

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 113/ 2019

Date : 30-09-2019

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 VTS TF Air Systems Pvt. Ltd., Survey No.13/1, Kanekal Village, SVR Warehouse, Vagata Post, Hoskote Taluk, Bengaluru Rural District, PIN-560 067.
2.	GSTIN or User ID	29AACCC6263C1ZT
3.	Date of filing of Form GST ARA-01	11.04.2019
4.	Represented by	Sri Jayaram Hiregange, Chartered Accountant
5.	Jurisdictional Authority - Centre	Pr. Commissioner of Central Tax, Bangalore East Commissionerate, Bengaluru
6.	Jurisdictional Authority - State	LGSTO-35A, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act 2017 vide CIN CNRB19042900096911 dated 11.04.2019 & Rs.5,000/- under KGST Act 2017 vide CIN CNRB19042900063802 dated 09.04.2019

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

1. M/s VTS TF Air Systems Private Limited, (called as the 'Applicant' hereinafter), having GSTIN number 29AACCC6263C1ZT, have filed an application for Advance Ruling under Section 97 of the CGST / KGST Act, 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 questions:

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- a) *Whether the Air Handling Unit is classifiable under 8414 80 90 or under 8415 90 00?*
- b) *Whether the Ventilation Unit is classifiable under 8414 80 90 or under 8415 90 00?*

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

- a. The applicant states that they are engaged in the manufacture and distribution of the Air Handling Units and Ventilation Units. The Air Handling Unit (AHU) are the goods used for regulating the air and flow of air in a central air conditioning system. The AHU contains temperature controller to control the temperature. The Ventilation Units are goods used for air circulation. The goods are used in central air conditioning system and does not contain temperature control unit. Both these goods are used in central air conditioning system for handling air circulation.

4. The applicant with regard to the issues under question, submits as under:

4.1 Entry no.317B of Schedule III of Notification No.1/2017 dated 28.06.2017 covers the following items:

"Air or Vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters other than bicycle pumps, other hand pumps and parts of air or vacuum pumps and compressors of bicycle pumps."

4.2 As per section note no. 2(a) of Section XVI of the Customs Tariff Act, it is clarified as below:

"(a) part which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are all in all cases to be classified in their respective headings"

4.3 The applicant submits that if the goods are specifically classified under any chapter heading of chapter 84 or 85, it would get classified under the said specific classification and not as a part of the machine to which it gets added to.

4.4 Further, the applicant submits that the central air conditioning unit is a system and not a movable product. In other words, the system consists of number of independently functioning machineries or equipment which have specific functions. When put as part of the system, the AHU/ Ventilation Unit in conjunction with other independently functioning goods create desired result of air conditioning. In the case of Air Handling Unit, the product has specific function of circulation of air and temperature control. In case of Ventilation Unit, the product helps in circulation of air. The applicant submits that both AHU and Ventilation
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Units have independent function and hence the goods are not classifiable as parts of air conditioners under HSN 8415 90 00.

4.5 Further, the applicant submits that even AHU and Ventilation Units have distinction in their function. AHU, in addition to air circulation, helps in control of air temperature as it contains the temperature control device, whereas the Ventilation Unit, as its name suggests, merely circulates the air.

4.6 In view of the above, the applicant states that they believe that the goods are correctly classifiable under HSN 8414 80 90.

PERSONAL HEARING: / PROCEEDINGS HELD ON 29.04.2019.

5. Sri. Jayaram Hiregange, Advocate and duly authorised representative of the applicant appeared for personal hearing proceedings held on 29.04.2019 & reiterated the facts narrated in their application and also submitted written additional submissions, which are as under:

5.1 The applicant submits that the end use of the product cannot be a determining factor. In the case of Indian Aluminium Cables Ltd v. Union of India and Others 1985 (3) SCC 284, it is held that there are a number of factors which have to be taken into consideration for determining the classification of a product. For the purposes of classification, the relevant factors, inter alia, are statutory fiscal entry, the basic character, function and use of the goods. When a commodity falls within a tariff entry by virtue of the purpose for which it is put to, the end use to which the product is put to, cannot determine the classification of that product.

5.2 The applicant states that Air Handling Units are used for air treatment functions including its moving across the ventilation systems together with its heating, cooling, humidifying, dehumidifying, filtration and energy recovery. Similarly, Ventilation Units are units serving only as a prime air mover in the ventilation systems, without any air thermal or humidity processing functions. These units consist only of fan or fan together with basic air filter.

