M/s Nuetech Solar Systems Private Limited, BM Shankarappa Industrial Estate Road, Sunkadakatte, Bengaluru-560091 (GSTIN 29AABCN6398L1ZO)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 33 / 2018, Dated: 31st December, 2018 Dated **31.12.2018**

Q Questions Before the Authority

- Whether Evacuated / Vacuum Tube Collectors (VTC) fall under Chapter 84 of HSN, which is covered in Sl. No. 234 of Schedule-I under Notification 1/2017 IGST (Rate) dated 28-06-2017?

F Facts

The applicant imports vacuum tubes, also called evacuated tube collectors (ETC), for manufacturing solar water heaters, and also trades the tubes locally. It contends that the ETC is a part of a solar water heater and therefore a solar power based device, so it should attract 5% IGST under Sl. No. 234 of Schedule I rather than 14% under Sl. No. 121 of Schedule IV. The applicant classified the imported tubes under tariff heading 84199910 on the bill of entry produced at the hearing.

H Ruling

Whether Evacuated / Vacuum Tube Collectors (ETC) fall under Chapter 84 (HSN), covered by Sl. No. 234 of Schedule I to Notification 1/2017-IT (Rate) dated 28.06.2017	**Falls under Chapter 84 heading 19 (8419), but is NOT covered under Sl. No. 234 of Schedule I; not entitled to 5% IGST**	The Authority reasoned that the ETC does not generate electricity at any stage, so it is not a solar power based device or part thereof. The ruling is limited to the ETC as described in the application and does not address the applicant's alternative contention under Sl. No. 121 of Schedule IV.

The Authority held that the Evacuated Tube Collector falls under Chapter 84 heading 19 of the Customs Tariff. **It is not covered under Sl. No. 234 of Schedule I** of Notification 1/2017-Integrated Tax (Rate), so it is **not entitled to the concessional 5% IGST rate** .

R Reasoning

The Authority first examined classification under Section XVI and Chapter 84 of the Customs Tariff Act 1975, applying Section Note 5 on the meaning of 'machine'. It found that heading 8419 covers non-electric instantaneous or storage water heaters, that solar water heaters fall under 8419 19 20, and that parts of such heaters fall under 8419 90 10, so the ETC merits treatment as part of a solar water heater system under Chapter 84. On the concessional rate, the Authority noted that the term 'power' is undefined in the GST and customs texts and so relied on the definition of 'power system' in Sl. No. 50 of Part I of the Electricity Act 2003, which is tied to electricity. It concluded that a solar power based device must be one operated by electricity generated from solar energy. The ETC works by thermosyphon circulation, converting sunlight directly into heat without generating

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

electricity, so it is not a solar power based device or part of one.

P Provisions Relied On

- Section 97 and Section 98(4) of the CGST Act, 2017
- Section 97 and Section 98(4) of the KGST Act, 2017
- Rule 104 of the CGST Rules, 2017 and KGST Rules, 2017
- Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, Sl. No. 234 of Schedule I
- Sl. No. 121 of Schedule IV of Notification 1/2017-IT (Rate) (raised by the applicant; not decided)
- Section XVI, Chapter 84 and heading 8419 of the Customs Tariff Act, 1975, including Section Note 5, and sub-headings 8419…
- Sl. No. 50 of Part I of the Electricity Act, 2003 (definition of 'Power System')

! For the Practitioner

The order is useful to practitioners dealing with solar water heater components, because it classifies the evacuated tube collector under Chapter 84 heading 19 and rejects the 5% rate under Sl. No. 234. It rests on the view that 'solar power based devices' require electricity generation from solar energy, so thermal-only solar products are unlikely to qualify. It is an advance ruling binding only on the applicant, and it does not decide the 14% versus other rate position under Sl. No. 121 of Schedule IV, which the applicant had raised. Read the full order before relying on it for a comparable product.

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 -> krntk_33_2018_nsspl.pdf

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