

**KARNATAKA APPELLATE AUTHORITY FOR ADVANCE RULING**  
**6<sup>TH</sup> FLOOR, VANIJYA THERIGE KARYALAYA, KALIDASA ROAD,**  
**GANDHINAGAR, BANGALORE – 560009**

**(Constituted under section 99 of the Karnataka Goods and Services Tax Act, 2017 vide Government of Karnataka Order No FD 47 CSL 2017, Bangalore, Dated:25-04-2018 )**

**BEFORE THE BENCH OF**

**SMT. RANJANA JHA, MEMBER**

**SMT. SHIKHA C, MEMBER**

**ORDER NO.KAR/AAAR/07/2022**

**DATE: 21.11.2022**

Sl. No	Name and address of the appellant	M/s Sivantos India Pvt Ltd, No 78, 4 <sup>th</sup> Floor, Salarpuria Sattva Magnificia – Phoenix, Near Tin Factory, Old Madras Road, Doorvani Nagar, Bengaluru Urban, 560016
1	GSTIN or User ID	29AACCS0638P1ZV
2	Advance Ruling Order against which appeal is filed	KAR/ADRG 27/2022 Dated: 12 <sup>th</sup> August 2022
3	Date of filing appeal	19-09-2022
4	Represented by	Shri. Sandesh S Kutnikar, CA & Authorised representative
5	Jurisdictional Authority- Centre	The Principal Commissioner of Central Tax, Bangalore East Commissionerate.
6	Jurisdictional Authority- State	LGSTO 35, Bengaluru
7	Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Rs 20,000 /- (CGST & SGST) paid by debit in Electronic Cash Ledger vide Debit Reference No DC 2911220267997 dated 21-11-2022.

**PROCEEDINGS**

**(Under Section 101 of the CGST Act, 2017 and the KGST Act, 2017)**

1. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is





particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

2. The present appeal has been filed under section 100 of the Central Goods and Service Tax Act 2017 and Karnataka Goods and Service Tax Act 2017 (herein after referred to as CGST Act, 2017 and SGST Act, 2017) by M/s Sivantos India Pvt Ltd, No 78, 4<sup>th</sup> Floor, Salarpuria Sattva Magnificia – Phoenix, Near Tin Factory, Old Madras Road, Doorvani Nagar, Bengaluru Urban, 560016 (herein after referred to as Appellant) against the Advance Ruling order No. KAR ADRG 27/2022 dated 12<sup>th</sup> August 2022.

**Brief Facts of the case:**

3. The Appellant is engaged in the business of trading of hearing aids and their parts and accessories. Hearing aids are classifiable under HSN 9021 40 90 and are exempt from GST by virtue of Sl.No 142 of Notf No 2/2017 CT (Rate) dated 28-06-2017. The parts and accessories supplied by the Appellant are imported from the manufacturer and supplied for use solely with the hearing aids. The Appellant is currently supplying the parts and accessories of hearing aids by classifying them under HSN 90219010 and charging GST at 18% under Sl.No 453 to Schedule III to Notf No 01/2017 CT (Rate) dated 28-06-2017. In order to understand the correct classification and rate of tax on the supply of parts and accessories which are suitable for use solely with hearing aids, the Appellant approached the Authority for Advance Ruling (AAR) seeking a ruling on the following questions:

- a. *“Classification of parts and accessories suitable for use solely with the hearing aids?”*
- b. *Rate of tax on supply of such parts and accessories which are suitable for use solely with the hearing aids?*
- c. *Whether such parts and accessories, suitable for use solely with the hearing aids, are exempt by virtue of Sl.No 142 of 2/2017 CT (Rate) dated 28-06-2017 as amended from time to time?”*

4. The AAR vide its order KAR ADRG No 27/2022 dated 12<sup>th</sup> August 2022 gave the following ruling in respect of the above questions:





a. The parts and accessories of hearing aids are covered specifically under heading 9021 9010 and thus merit classification under the said heading.

b. The rate of tax (GST) applicable on supply of such parts and accessories of hearing aids is 18% in terms of entry No 453 of Schedule III to the Notf No 01/2017 CT (Rate) dated 28-06-2017.

c. The entry No 142 of Notification 2/2017 CT (Rate) dated 28-06-2017 is not applicable to the supply of parts and accessories of hearing aids and thus the said goods are not entitled for exemption.

