

# S. MURUGAPPAN

ADVOCATE, HIGH COURT

**ASSISTED BY:**

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**CONSULTANTS:**

CUSTOMS, GST,

FOREIGN TRADE LAWS,

FOREIGN EXCHANGE MANAGEMENT ACT.

## OPINION

### **I. QUERIST:**

M/s.Munoth Industries Limited,  
Munoth Centre, 3<sup>rd</sup> Floor,  
343, Triplicane High Road,  
Chennai - 600 005.

### **II. FACTS:**

1. The querist has established India's first lithium cell manufacturing facility. Initially, it has imported electrodes, cathode materials coated on aluminum foil, PE membrane, tabs, plastic aluminum film, electrolytes etc., for manufacture of these goods. The querist now proposes to import, instead of raw materials as mentioned above, jelly rolls i.e., wound electrodes. This sub-assembly is reported to consist of graphite coated electrodes on copper foil wound over coated electrodes and aluminum foil and membrane along with attached Nickel / Aluminum Tabs. This sub-assembly is packed in a plastic film and then imported.
2. The querist states that they keep the jelly roll in high temperature, cut open the plastic aluminum film, bake the jelly roll, inject electrolyte, do clamp baking formation, degassing, capacity test etc., to finish the cell.
3. It is reported that in respect of their first import of the sub-assembly as mentioned above, the querist has adopted classification under Heading 85079090. It is also reported that for subsequent imports, they have adopted classification under Heading 83119000 as "electrodes". The querist has indicated that because they are not very sure of appropriate classification, they have adopted Chapter Heading 83119000 as it covers specifically "electrodes".
4. All these items are being imported by the querist at concessional rate of duty in terms of Notification No.50/2017-Customs dated 30.06.2017 (Sl.No.523A of table attached to the above notification) by following the procedures set out in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.
5. In terms of the above notification, the Basic Customs Duty will be "Nil" with applicable IGST as per the rates in force.

### **III. QUERY:**

1. In the above background, the querist would like to know the appropriate classification for the pack that is being imported by them for manufacture of lithium-ion cells / batteries.



2. The querist also has sought clarification as to whether they can adopt classification under Heading 85451900 of the First Schedule to the Customs Tariff Act. It is noticed that Audit Department of customs has raised a query with regard to change in classification from 85079090 to 83119000.
3. The querist has reportedly provided a reply stating that as electrodes are specifically mentioned under Heading 83119000, they are adopting that classification.

#### IV. OPINION:

1. It must be noted that Heading 8311, which the querist has adopted, reads as follows.

**“Wire, rods, tubes, plates, electrodes and similar products, of base metal or of metal carbides, coated or cored with flux material, of a kind used for soldering, brazing, welding or deposition of metal or of metal carbides; wire and rods, of agglomerated base metal powder, used for metal spraying”.**

A reading of the above Tariff Heading will show that electrodes covered under this heading, are meant for soldering, welding, etc., of operations. The electrodes, which are used in batteries, are not within the scope of the above Tariff Heading.

2. It must be noted that Heading 8507 covers Lithium-ion Accumulators by specific description. Parts of the above accumulators and other types of accumulators are also covered under Heading 8507. At 8 digit level, the following are the description of completely assembled accumulators as well as their parts.

8507 10 00	-	Lead-acid, of a kind used for starting piston engines
8507 20 00	-	Other lead-acid accumulators
8507 30 00	-	Nickel-cadmium
8507 50 00	-	Nickel-metal hydride
8507 60 00	-	Lithium-ion
8507 80 00	-	Other accumulators
8507 90	-	Parts
8507 90 10	---	Accumulator cases made of hard rubber and separators
8507 90 90	---	Other



3. The product being manufactured in India by the querist i.e., Lithium Batteries will be covered under Heading 8507 60 00. Parts of such batteries are classifiable within 8507 subject to Section Note 2 to Section XVI of the First Schedule to the Customs Tariff Act. This Note reads as follows.

“2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) 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 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) 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 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate.

However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529;

- (c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548”.
4. In the present case, it may be noted that the electrodes, which are wound over copper foil and again wound with aluminum foil and membrane with attached Nickel / Aluminum Tabs can be used only for manufacture of batteries after adding electrolyte and carrying out other operations mentioned by the querist. The item, as such, cannot be used for any other purpose. Under such circumstances, the item imported will be recognizable as a part of batteries and accordingly, will be classifiable under Heading 8507 90 as “Parts” at 6 digit level and under Heading 8507 90 90 as “Other Parts” at 8 digit level.
5. While the querist will be eligible to claim basic customs duty exemption in terms of the Notification No.50/2017-Customs mentioned above, the applicable IGST will be 18%. From the information provided by the querist, it is noticed that graphite electrodes and copper electrodes are being imported. The details of the electrolyte, which will be used in further manufacture, have not been shared. The concessional



duty under Notification No.50/2017-Customs is available for lithium batteries, where the cathode is to be of Metal Oxide, such as, Lithium Cobalt Oxide, Lithium Magnesium Oxide or Lithium-ion phosphate etc., and the electrolytes usually used is a lithium salt dissolved in organic solvent. Subject to complying with this factual position, benefit under Notification No.50/2017 can be claimed.

6. As far as IGST is concerned, it may be noted that complete assembled accumulators including batteries, power banks (excluding lithium-ion accumulators / batteries) attract 28% tax. In this regard, the following entry under Heading 8507 against Sl.No.139 of Schedule-IV of IGST notification 1/2017 dated 28.6.2017 may be seen.

“Electric accumulators, including separators therefor, whether or not rectangular (including square) other than Lithium-ion battery and other Lithium-ion accumulators including Lithium-ion power banks”.

7. As far as parts are concerned, the above Sl.No.139 does not mention electric accumulator parts, as such. Such parts will get covered under Sl.No.453 of Schedule-III to Notification No.1/2017-IGST (Rate) dated 28.06.2017. Sl.No.453 reads as follows.

“Goods which are not specified in Schedule I, II, IV, V or VI”.

8. Once these parts are classified under Heading 8507 90 90, for IGST purposes, their coverage will be against Sl.No.453 mentioned above in Schedule-III. This serial number will attract 18% tax. Or in other words, parts now imported will attract 18% IGST.



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**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.