5.3 Hence, the products are rightly classifiable under 8414 80 90 and cannot be classified as part of air conditioner under 8415 90 00.

6. Further, the Applicant with regard to the issue that whether impugned products separately needs to be classified in terms of interpretation of Section Note No.2 (a) of Section XVI of the Customs Tariff Act, states as under:

6.1 Explanatory notes of HSN dealing with the scope of 'parts' of air conditioners specifically clarifies that *'if presented as separate elements, the components of air-conditioning machines are classified in accordance with provisions of Note 2(a) to Section XVI (Heading 8414, 8418, 8419, 8421, 8479 etc.) whether or not designed for building into a self-contained unit.'*



6.2 As per the section note no. 2(a) of Section XVI of the Customs Tariff, it is clarified as under:

- (a) Parts which are goods included in any of the heading of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings”

6.3 The applicant states that the above view has been upheld by the Hon'ble Supreme Court, in the cases of Commissioner of Central Excise, Delhi Vs. Carrier Aircon Ltd 2006(199) ELT 577 (SC). In view of the above, the classification of AHU and Ventilation Units, cleared by the applicant, have to be determined on its functional basis rather than end use basis. Accordingly the products merit classification under Chapter 8414 80 90.

6.4 The applicant states that AHU and Ventilation Units are part of the system and not part of Air Conditioner, the applicant states as under:

- (a) Central Air Conditioning is a system used in hospitals, hotels and industrial units. The system is set up using various components.
- (b) In this regard, the applicant brings to the attention the CBEC Order No. 58/1/2002-CX dated 15.01.2002 issued under section 37B of the Central Excise Act, 1944 which clarifies as below:

“Refrigeration/ Air Conditioning plants. These are basically systems comprising of compressors, ducting, pipings, insulators and sometimes cooling towers, etc. They are in the nature of systems and are not machines as a whole. They come into existence only by assembly and connection of various components and parts. Though each component is dutiable, the refrigeration/ air conditioning system as a whole cannot be considered to be excisable goods. Air conditioning units however would continue to remain dutiable as per the Central Excise Tariff.”

6.5 The above circular clarifies that the setting up of central air conditioning system does not amount to manufacture. As a corollary, the applicant submits that the components or sub-assemblies used in the system cannot be classified as parts of machine but parts of the system. It is at best called as component / sub-assembly of a system. Hence, while classifying the said component / sub-assembly, the function of the product needs to be considered for classification purpose. The air circulation and air ventilation goods are specifically covered in Chapter 8414 and not under Chapter 8415.

7. **FINDINGS & DISCUSSION:**

7.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Jayaram Hiregange, 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.

7.2 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.

7.3 The issue is whether the goods are classifiable under 8414 or 8415. The goods in question are air handling units which have built in temperature control and the other is a Ventilation Unit without temperature control.

7.4 The Heading 8414 of the Customs Tariff Act covers the following goods.

Tariff Item	Description of goods
8414	Air or vacuum pumps, air or other gas compressors and fans; Ventilating or recycling hoods incorporation a fan, whether or not fitted with filters
8414 10 00	- Vacuum pumps
8414 20	- Hand or foot-operated air pumps:
8414 20 10	--- Bicycle pumps
8414 20 20	--- Other hand pumps
8414 20 90	--- Other
8414 30 00	- Compressors of a kind used in refrigerating equipment
8414 40	- Air compressors mounted on a wheeled chassis for towing:
8414 40 10	--- Reciprocating air compressors
8414 40 20	--- Centrifugal air compressors
8414 40 30	--- Screw air compressors
8414 40 90	--- Other
	- Fans :
8414 51	-- Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W:
8414 51 10	--- Table fans
8414 51 20	--- Ceiling fans
8414 51 30	--- Pedestal fans
8414 51 40	--- Railway carriage fans
8414 51 90	--- Other
8414 59	-- Other:
8414 59 10	--- Air circulator
8414 59 20	--- Blowers, portable



8414 59 30	--- Industrial fans and blowers
8414 59 90	--- Other
8414 60 00	- Hoods having a maximum horizontal side not exceeding 120 cm
8414 80	- Other:
	--- Gas compressors:
8414 80 11	---- Of a kind used in air-conditioning equipment
8414 80 19	---- Other
8414 80 20	--- Free-piston generators for gas turbine
8414 80 30	--- Turbo charger
8414 80 90	--- Other
8414 90	- Parts :
	--- Of air or vacuum pumps and compressors:
8414 90 11	---- Of gas compressors of a kind used in refrigerating and air-conditioning appliances and machinery
8414 90 12	---- Of bicycle pumps
8414 90 19	---- Other
8414 90 20	--- Of free piston generators
8414 90 30	--- Of electric fans
8414 90 40	--- Of Industrial fans, blowers
8414 90 90	--- Other