5. Aggrieved by the ruling given by the AAR, the Appellant has filed this appeal on the following grounds.

5.1. The Appellant submitted that the Explanation (iii) and (iv) of Notf No 1/2017 CT (Rate) dated 28-06-2017 makes it clear that the rules of interpretation under the Customs Tariff Act, 1975 is equally applicable to GST law; that the meaning of the term 'heading', 'sub-heading' and 'tariff heading' and General Explanatory Notes of First Schedule to the Customs Tariff Act are equally applicable under GST law. The Additional notes under the General Rules for the interpretation under the First Schedule to the Customs Tariff Act defines 'heading', 'sub-heading' and 'tariff item' as below:

“(1) (a) “heading”, in respect of goods, means a description in list of tariff provisions accompanied by a four digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number;

(b) “sub-heading”, in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digit of which correspond to that number;

(c) “tariff item” means a description of goods in the list of tariff provisions accompanying eight-digit number and the rate of customs duty.”

5.2. The Appellant submitted that in view of the above, it is clear that “Tariff item” is at 8 digit level; “Sub-heading” is at 6-digit level and includes ‘tariff item’; “Heading” is at 4-digit level and includes ‘sub-heading’. Thereby, ‘heading’ includes ‘tariff item’ at 8-digit level. They submitted that the entry No 221 (Schedule II) of Rate Notification which excludes





hearing aids and entry No 142 of exemption Notification which includes hearing aids are both defined at 4-digit level i.e only 'heading' 9021 is mentioned while covering the goods. Since 'heading' includes 'tariff item' at 8-digit level within its ambit, the HSN 9021 includes both HSN 902140 (dealing with hearing aids) at 6-digit level and HSN 902190 (dealing with parts and accessories of hearing aids) at 6-digit level within its ambit. Thereby, any reference of HSN 9021 will naturally and automatically mean and include both HSN 902140 and HSN 902190. They also submitted that the description of HSN 9021 at 'heading' level only mentions hearing aids. However, description of HSN 902140 and HSN 902190 at 'sub-heading' level talks about parts and accessories of hearing aids. Unless and until HSN 9021 at 'heading' level covers parts and accessories within its ambit, HSN 902140 and HSN 902190 at 'sub-heading level cannot cover parts and accessories of hearing aids.

5.3. The Appellant also submitted that it is safe to conclude that wherever the Rate Notification and exemption notification provides reference of 'heading' i.e at 4-digit level, it automatically includes the 6-digit and 8-digit level references within its ambit; that in the instant case, Entry 221 (Schedule II) of Rate Notification, which excludes hearing aids and entry 142 of exemption Notification which covers hearing aids is mentioned at 4-digit level and hence the said entries not only cover hearing aids but also parts and accessories of hearing aids. Therefore, hearing aids and parts and accessories of hearing aids go hand-in glove when the HSN reference is at 'heading' level i.e 4-digit level.

5.4. The Appellant stated that they are of the firm belief that parts and accessories are covered under Entry No 142 of exemption notification and exempted from GST since the exemption granted is at 'heading' level i.e 4-digit level; that it necessarily follows that exemption granted under the said entry includes HSN 902140 and HSN 902190 at 6-digit level and HSN 90214010, HSN 90214090, HSN 90219010 and HSN 90219090 at 8-digit level. Parts and accessories of hearing aids classifiable under HSN 90219010 are thus exempted from GST. They submitted that the AAR have themselves accepted that entry No 221 (Schedule II) of Rate Notf does not cover parts and accessories of hearing aids as 'hearing aids' are excluded. This inevitably means that hearing aids and parts and accessories of hearing aids go hand-in-glove as the reference is made to 4-digit HSN. Moving out of entry 221 (Schedule II) of Rate Notf at 4-digit level, the same is covered in entry No 142 of exemption notification at 4-digit level. Therefore, parts and accessories too have moved from rate notification to exemption notification.





