

S. MURUGAPPAN

ADVOCATE, HIGH COURT

ASSISTED BY:

ANUGRAHAN.X, B.B.A., LL.B.

POOJA.M, B.A., M.A., LL.B.

PRIYADARSINI KTK, B.COM. (CA), LL.B.(HONS.)

CONSULTANTS:

CUSTOMS, GST,

FOREIGN TRADE LAWS,

FOREIGN EXCHANGE MANAGEMENT ACT.

OPINION

I. QUERIST:

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

II. FACTS:

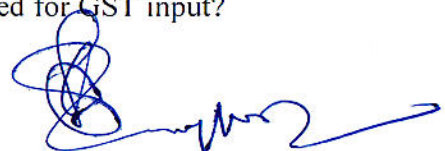
1. The querist imports various parts for manufacture of power bank. It is stated that the following parts are imported from abroad for the above manufacture.
 - (a) Metal Housings
 - (b) PCBA
 - (c) ABS Housing & ABS Housing Parts
 - (d) ABS Part Buttons
 - (e) Screws
 - (f) Highland Barley Paper
 - (g) Tapes
2. The querist has clarified that apart from the above items, they use Lithium-ion batteries, which are locally manufactured and also electric wires and cables that are locally procured. The querist has indicated that all the parts imported by them are classified under Heading 8507 9090.

III. QUERY:

In the above context, the querist needs clarification on the following.

The querist is currently importing all the above said items together in single consignments and clearing them under HSN 8507 9090. For these products, the querist pays Basic Customs Duty. The querist does not avail IGCR and GST at 28% is being paid. The querist needs clarity on the following.

1. Is it correct to import all the aforementioned items under HSN 8507 9090 & What should be the applicable GST – 18% or 28%?
2. The querist had earlier imported under HSN 8507 9090 and remitted GST at 18%. They voluntarily paid differential duty of 10% with interest for 2 shipments (on the basis of oral query from customs audit that parts of power bank attract 28% GST and not 18% GST). In this regard, whether any letter should be sent to customs department mentioning that the querist will claim the amount remitted for GST input?



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IV. OPINION:

1. For providing the opinion, the querist has shared photographs of each of the items imported as above. It is also confirmed that Printed Circuit Boards are mounted with components and specifically designed for use in the power bank. The power banks, consisting of Lithium-ion batteries, as the main components, are classifiable correctly under Heading 8507 60 00. The parts required for manufacture of the power banks based on Lithium-ion batteries as mentioned above are classifiable according to the nature of each part and the classification provisions applicable for classification of such parts are contained in Section Note 2 to Section XVI of the First Schedule to the Customs Tariff Act. Chapter 85 is covered under Section XVI of the First Schedule. Accordingly, for classification of parts of the equipment falling under Chapter 85, this Note will apply. 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”.



2. In the present case, it is noticed that the Metal Housings, Printed Circuit Boards with Components, ABS Housing & ABS Housing Parts as well as ABS Part Buttons are specifically designed for use in the assembly of power bank and they cannot be used for other purposes and they are not covered elsewhere under the First Schedule to the Customs Tariff Act under any other specific heading. Therefore, considering the above and Section Note 2 mentioned in this opinion, all these items will be classifiable under Heading 8507 90 90. The applicable Basic Customs Duty will be 10% with Social Welfare Surcharge at 10%.
3. 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”.
4. 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”.
5. 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.
6. In terms of Note 1(g) to Section XVI, Parts of general use, as defined in Note 2 to Section XV, of base metal or other similar goods of plastics are excluded from Section XVI and consequently, from Chapter 85.
7. In the present case, Screws are made of metal steel. Consequently, they are appropriately classifiable under Heading 7318 15 00 with 15% Basic Customs Duty, 10% Social Welfare Surcharge and 18% IGST.



8. Highland Barley Paper is basically cellulose fiber and used as insulation paper in the power bank. Depending upon the exact composition and type of paper, its classification under Chapter 48 will vary. However, based on the information provided, it appears that this can be classified under Heading 4811 as paper made of cellulose fibers and coated. The applicable duties will be 10% Basic, 10% Social Welfare Surcharge and 18% IGST.
9. Tapes are reportedly made of 100% plastic material. If these are self-adhesive tapes, then, they will be classified under Heading 3919 9090 and will attract 15% Basic Customs Duty, 10% Social Welfare Surcharge and 18% IGST.



S. MURUGAPPAN

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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.