M/s Xiaomi Technology India Private Limited (appellant before the Karnataka Appellate Authority for Advance Ruling)

Appellate Authority for Advance Ruling — Karnataka

ORDER NO:-KAR/AAAR/02/2019-20, Dated:-16.08.2019 Dated **16.08.2019**

Q Questions Before the Authority

- Whether the 'Power Bank' traded by the appellant is classifiable under Heading 8504 40 90 as 'Static Converter-others'? (The question as originally put to the Karnataka Authority for Advance Ruling in Form GST ARA-01; the appellant sought modification of the impugned ruling to this classification on appeal.)

F Facts

The appellant, a private limited company registered under GST, trades in electronic goods including Mi Power Banks, which are procured domestically and by import and sold through distributors and retailers. Each power bank contains a lithium-ion polymer battery, a charge management circuit and a voltage boost converter, all enclosed in a flame-retardant shell. The appellant had classified the product under 8504 40 90 as a static converter and sought an advance ruling on that basis.

H Ruling

Classification of the Power Bank traded by the appellant (Heading 8504 40 90 as static converter sought)	**Heading 8507 as an electric accumulator; not 8504 40 90 as a static converter**	Appeal dismissed; advance ruling ADRG 01/2019 dated 22.01.2019 upheld on all accounts. The order has no separate numbered Q and Ans RULING section; this row reflects the classification decision in paragraphs 18 and 19 and the operative ORDER.

The Appellate Authority dismissed the appeal and upheld the advance ruling of the Karnataka Authority for Advance Ruling (ADRG 01/2019, dated 22.01.2019). It held that the Power Bank is classifiable under Chapter Heading 8507 as an electric accumulator and not under Heading 8504 as a static converter. The reasoning turned on the storage of electrical energy as the defining feature of an accumulator, which the authority found was present in the power bank. The Authority also relied on the later GST rate notification changes that carved lithium-ion power banks out of the general accumulator entry.

R Reasoning

The Authority found the technical report from IIT (BHU) Varanasi inconclusive, since it said only that a power bank 'can be considered' a static converter, and gave it no weight. It distinguished the CESTAT Delhi decision in S.B. Industries as concerning eligibility for an exemption notification, with the classification point only obiter, and the Larger Bench decision in Luminous Electronics on UPS as inapplicable because a UPS has a rectifier-inverter module and a power bank does not. Applying the HSN explanatory notes, it held that the 'primary difference' is

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storage of electrical energy, which characterises an accumulator, while a static converter involves no storage. It also relied on the amendments to Notification 01/2017 IT(R) Sl No 139 and the later insertions in Schedule III, which treated lithium-ion power banks as accumulators under 8507.

P Provisions Relied On

- Section 99 of the Karnataka GST Act, 2017 (constitution of the Appellate Authority)
- Section 97 and Section 100 of the CGST Act, 2017 and KGST Act, 2017 (advance ruling and appeal)
- Section 101 of the CGST Act, 2017 and KGST Act, 2017 (order of the Appellate Authority)
- Rule 104 of the CGST and KGST Rules, 2017 (Form GST ARA-01)
- Customs Tariff Headings 8504 (including 8504 40 90) and 8507, including 8507 60 00
- General Rules for the Interpretation of Import Tariff, Rule 3(b)
- HSN Explanatory Notes to Headings 8504 and 8507
- Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017, Sl. No. 139 of Schedule IV
- Notification No. 18/2017-Integrated Tax (Rate) dated 26.07.2018, entry 376AA of Schedule III
- Notification No. 24/2018-Central Tax (Rate) dated 31.12.2018, entry 376AAA of Schedule III
- Luminous Electronics Pvt Ltd, 2001 (129) ELT 605 (Tri-LB), approved by the Supreme Court, 2003 (152) ELT 35 (SC)
- Atul Glass Industries Ltd, 1986 (25) ELT 473 (SC) (common parlance test)
- CESTAT Delhi decision in M/s S.B. Industries (2019-VIL-37-CESTAT-DEL-CE)

! For the Practitioner

A practitioner advising on lithium-ion power banks can rely on this order for the proposition that a power bank with a battery, charge management circuit and voltage boost converter is classified under 8507 as an accumulator, and that the appellant's static-converter argument failed. The order is a state appellate ruling, and the reasoning on the 2018 rate notifications is drawn from the legislative changes that followed the ruling. It does not decide the GST rate or classification question for power banks in a case where the storage function is shown to be absent, nor does it address the reasoning of the S.B. Industries decision on the exemption point beyond calling it obiter.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> kar_aaar_02_2019_xiaomiappealorder.pdf

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