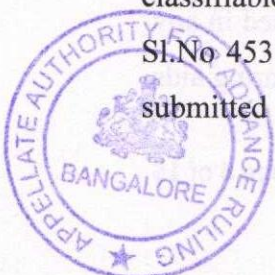
5.5. They submitted that the intention of the Legislature has always been to exempt parts and accessories of hearing aids as the purpose of exempting hearing aids would be lost if the parts and accessories are made taxable; that various entries in the rate notf and exemption notification have references to goods at 6-digit level and 8-digit level. Therefore, reference to 4-digit level in entry 221 (Schedule II) of Rate Notf and entry 142 of exemption notf has been consciously made. Stating that parts and accessories are not exempted, clearly when Entry No 142 of exemption Notf is not at 6/8-digit level, is against the intentions of the law makers.

5.6. Notwithstanding the above, the Appellant also submitted that even if it is held that parts and accessories of hearing aids are taxable, even then they would be taxable at the rate of 12% in terms of SL.No 221 (Schedule II) of Rate Notification; that if exclusion of hearing aids from Sl.No 221 (Schedule II) and exempting the same in SL.No 142 of exemption Notf does not cover parts and accessories of hearing aids, then SL.No 221 (Schedule II) of Rate Notf (at 4-digit level) does not remove parts and accessories of hearing aids from its ambit. As noted above, Sl.No 221 (Schedule II) of Rate Notf is replaced by SL.No 255A (Schedule I) of Rate Notf. Therefore, even if the parts and accessories are held to be taxable, the rate of tax would be 12% under SL.No 221 (Schedule II) from 1-7-2017 to 17-7-2022 and 5% under Sl.No 255A (Schedule I) from 18-7-2022 onwards. In view of the above submissions, the Appellant prayed that the ruling by the AAR be set aside and modified as above.

## PERSONAL HEARING

6. The appellant was granted a virtual hearing on 27<sup>th</sup> September 2022. The hearing was conducted on the Webex platform following the guidelines issued by the CBIC vide Instruction F.No 390/Misc/3/2019-JC dated 21<sup>st</sup> August 2020. The Appellant was represented by Shri. Sandesh S Kutnikar, CA and authorised representative.

6.1 The CA explained the facts of the case and the circumstances leading to the present appeal. It was submitted that the Appellant is engaged in trading of hearing aids and their parts and accessories; that the parts and accessories are manufactured by the parent entity and are used solely and principally with the hearing aids. The Appellant had sought for a ruling on the classification of parts and accessories suitable for use solely with hearing aids and the rate of tax applicable; that the Authority had held that the parts and accessories are classifiable under heading 9021 9010 and the rate of tax was held to be 18% under entry Sl.No 453 of Schedule II Of rate Notification No 01/2017 CT (Rate) dated 28-06-2017. He submitted that the rules of interpretations under the Customs Tariff Act is applicable to the



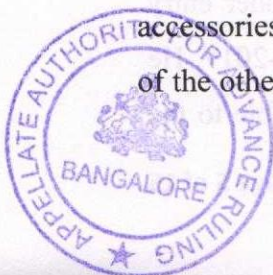


GST law and accordingly, the meaning of the terms 'heading', 'sub-heading' and 'tariff heading' used in the Customs Tariff Act are applicable to GST law.

6.2. Drawing attention to paras 10 and 11 of the grounds of appeal, he submitted that entry No 221 of Schedule II of the rate Notification which excludes hearing aids and entry No 142 of exemption notification which includes hearing aids, are both defined at a 4 digit level i.e only heading is mentioned. He submitted that 'heading' would include even 'sub-heading' and hence hearing aid falling under sub-heading 9021 40 and the parts and accessories of hearing aids falling under sub heading 9021 9010 will both get covered within the heading 9021. Therefore, the hearing aids and its parts and accessories are covered under entry 142 of exemption notification and exempted from GST.