7.5 The applicant states that they were classifying the Air Handling Unit, as manufacturers in the pre-GST regime, under HSN 8415 90. There is no change in the air handling unit technically and since it is not a part of the air conditioning equipment and handles air circulation, it must be classified under 8414 80 90. The air handling unit, according to the applicant has temperature control mechanism and hence controls the temperature also along with handling the air circulation. The applicant states that no chillers are supplied with the air handling units and it is basically a part of the centralized air conditioning unit, and has exchanger for heat or temperature control.

7.6 The mechanism in the Air Handling Unit is that it has a heat exchanger or temperature control and an air blower which blows the temperature set air. It has the following parts :

- (1) Mixing Section
- (2) Filters
- (3) Heat Exchangers
- (4) Heater Section
- (5) Fan Section
- (6) Supply Section

7.7 The contention of the applicant that it must be classified under HSN 8414 80 90 is examined and the HSN 8414 80 is related to "Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating VTS TF Air Systems

a fan, whether or not fitted with filters”, other than vacuum pumps, Hand or foot operated air pumps, Compressors of a kind used in refrigerating equipment, Air compressors, Fans and Hoods having a maximum horizontal side not exceeding 120 cm. The product is also not covered under Gas Compressors, not a free piston generators for gas turbine or a turbo charger and hence the claim that they would fall under the residual entry 8414 80 90.

7.8 The Heading 8415 reads as under:

Tariff Item	Description of goods
8415	Air-conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated
8415 10	- Window or wall types, self-contained or “split system”:
8415 10 10	--- Split system
8415 10 90	--- Other
8415 20	- Of a kind used for persons in motor vehicles:
8415 20 10	--- For buses
8415 20 90	--- Other
	- Other:
8415 81	-- Incorporating a refrigerating unit and a valve for reversal of the cooling or heat cycle (reversible heat pumps):
8415 81 10	--- Split air-conditioner two tonnes and above
8415 81 90	--- Other
8415 82	-- Other, incorporating a refrigerating unit:
8415 82 10	--- Split air-conditioner two tonnes and above
8415 82 90	--- Other
8415 83	-- Not incorporating a refrigerating unit :
8415 83 10	--- Split air-conditioner two tonnes and above
8415 83 90	--- Other
8415 90 00	- Parts

7.9 The Air Handling Unit is admittedly used in the Central Air Conditioning System and has temperature control and definitely would fall under 8415 which relates to Air Conditioning machines, comprising of motor driven and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated. The parts of the above are covered under 8415 90 00 and hence there is a specific entry defining the “Parts of Air Conditioning machines, comprising of motor driven and elements for changing the temperature” and hence the Air Handling Units supplied by the applicant would squarely fall under the HSN 8415 90 00 and not under a general entry 8414 80 90.

7-10 Further, it is observed that the Ventilation Unit found to have a Pre-filter section, Fan section and Controls and does not have any temperature control. VTS TF Air Systems



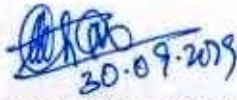
The Ventilation Unit can be supplied independently of the Air conditioning unit and would consist of exhaust. The applicant states that the Air Ventilation Unit only has exhausting facility and removes the old air and fresh air is brought in from outside after filtration. The same involves fans and these fans blow the air out and creates a vacuum in the area and this vacuum is filled by the fresh air from a different source which passes through filters. Hence this allows circulation of air and hence is an Air Circulator which is covered under HSN 8414 59 10 which deals with Fans which are air circulators.

8. In view of the foregoing, we rule as follows

R U L I N G

1. The Air handling units which are supplied by the applicant is classified under HSN 8415 90 00.
2. The Air Ventilators which are supplied by the applicant is classified under HSN 8414 59 10.




30.09.2019

(Harish Dharnia)
Member


(Dr. Ravi Prasad M.P.)
Member

Place: Bengaluru,
Date: 30.09.2019

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 Pr. Commissioner of Central Tax, Bangalore East Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-35 A, Bengaluru.
5. Office Folder

