of title of goods.*

In the instant case satellite transponders had been leased out. Therefore the rate of tax applicable on the service of leasing of the satellite





transponders shall be the same as the rate of tax as applicable on the supply of the satellite transponders. This brings us to the question of determination of the rate of tax on supply of satellite transponders which in turn requires us to determine the classification of the said goods.

6.7 Before proceeding to examine the entries in the Tariff, we shall examine the nature and characteristics of a satellite transponder to understand its features, characteristics etc to correctly determine its classification.

6.8 A Transponder is an automatic electronic monitoring or control device that receives, cross examines, amplifies and retransmits the arriving signal and is primarily implemented in wireless communication (as ascertained from independent sources). The word 'Transponder' itself is a combination of two words i.e transmitter and responder. A transponder works by receiving a definite signal from a specific source (up link) on a component called "interrogator", then it amplifies the signal, converts the signal to a dissimilar frequency, through "frequency converter", than that of the one received and automatically transmits the signal (down link). Therefore the input and output signals can be sensed concurrently. The device on board the satellite that performs the amplification and frequency conversion and also the main/key payload of any communication satellite is the "Transponder".

In view of the above, the transponder essentially is a repeater which receives the signal transmitted from earth station on the uplink, amplifies the signal, converts to a dissimilar frequency and retransmits the same on the downlink. Therefore the essential / significant features of amplification and frequency conversion are done by the key payload of the communication satellite i.e. the transponder. Therefore the transponder becomes an integral part of the communication satellite, without which the communication satellite becomes defunct.

6.9 The Applicant contends that the said transponders merit classification under Tariff Heading 8803 as part of Spacecraft (including satellites) falling under Tariff heading 8802. The alternate classification is under Tariff heading 8525 as "Other Satellite Communication Equipment". We proceed to examine the two Tariff Headings.

6.10 In respect of Tariff Headings and determination of Classification, Explanations (iii) and (iv) appended to the Notification No. 01/2017-Central Tax (Rate), dated 28.06.2017 are relevant. The said explanations



are reproduced below for ease of reference.

- (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.

Accordingly we make a reference to the Section Notes and Chapter Notes of the relevant Chapters of the Customs Tariff and also the corresponding Explanatory Notes.

6.11 Chapter 85 is covered under Section XVI and Chapter 88 is covered under Section XVII of the Customs Tariff Act. We proceed to examine the two competing entries sequentially.

6.12 The applicant has stated that the competing entry in the Tariff is 85256092- "Other Satellite Communication Equipment". The Tariff entry 8525 reads as under:

<b>Tariff Item</b>	<b>Description</b>
8525	Transmission apparatus for radio broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders
8525 50	- <b>Transmission apparatus</b>
8525 50 10	--- Radio broad cast transmitter
8525 50 20	--- TV broad cast transmitter
8525 50 30	--- Broadcast equipment sub-system
8525 50 40	--- Communication jamming equipment
8525 50 50	--- Wireless microphone
8525 50 90	--- Other
8525 60	- <b>Transmission apparatus incorporating reception apparatus</b>
	--- <b>Two way radio communication equipment</b>
8525 60 11	---- Walkie talkie set
8525 60 12	---- Marine radio communication equipment
8525 60 13	---- Amateur radio equipment
8525 60 19	---- Other
	- <b>Other:</b>
8525 60 91	---- VSAT Terminals





8525 60 92	---- Other satellite communication equipment
8525 60 99	---- Other
8525 80	- <b>Television cameras, digital cameras and video camera recorders:</b>
8525 80 10	--- Television cameras
8525 80 20	--- Digital Cameras
8525 80 30	--- Video Camera recorders
8525 80 90	--- Other

It could be seen from above that the heading 8525 primarily deals with *transmission apparatus for radio broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus in addition to television cameras, digital cameras and video camera recorders*. The heading is divided into three major sub-headings namely (a) Transmission apparatus under heading 8525 50, (b) Transmission apparatus incorporating reception apparatus under heading 8525 60 and (c) Television cameras etc., under heading 8525 80. Further 8525 60 1 series covers two way communication equipment and 8525 60 9 series covers others which include VSAT terminals, other satellite communication equipment.

6.13 In this regard our attention is drawn towards the brief outline of the basic satellite communication set-up. The basic elements of a satellite communication system include the ground segment and the space segment. The ground segment comprises the transmitting and the receiving Earth stations together with their associated instruments, antennae, electronic circuits etc.,. These earth stations provide access to the space segment by transmitting/receiving information to/from the satellite. The space segment comprises one or more satellites, which act as repeater stations.