6.3. He also submitted that even if the argument for exemption is not accepted, the correct rate of tax for parts and accessories of hearing aids will be 12% and not 18%; he contended that if hearing aids are excluded from the entry Sl.No 221 of Schedule II, then this exclusion does not cover parts and accessories which continue to remain in entry Sl.No 221 of Schedule II. Therefore, even if it is held that the parts and accessories are taxable, the rate of tax will be 12% under entry Sl.No 221 of Schedule II and not the residual entry Sl.No 453 of Schedule III. He submitted that with effect from 18<sup>th</sup> July 2022, this rate will change to 5% by entry Sl.No 255A of Schedule I.

6.4. To further buttress his argument that heading 9021 mentioned at entry Sl.No 142 of exemption Notification covers both hearing aids as well as parts and accessories of hearing aids, he brought forth a fresh argument by drawing attention to entry Sl.No 151 of exemption notification. He submitted that entry Sl.No 151 of the exemption notification specifically exempts 'parts used for the manufacture of hearing aid' falling under any Chapter. He argued that if parts and accessories of hearing aids are already exempted under entry Sl.No 142, then there was no need to have a separate entry Sl.No 151 exempting parts used in the manufacture of hearing aids. He submitted that the reason for this entry Sl.No 151 is that if a particular part used in the manufacture of hearing aid is not covered under heading 9021, then such part classified under any other Chapter will get exempted by entry Sl.No 151 of the exemption notification. He stressed the point that hearing aids described under entry Sl.No 142 will include the parts and accessories unless specifically excluded. Also, parts and accessories of hearing aids falling under 9021 9010 has not been specifically included in any of the other entries of the rate notification. Therefore the parts and accessories of hearing aids





which are classifiable under sub-heading 9021 9010 will necessarily get covered only under entry Sl.No 142 of the exemption notification. He acknowledged that this argument was not made before the lower Authority and he has also not made a mention of the same in his grounds of appeal. He sought permission and time from the Bench to make additional written submissions within a week on this new argument.

6.5. In the additional written submissions made on 28<sup>th</sup> Sept 2022, the Appellant drew attention to entry Sl.No 151 of exemption Notification No 02/2017 Central Tax (Rate) dated 28-06-2017 wherein parts falling under any chapter and used in the manufacture of hearing aids are exempted. They submitted that parts and accessories which are used solely with hearing aids are classifiable under HSN 9021 9010 and are exempted under entry Sl.No 142 of exemption Notification No 02/2017 CT (Rate). However, parts which are generic in nature which are used for the manufacture of hearing aids and not classifiable under 9021 9010, are exempted under entry Sl.No 151 of exemption Notification No 02/2017 CT (Rate).

#### **DISCUSSIONS AND FINDINGS**

7. We have gone through the entire case records and considered the submissions made by the Appellant in their grounds of appeal, as well as the submissions made at the time of personal hearing and the additional written submissions made thereafter. The Appellant is engaged in the business of trading in hearing aids and its parts and accessories. Hearing aids classifiable under Chapter sub-heading 9021 40 90 of the Customs Tariff Act are exempt from GST by virtue of entry Sl.No 142 of exemption Notification No 02/2017 CT (Rate) dated 28-06-2017. The crux of the matter under appeal before us is regarding the rate of tax applicable to the parts and accessories of hearing aids which are used solely and principally with the hearing aids. Although the Appellant had sought for a ruling on the classification of parts and accessories of hearing aids, we find that they have not disputed the ruling given by the lower Authority that the parts and accessories of hearing aids are classifiable under HSN 9021 90 10. They are particularly aggrieved with the ruling that the parts and accessories of hearing aids are not exempted under Sl.No 142 of the exemption notification but are chargeable to tax at 18% under residual entry Sl.No 453 of Schedule III of Rate Notification No 1/2017 CT (Rate) dated 28-6-2017.

