M/s Opto Electronics Factory, OLF Raipur, Dehradun, Uttarakhand-248008

Authority for Advance Ruling — Uttarakhand

Ruling No. 19/2018-19 dated 6 February 2019, Application No. 16/2018-19… Dated **07.02.2019**

Q Questions Before the Authority

- What is the classification and rate of applicable GST on various equipment (sight vision equipment) manufactured for being used exclusively in various tanks?

F Facts

The applicant is a unit of the Ordnance Factory Board under the Ministry of Defence. It manufactures and repairs 'sight vision equipment' used exclusively in tanks such as the BMP-II, T-72 and T-90. It had classified these goods under HSN 8710 (tanks and other armoured fighting vehicles) through the excise regime and then under GST, paying 28% and later 12%. The present application asks what classification and GST rate apply to this equipment.

H Ruling

Classification and GST rate on sight vision equipment manufactured for exclusive use in tanks	**HSN 9013, sub-heading 90131090, at 18% (CGST 9% plus SGST 9%)**	Applies because the equipment is manufactured for exclusive use in armoured tanks. The authority treats it as an optical instrument, not as a part of the tank under 8710.

The authority held that the sight vision equipment is not a tank or a part of a tank under heading 8710, so the applicant had mis-classified it. It is an optical instrument under Chapter 90 and falls under HSN 9013, specifically sub-heading 90131090. Supply of these goods attracts **GST at 18% (CGST 9% plus SGST 9%)** .

R Reasoning

The authority read Chapter 87 and heading 8710 as covering tanks and armoured vehicles and their parts, so sight equipment fitted to tanks was not covered by that heading. It then relied on Note 4 to Chapter 90, which excludes telescopic sights for fitting to arms and periscopic telescopes for fitting to tanks from heading 9005 and directs such sights to heading 9013. Under the GST tariff, sub-heading 90131090 (Other, under telescope sights and optical devices) carries the 9%+9% rate, which the authority applied. The ruling rests on the goods being manufactured for exclusive use in tanks.

P Provisions Relied On

Section 97(2)(a) of the CGST/SGST Act, 2017 (classification of goods)

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

Section 97(2)(e) of the CGST/SGST Act, 2017 (determination of liability to pay tax)

Section 99 and Section 100(1) of the Uttarakhand GST Act, 2017 (appeal to the appellate authority)

GST Tariff Chapter 87, heading 8710 (tanks and other armoured fighting vehicles)

GST Tariff Chapter 90, Note 4 (exclusion of telescopic sights for arms and periscopic telescopes for tanks from heading 9005)

GST Tariff heading 9013, sub-heading 90131090

! For the Practitioner

A manufacturer of optical sight equipment for tanks can cite this ruling for classifying such goods under 9013 at **18% GST** , rather than under 8710. It settles the classification and rate only for goods manufactured for exclusive use in tanks. It does not decide the rate for dual-use optics, the classification of the tanks themselves, or any refund or past liability, and the ruling binds only the applicant and the jurisdiction concerned.

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 -> uttarakhand_aar_no.19-2018-19-opto_electronics_factory.pdf

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