6.14 The tone and tenor of the goods covered under Heading 8525 shows that the transmission apparatus (i.e. Radio broadcast transmitter, TV broadcast transmitter, wireless microphone etc under Heading 852550), transmission apparatus incorporating reception apparatus (i.e. two way radio communication equipments etc.) are apparatus and equipments based on the land. Further the entry 'VSAT Terminals' under the category of 'Others' also relates to an earth station. VSATs are Very Small Aperture Terminal (**VSAT**) and are two-way ground stations that transmit and receive data from satellites. The competing entry "Other Satellite Communication Equipment" immediately follows the VSAT entry. This throws light on the nature of the equipments covered under 'Other Satellite Communication Equipment'. Such equipments ought to be in the nature of equipments located on the ground and used to establish



communication with the satellite much as VSATs. This leads one to the conclusion that these equipments shall not be located on the satellite, but on the ground and used to establish communication from the ground up with the satellite. The flow of the classification of the apparatus/equipments, thus, leads to the inference that goods not specifically covered under 852550 and 852560 but used in transmission/communication from a ground station to the satellite find classification under the specific heading 85256092. In view of the above, it is evident that the goods / equipment covered under the heading 8525 60 are primarily meant for communication with the satellite and form part of ground segment.

6.15 In the instant case the transponder is a key payload of communication satellite and hence cannot form part of ground segment but is essentially a part of space segment and more specifically the main part to the communication satellite without which the communication satellite becomes defunct. Therefore transponders located on the communication satellite are not covered under the Heading 85256092.

6.16 We now proceed to examine the Tariff Heading 8803. The transponders are stated to be parts of Communication Satellites. In this regard we find that Heading 8802, and more specifically Heading 88026000) covers Spacecraft including Satellites. Therefore Satellites are covered under Tariff Head 8802. The next Heading in the instant Chapter is 8803 and it covers "Parts of goods of heading 8801 and 8802". Therefore it now remains to be determined whether the transponders qualify to be considered as parts of Satellite and whether the same are covered under Heading 8803 or not.

6.17 Chapter 88 falls under Section XVII of the Customs Tariff. Section Note 3 to Section XVII of the said Tariff stipulates that "*References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory*".

6.18 Further we are draw reference to the Explanatory Notes of the relevant Section and Chapter. Explanatory Notes to Section XVII at *General (III) Parts & Accessories* stipulate that all the following three conditions should be satisfied, for a product to be classified as a Part





under the said Section.

- (a) *They must not be excluded by the terms of Note 2 to Section XVII (see paragraph (A) below)*
- (b) *They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below)*
- (c) *They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below)*

6.19 The communication satellite transponders are not covered in the list of parts/parts and accessories appearing under Note 2. Therefore the transponders are not excluded by the terms of Note 2 to Section XVII. Therefore the first condition stands complied with.

6.20 The second condition prescribes criterion of sole or principle use (paragraph (B)) inter alia stating that *under Section Note 3, parts and accessories which are not suitable for use **solely or principally** with articles of Chapters 86 to 88 are excluded from those chapters. The effect of Note 3 is therefore that when a part or accessory can fall in one or more other sections as well as in Section XVII, its final classification is determined by its principal use. Further in case parts and accessories classifiable in two or more heading of the Section i.e. when certain parts and accessories are suitable for use on more than one type of article/product they are to be classified in the heading relating to the parts and accessories of the articles / products with which they are principally used.*

In the instant case the product "Transponder" being an integral part of the communication satellite can be used solely or principally with the communication satellite falling under Tariff heading 8802. Hence the second condition is also complied with.

6.21 The third condition lists certain parts and accessories covered more specifically elsewhere in the Nomenclature (paragraph (C)). Such parts and accessories, even if identifiable as for the articles of Section XVII, are excluded if they are covered more specifically by another heading elsewhere in the nomenclature. It is observed from the list that the transponder does not find a place. Moreover the transponders are not more specifically classified elsewhere in the Tariff. Therefore the third condition is also complied with.



6.22 On the basis of the discussions above we find that Communication Satellite Transponders are appropriately classifiable under Tariff Heading 8803, more specifically under 8803 90 00.

6.23 Transponders, being parts of communication satellites, are covered under 8803 90 00 and any leasing of such transponders would be covered under the Entry No.17 of Notification No. 11 /2017 - Central Tax (Rate) dated 28<sup>th</sup> June 2017 at the rate applicable as on the supply of like goods involving the transfer of title in goods. Admittedly the transponders are goods and any transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration is covered under the clause (viii) of Entry No. 17 of the said Notification.

7. In view of the foregoing, we pass the following

### **R U L I N G**

The service of Leasing of Satellite Transponders, covered under SAC 9973 19, falls under the Entry No.17 (viii) of Notification No. 8 / 2017 - Integrated Tax (Rate) dated 28<sup>th</sup> June 2017, as amended, and is taxable to GST at the rate of 5% IGST (i.e. 2.5% of CGST and 2.5% of KGST), as applicable on the supply of like goods (transponder - part of communication satellite) involving the transfer of title in goods, covered under 8803 90 00, in terms of Entry no. 245 of the Schedule I of the Notification No. 1 / 2017 - Integrated Tax (Rate) dated 28<sup>th</sup> June, 2017, as amended.

  
(Harish Dharnia)  
Member

  
(Dr. Ravi Prasad.M.P.)  
Member

Place : Bengaluru,  
Date : 26-08-2019

To,

The Applicant  
Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.



2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Tax, Bangalore North Commissionerate, HMT Bhavan, Bengaluru (Jurisdictional Office)
4. The Asst. Commissioner, LGSTO-150 Bengaluru
5. Office Folder