8. We will limit our discussion to the applicable rate of tax for the parts and accessories of hearing aids falling under tariff item 9021 90 10. The classification of goods under GST





regime has to be done in accordance with Customs Tariff Act 1975, which is in turn based on Harmonised System of Nomenclature (HSN). Under the harmonised system, there is an eight-digit code assigned to each commodity. The first two digits represent the “chapter” within the harmonised system. The first four digits collectively represent a “chapter heading” which is a collation of goods with similar characteristics or attributes housed under a chapter. The first six digits represent “chapter sub-heading” which comprises of similar goods under a chapter heading. The eight-digit code is known as the “tariff item” and is housed under a sub-heading. Since we are concerned with Chapter heading 9021 of the Customs Tariff Act, the same is extracted hereunder for ease of reference:

<b>Tariff Item</b>	<b>Description of goods</b>
(1)	(2)
<b>9021</b>	<b>ORTHOPAEDIC APPLIANCES, INCLUDING CRUTCHES, SURGICAL BELTS AND TRUSSES; SPLINTS AND OTHER FRACTURE APPLIANCES; ARTIFICIAL PARTS OF THE BODY; HEARING AIDS AND OTHER APPLIANCES WHICH ARE WORN OR CARRIED, OR IMPLANTED IN THE BODY, TO COMPENSATE FOR A DEFECT OR DISABILITY</b>
9021 10 00	- Orthopaedic or fracture appliances
	- <i>Artificial teeth and dental fittings:</i>
9021 21 00	-- Artificial teeth
9021 29 00	-- Other
	- <i>Other artificial parts of the body:</i>
9021 31 00	-- Artificial joints
9021 39 00	-- Other
9021 40	- <i>Hearing aids, excluding parts and accessories:</i>
9021 40 10	--- Frequency modulated hearing aid system used for hearing by handicapped persons in group situation
9021 40 90	--- Other
9021 50 00	- Pacemakers for stimulating heart muscles, excluding parts and accessories
9021 90	- <i>Other</i>





9021 90 10	--- Parts and accessories of hearing aids
9021 90 90	--- Other

10. Once an item is classified under a particular sub-heading or tariff item in accordance with the Customs Tariff Act 1975, the rate of GST applicable would be arrived at on the basis of notifications issued under GST law. In the GST Acts, Section 9 (1) of the CGST/KGST Act and Section 5(1) of the IGST Act, creates a charge for the levy of GST on intra-state and inter-state supplies respectively, at the rates which are notified by the Government on the recommendations of the GST Council. Accordingly, the rate of GST applicable to the goods classified under the Customs Tariff Act has been notified vide Notification No 01/2017 Central Tax (Rate) dated 28-06-2017 (for intra-state supplies) and Notification No 01/2017 Integrated Tax (Rate) dated 28-06-2017 (for inter-state supplies). The State Legislature has also enacted similar rate notifications under the State GST law which mirror the above notifications. The scheme of each of the above notifications is such that they set out different rate schedules as follows:

- a) Schedule I – specifies goods which carry a rate of 2.5% / 5%
- b) Schedule II – specifies goods which carry a rate of 6% / 12%
- c) Schedule III – specifies goods which carry a rate of 9% / 18%
- d) Schedule IV – specifies goods which carry a rate of 14% / 28%
- e) Schedule V – specifies goods which carry a rate of 1.5% / 3%
- f) Schedule VI – specifies goods which carry a rate of 0.125% / 0.25%
- g) Schedule VII (inserted with effect from 18<sup>th</sup> July 2022) – specifies goods which carry a rate of 0.75% / 1.5%

Each of the above rate schedules specifies the description of goods and a corresponding Customs Tariff entry at the level of either Chapter or Heading or Sub-heading or Tariff item. Goods which are not specified in Schedules I, II, IV, V and VI are grouped into a residuary entry at Sl.No 453 of Schedule III with a GST rate of 18%. Similarly, the goods which are exempted from GST i.e have a NIL rate of GST are specified separately in the Schedule to Notification No 02/2017 Central Tax (Rate) dated 28-06-2017 (for intra-state supplies) and Notification No 02/2017 Integrated Tax (Rate) dated 28-06-2017 (for inter-state supplies).





