

**BEFORE THE AUTHORITY FOR ADVANCE
RULINGS FOR THE STATE OF UTTARAKHAND
(Goods and Services Tax)**

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)

Present:

Shri Vipin Chandra (Member)
श्री विपिन चन्द्र (सदस्य)
Shri Amit Gupta (Member)
श्री अमित गुप्ता (सदस्य)

The 6th day of February, 2019

Ruling No- 19 /2018-19

अग्रिम विनिर्णय संख्या.

In

Application No: 16/2018-19

आवेदन संख्या- 16 /2018-19

1	Applicant आवेदक	M/s Opto Electronics Factory, OLF Raipur, Dehradun Uttarakhand-248008.
2	Jurisdictional Officer अधिकारिता अधिकारी	CGST Range-V, Dehradun
3	Present for the Applicant आवेदक की ओर से उपस्थित	Shri Rajesh Gupta, CA
4	Concerned Officer	
5	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	
6	Date of receipt of application आवेदन प्राप्ति की तिथि	30-11-2018
7	Date of Personal Hearing सुनवाई की तिथि	11-01-2019

Note : Under Section. 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section- 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

नोट : इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवा कर अधिनियम 2017 की धारा- 99 के अन्तर्गत गठित अग्रिम विनिर्णय अपील प्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

**AUTHORITY FOR ADVANCE RULINGS FOR THE
STATE OF UTTARAKHAND
(Goods and Services Tax)**

1. This is an application under Sub-Section (1) of Section 97 of the CGST /SGST Act, 2017 (herein after to be referred as "Act") and the rules made thereunder filed by M/s Opto Electronics Factory, OLF Raipur, Dehradun, Uttarakhand, seeking an advance ruling on the following :

"Classification and Rate of applicable GST on various equipment manufactured for being used exclusively in various Tanks."

2. Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
3. As per the said subsection (2) of Section 97 of the Act ibid advance ruling can be sought by an applicant in respect of :
- (a) Classification of any goods or services or both
 - (b) Applicability of a notification issued under the provisions of this Act,
 - (c) Determination of time and value of supply of goods or services or both,
 - (d) Admissibility of input tax credit of tax paid or deemed to have been paid
 - (e) Determination of the liability to pay tax on any goods or services or both
 - (f) Whether the applicant is required to be registered
 - (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term.

In the present case, applicant has sought advance ruling in respect of leviability of GST, if any, for the following -

"Classification and Rate of applicable GST on various equipment manufactured for being used exclusively in various Tanks."

Therefore, with the instant application seeking *classification of goods*, in terms of Section 97(2)(a) & 97(2)(e) of CGST/SGST Act, 2017, the present application is hereby admitted.

4. Accordingly opportunity of personal hearing was granted to the applicant on 11.01.2019. Shri Rajesh Gupta, Chartered Accountant, on behalf of the applicant, appeared for personal hearing on the said date. He submitted documents for count of clarification given in advance ruling sought which were taken on records.
- 5.1. In the present application, applicant has sought advance ruling for the following:

“Classification and Rate of applicable GST on various equipment manufactured for being used exclusively in various Tanks.”

5.2. Before going into the details of the instant question on which the ruling has been sought by the applicant, it is important to go through the reason behind the ruling sought by the applicant on the said question as per his application.

In this context, we observe that the applicant, one of the unit of Ordnance Factory Board, Ministry of Defence, Government of India, is engaged in manufacture and repair of various types of ‘Sight Vision Equipment’ exclusively used in various types of Tanks viz. BMP-II Tank/ T-72 Tank /T-90 Tank etc. Since the products were exclusively manufactured for Armed Forces for being used in Tanks, therefore, there was no indirect tax till 31.05.2015, however, w.e.f. 01.06.2015 Excise duty was imposed on the said products. Since the items manufactured stood specifically manufactured for being used in Tanks only, therefore, the said items were classified under CETH 8710 0000 and the applicant continued to discharge the burden of Central Excise duty as applicable under the said tariff heading.

Further, w.e.f. 01.07.2017, Central Excise duty got subsumed in GST and even after implementation of GST, the applicant continued to classify the said item under the HSN 8710 and discharged the burden of GST @ 28%. Once again, w.e.f. 15.11.2017, the rates of GST were rationalized and the GST applicable on the said HSN 8710 stood reduced to 12% and since then, the applicant were duly charging the burden of GST @ 12%.

Now, the applicant vide their application for advance ruling have sought clarification on rate of GST leviable on various equipments exclusively manufactured by them which are further being used in Armed Forces Tanks.

5.3. In this regard, we observe that the applicant has ever classified their products i.e. ‘Sight Vision Equipment’ exclusively used in various types of Tanks viz. BMP-II Tank/ T-72 Tank /T-90 Tank etc. under chapter 8710 and accordingly, has paid tax to the Government on supply of these products.