Here too the description of the specified goods is given along with a corresponding Customs Tariff entry at the level of either Chapter or Heading or Sub-heading or Tariff item. The Explanation appended to the above rate notifications and exemptions notifications state as follows:

(iii) “Tariff item”, “sub-heading”, “heading” and “Chapter” shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the first Schedule to the Customs Tariff Act, 1975.

(iv) The rules for the interpretation of the First Schedule of the said Customs Tariff Act, 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.

Therefore, while the Rate Notification under GST provides the rate of tax on goods, in order to interpret these Rate Notifications for purposes of levy of GST, one has to read the same along with the First Schedule (including the Section and Chapter Notes and General Explanatory Notes) of the Customs Tariff Act, 1975 (“Tariff”).

11. Coming to the issue at hand, we are required to determine the rate of tax applicable to ‘parts and accessories of hearing aids’ falling under tariff item 9021 90 10. The entries of the rate notification and exemption notification relevant to heading 9021 are reproduced hereunder:

GST Rate Notf No & Date	Entry Sl.No /Schedule No	Chapter/ Heading /Sub-heading/ Tariff item	Description of goods	Remarks
01/2017 CT (Rate) dt 28-06- 2017	Sl.No 221 – Schedule II	9021	Splints and other fracture appliances; artificial parts of the body; other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; intraocular lens [other than orthopaedic appliances, such as crutches, surgical belts, and trusses, hearing aids]	GST rate – 12% upto 17 <sup>th</sup> July 2022





01/2017 CT (Rate) dt 28-06- 2017	Sl.No 255A – Schedule I	9021	Orthopaedic appliances such as crutches, surgical belts & trusses, Splints and other fracture appliances; artificial parts of the body; other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; intraocular lens [other than hearing aids]	GST rate – 5% w.e.f 18 <sup>th</sup> July 2022
01/2017 CT (Rate) dt 28-06- 2017	Sl.No 453 – Schedule III	Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI	GST Rate - 18%
02/2017 CT (Rate) dt 28-06- 2017	Sl.No 142	9021	Hearing aids	NIL

12. A simple thumb rule in reading the GST rate notification is that, where the entry in any Schedule specifies a description of goods at a four-digit Chapter Heading level and the description matches the Chapter Heading description in the Customs Tariff, the rate of tax will apply to all goods under all the sub headings and tariff items of the said Chapter Heading. However, when the entry in the rate notification specifies a description of goods at a four-digit Chapter heading level which is different from the description in the Customs Tariff Chapter Heading or which excludes certain goods, the rate of tax will apply only to those goods which are described against the respective entry in the rate notification. In other words, when the description of goods under a chapter heading in the GST rate notification is different from the description in the Customs Tariff Chapter heading, it cannot be assumed that all sub-headings and tariff items are automatically covered under the entry. In order to assign a rate of tax to a particular item, it is essential that the item must confirm to the HSN classification at the level indicated in the rate Schedule as well as the item figures in the description of the goods as mentioned the rate Schedule.





13. Applying the above principle, we find that the description of goods of heading 9021 at entry Sl.No 221 of Schedule II of Notf Nos 1/2017 Central Tax (Rate) is not the same as the description of the said heading in the Customs Tariff but excludes certain goods. The Customs Tariff Heading 9021 covers the following goods viz:

- (i) Orthopaedic appliances, including crutches, surgical belts and trusses;
- (ii) Splints and other fracture appliances;
- (iii) Artificial parts of the body;
- (iv) Hearing aids;
- (v) Other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability;
- (vi) Parts and accessories of hearing aids; and
- (vii) Goods other than the above which are classifiable under 9021.

However, the scope of the entry Sl.No 221 of Schedule II of the GST rate notification No 01/2017 Central Tax (Rate) covers only the following goods viz. (i) Splints and other fracture appliances; (ii) artificial parts of the body, (iii) other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability and (iv) intraocular lens. Parts and accessories of hearing aids are not covered within the scope of this entry.

14. The entry Sl.No 221 of Schedule II specifically excludes (i) orthopaedic appliances such as crutches, surgical belts and trusses; and (ii) hearing aids. The exclusion of hearing aids from this entry does not mean that parts and accessories of hearing aids are also excluded from the entry. To conclude thus, it would mean that the 2 items i.e 'hearing aids' and 'parts and accessories of hearing aids' go hand in hand. On the contrary, the Customs Tariff, chapter sub-heading 9021 40 which clearly says '*hearing aids, excluding parts and accessories*' implies that any reference to hearing aids always means that it excludes parts and accessories. Accordingly, the exclusion of hearing aids in entry Sl.No 221 of Schedule II is restricted only to hearing aids and does not imply that parts and accessories are also excluded. Parts and accessories of hearing aids is neither included nor excluded from the said entry 221 of Schedule II. Therefore, we hold that parts and accessories of hearing aids is not covered within the scope of the entry Sl.No 221 of Schedule II.





15. It is the contention of the Appellant that the entry Sl.No 221 of Schedule II of the rate notification which excludes hearing aids and the entry Sl.No 142 of exemption notification which includes hearing aids, are both at a four-digit heading level and hence both entries will exclude / include respectively even the sub-heading 9021 90 10 applicable to parts and accessories of hearing aids. In other words, the argument is that the exclusion of hearing aids under 9021 from entry Sl.No 221 of Schedule II implies that parts and accessories of hearing aids are also excluded from the said entry; that the exemption to hearing aids under heading 9021 specified at entry Sl.No 142 of the exemption notification implies that parts and accessories of hearing aids under 9021 90 10 are also exempted. This is not a correct interpretation of the rate notification. Assuming for a moment that the contention of the Appellant is correct, then it would mean that the entry 221 of Schedule II which also excludes orthopaedic appliances such as crutches, surgical belts and trusses under heading 9021 and includes orthopaedic appliances falling under heading 9021 under entry Sl.No 257 of Schedule I read with List 3 (B)(1), would automatically exclude parts of such orthopaedic appliances falling under heading 9021 from the entry 221 of Schedule II and get included in entry 257 of Schedule I. However, we find that parts of crutches falling under Chapter 90 or any other chapter are specifically covered under entry Sl.No 256 of Schedule I of the rate notification . If the Appellant's logic was correct, that exclusion of goods from one entry and inclusion of the same goods in another entry would automatically extend to parts, then there is no need to have a separate entry in the rate notification for parts of orthopaedic appliances like crutches. Similarly, artificial parts of the body like artificial limbs are covered under the entry Sl.No 221 of Schedule II. However, the parts of artificial limbs are not covered under the said entry but are covered under entry Sl.No 256 of Schedule I. This justifies our stand that the scope of entry Sl.No 221 of Schedule II does not cover parts and accessories of hearing aids. For this reason we reject the alternative argument put forth by the Appellant that even if the parts and accessories of hearing aids are held to be taxable, the rate of tax will be 12% under entry Sl.No 221 of Schedule II (upto 17<sup>th</sup> July 2022) and 5% under entry Sl.No 255A of Schedule I (from 18<sup>th</sup> July 2022). We also hold that the scope of the entry Sl.No 142 of exemption notification is confined only to hearing aids under heading 9021 and does not include parts and accessories of hearing aids falling under tariff item 9021 90 10. We therefore, dismiss the argument of the Appellant that entry Sl.No 142 of exemption notification which specifies the goods at four-digit heading level should be read to include all sub-heading and tariff item level goods i.e parts and accessories of hearing aids. Parts and accessories of hearing aids are neither covered in the scope of entry Sl.No 221 of Schedule II

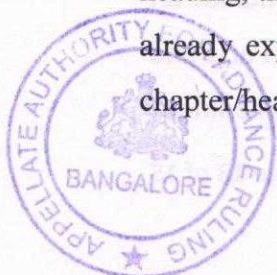




at 12% tax nor are they covered under the exemption entry Sl.No 142 of Notification No 02/2017 Central-Tax (Rate).