Whereas, on going through the chapter 87 of the GST tariff Act, we find that **it relates to the goods viz. ‘Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof’** and the corresponding chapter sub-heading 8710, which is reproduced as under –

Chapter/ Heading/ Sub- heading/ Tariff Item	Description of goods	Unit	GST Rates Rate of tax (w.e.f. 15.11.2017)			
			Central CGST	State/ UT/ SGST/ UTGST	Inter- State IGST	Compe nsatio n Cess
(1)	(2)	(3)	(4)	(5)	(6)	(7)
87100000	Tanks and other armoured fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	Kg.	6%	6%	12%	Nil

As per chapter heading /sub-heading 8710, we find that it determines the rate of GST leviable @ 12% on the goods namely - **'Tanks and other armoured fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles'**, which is not the subject goods manufactured and repaired by the said applicant.

In view of the above, we opine that the applicant has ever mis-classified their products i.e. "Sight Vision Equipment" as a part of armoured vehicles i.e. tanks.

5.4. We observe that the products manufactured and repaired by the applicant i.e. 'Sight Vision Equipment' is nothing but an **'optical instruments'** used in various types of armoured tanks for ease of sight visions of the driver to use weapons fitted with these tanks.

In this context, on going through the GST Tariff, we find that the 'optical instrument' are covered under Chapter 90 under Section XVIII of the GST Tariff Act. As per **chapter note 4 of the Chapter 90**, which reads as under -

"4. Heading 9005 does not apply to telescopic sight for fitting to arms, periscopic telescope for fitting to submarines or tanks, or to telescope for machines, appliances, instruments or apparatus of this Chapter or Section XVI; such telescopic sights and telescopes are to be classified in heading 9013."

We find that the said products i.e. 'Sight Vision Equipment', manufactured and repaired by the applicant for exclusive use in various types of Armoured Tanks, will be classified under HSN code 9013 of the GST tariff.

Further, to determine the rate of GST leviable on supply of these products i.e. 'Sight Vision Equipment', the corresponding relevant chapter sub-heading 90131090 of the Chapter heading 9013 of the GST tariff, is reproduced as under -

Chapter/ Heading/ Sub- heading/ Tariff Item	Description of goods	Unit	GST Rates Rate of tax			
			Central CGST	State/ UT/ SGST/ UTGST	Inter- State IGST	Compe nsatio n Cess
(1)	(2)	(3)	(4)	(5)	(6)	(7)
9013	Liquid crystal devices not constituting articles provided for more specially in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter					

9013 10	- Telescope sights for fitting to arms; periscopes; telescopes designed to form parts of machines, appliances, instruments or apparatus of this Chapter or Section XVI :					
9013 10 10	--- Telescope sights for fitting to arms.....	u	9%	9%	18%	Nil
9013 10 20	--- Periscopes.....	u	9%	9%	18%	Nil
9013 10 90	--- Other	u	9%	9%	18%	Nil
9013 20 00	- Lasers, other than laser diodes					
9013 80	- Other devices, appliances and instruments :					
9013 80 10	--- Liquid crystal devices (LCD)....	u	9%	9%	18%	Nil
9013 80 90	--- Other.....	u	9%	9%	18%	Nil
9013 90	- Parts and accessories :	kg.	9%	9%	18%	Nil
9013 90 10	---For liquid crystal devices (LCD)	kg.	9%	9%	18%	Nil
9013 90 90	--- Other.....					

Thus, we find that the various products manufactured and repaired by the applicant i.e. 'Sight Vision Equipments' being exclusively used in armoured tanks, will be classified as an 'optical instruments' under HSN code 9013 and as per relevant chapter sub-heading 90131090, supply of these products will attract GST @ 18% as on date.

RULING

In view of the above, we hold that the various 'Sight Vision Equipments' manufactured and repaired by the applicant for further exclusive use in armoured tanks will be classified under HSN code 9013 of the GST Tariff Act and accordingly, as per chapter sub-heading 90131090, supply of these various equipments will attract GST at the rate of 18% [CGST @ 9% + SGST @ 9%].


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

AUTHORITY FOR ADVANCE RULING **GOODS & SERVICE TAX, UTTARAKHAND**

F. No. : /6 /State Tax -UK /GST/Sec-97/2018-19/D.dun/ 8342 Dated: 07/02/2019

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for review.
2. The Commissioner, CGST, Commissionerate, Dehradun for review.
3. The Commissioner, SGST, Commissionerate, Uttarakhand for review.
4. The Assistant Commissioner, CGST Division, ~~Dehradun~~ for review.
5. The Deputy Commissioner, Sector-3 SGST, Dehradun for review.
6. The Concerned officer, SGST, Dehradun.
7. The Registrar -Appellate Authority for Advance ruling
8. Guard File.