16. The Appellant raised a new ground during the personal hearing wherein they drew attention to entry Sl.No 151 of exemption Notification No 02/2017 Central Tax (Rate) dated 28-06-2017 which exempted parts falling under any chapter and used in the manufacture of hearing aids. They submitted that parts and accessories which are used solely with hearing aids are classifiable under HSN 9021 9010 and are exempted under entry Sl.No 142 of exemption Notification No 02/2017 CT (Rate). However, parts which are generic in nature which are used for the manufacture of hearing aids and not classifiable under 9021 9010, are exempted under entry Sl.No 151 of exemption Notification No 02/2017 CT (Rate). We do not see any merit or logic in this argument. Entry Sl.No 151 of the exemption notification is no doubt applicable for parts falling under any chapter which are used in the manufacture of hearing aids. In this case, we are not concerned with goods which are used in the manufacture of hearing aids but rather, the impugned goods are in the nature of parts and accessories which are used solely and principally with the hearing aids and classifiable under tariff item 9021 90 10. We have already held that parts and accessories of hearing aids are not covered within the scope of exemption entry Sl.No 142 and hence are not exempted. The impugned goods are also not covered within the scope of entry Sl.No 221 of Schedule II of the rate notification.

17. Now the question arises as to under which entry of the rate notification will 'parts and accessories of hearing aids' be covered? Since the parts and accessories of hearing aids falling under tariff item 9021 90 10 are not specifically mentioned in any of the entries of the exemption notification No 02/2017 Central Tax (Rate) and are also not specifically mentioned in either Schedule I, II, IV, V and VI of the rate Notification No 01/2017 Central Tax (Rate), they will get covered under entry Sl.No 453 of Schedule III of Notification No 01/2017 Central Tax (Rate) as this is a residuary entry which covers goods under any chapter which are not specified under any of the other rate Schedules. The very purpose of a residuary entry in Schedule III is to cover goods which are not specified in any of the other Schedules. If we had to accept the Appellant's argument that the four-digit heading level entry in the rate notification must always cover all sub-headings and tariff items under that heading, then there would be no purpose of the residuary entry Sl.No 453 in Schedule III. As already explained earlier, the manner of reading the GST rate notification is based on the chapter/heading/sub-heading/tariff item mentioned in the entry together with the description





of goods specified in the said entry. One cannot assume that the indication of a chapter or heading in an entry will automatically cover all goods under a sub-heading and tariff items under that chapter or heading and ignore the description of goods specified in the said entry. We have already held that the description of goods in entry Sl.No 221 of Schedule II / 255A of Schedule I does not include within its scope parts and accessories of hearing aids. Therefore we uphold the ruling given by the lower Authority that the parts and accessories of hearing aids falling under tariff item 9021 90 10 are not entitled for exemption under entry Sl.No 142 of Notification No 02/2017 Central Tax (Rate) but are chargeable to tax at the rate of 18% in terms of entry Sl.No 453 of Schedule III of Notification No 01/2017 Central Tax (Rate).

18. In view of the above we pass the following order

### ORDER

We uphold the order No. KAR ADRG 27/2022 dated 12/08/2022 passed by the Advance Ruling Authority and the appeal filed by the Appellant M/s. Sivantos India Pvt Ltd, No 78, 4<sup>th</sup> Floor, Salarpuria Sattva Magnificia – Phoenix, Near Tin Factory, Old Madras Road, Doorvani Nagar, Bengaluru Urban, 560016, stands dismissed on all accounts.



(RANJANA JHA)

Member

Karnataka Appellate Authority  
for Advance Ruling

Member

Appellate Authority for Advance Ruling

To,

The Appellant

Copy to

1. The Member (Central), Advance Ruling Authority, Karnataka.
2. The Member (State), Advance Ruling Authority, Karnataka
3. The Principal Commissioner of Central Tax, East Commissionerate, Bangalore
4. The Assistant Commissioner, LGSTO-35, Bangalore
5. Office folder



(SHIKHA C.)

Member

Karnataka Appellate Authority  
for Advance Ruling

Member

Appellate Authority for Advance Ruling

