

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU  
NO.206, 2<sup>ND</sup> FLOOR, PAPJM BUILDING , NO.1 , GREAMS ROAD,  
CHENNAI -600 006.**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND UNDER  
SECTION 98(4) OF THE TNGST ACT, 2017.**

**Members present:**

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| Smt. D. Jayapriya, I.R.S.,<br>Additional Commissioner/<br>Member(CGST),<br>Office of the Principal Chief<br>Commissioner of GST & Central Excise,<br>Chennai -600 034. | Smt. T Indira,<br>Joint Commissioner/Member(SGST),<br>Office of the Authority for Advance<br>Ruling, Tamil Nadu, Chennai-600 006. |
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**Advance Ruling No.118/AAR/2023 Dated:29.11.2023**

*1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/ TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed, is communicated.*

*2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-*

*(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.*

*(b) on the concerned officer or the jurisdictional officer in respect of the applicant.*

*3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*

*4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*

*5. The provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act (herein referred to as an Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.*

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| GSTIN Number, if any / User id   |                        | 33AAACE3968Q1Z5  |
| Legal Name of Applicant  |                        | M/S OERLIKON FRICTION SYSTEM (INDIA) PRIVATE LIMITED   |
| Trade Name of Applicant(Optional)  |                        | M/S OERLIKON FRICTION SYSTEM (INDIA) PRIVATE LIMITED   |
| Registered Address / Address provided while obtaining user id                            |                        | K17 & K 18, SIPCOT Industrial Park, Thandalam, Sriperumbudur Taluk, Irungattukottai, Tamil Nadu, Kancheepuram 602117   |
| Details of Application   |                        | Form GST ARA – 01<br>Application Sl.No.62/2022/ARA,<br>dated 22.12.2022.   |
| Concerned Officer  |                        | Centre: Chennai Outer Commissionerate,<br>State: Thiruvallur Circle  |
| Nature of activity(s) (proposed / present) in respect of which advance ruling sought for |                        |  |
| A  | Category               | Factory/Manufacturing, Service provision   |
| B  | Description (in brief) | Bonding of Carbon Material Friction  |
| Issue/s on which advance ruling required   |                        | Classification of any goods or services or both  |
| Question(s) on which advance ruling is required  |                        | <ol style="list-style-type: none"> <li>Whether the activity of bonding of carbon material friction strip to Metal components amounts to supply of service(job work) falling under SAC 9988?</li> <li>Whether the activity of bonding of carbon material friction strip to Metal components amounts to composite supply of goods under heading 6815 of the First Schedule to Customs Tariff Act?</li> <li>Whether the activity of bonding of carbon material friction strip to Metal components amounts to composite supply of goods under heading 8708 of the First Schedule to Customs Tariff Act?</li> </ol> |



M/s Oerlikon Friction Systems (India) Private Limited, K17 & K 18, SIPCOT Industrial Park, Thandalam, Sriperumbudur Taluk, Irungattukottai, Tamil Nadu, Kancheepuram 602117 (hereinafter called as 'the Applicant') are registered under the GST Acts with GSTIN: 33AAACE3968Q1Z5.

2.1 The Applicant submitted a copy of challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2.2 In their application for Advance Ruling, the Applicant has stated that

- They are engaged in the activity of binding the carbon friction material, which are imported from their Associate Company in USA, on metal components (i.e. Synchronizer Core) received from the customer.
- They receive the Synchronizer Core from their customer under job work challan and accordingly the Applicant carry out the activity of bonding the carbon lining with the Synchronizer core, and the resultant product viz. Synchronizer ring is cleared back to the customer under a tax invoice.
- They charge the customer the cost of raw material viz. Carbon lining strip together with the conversion costs and the agreed profit.
- Synchronizer rings are used in automotive transmission, which are subject to increased wear on account of high frictional load and bonding with additional frictional layer of carbon results in protecting the support from wear and tear.
- They have developed unique technologically driven automated process of irretrievably attaching the carbon strips to the required metal component.
- The customer raises a purchase order(PO) on the applicant, who in turn issues a sales order(SO) and on acceptance of the terms and conditions the customer sends the goods to the Applicant under a cover of a delivery challan and an awaybill; The Applicant carries out the process of bonding the carbon strips, which are imported, with the components and resends the goods back to the customer under a tax invoice.
- During the entire process, ownership of the component(Synchronizer core) remains with the customer only.
- Earlier, they had taken a stand that the process undertaken by them amounts to supply of goods falling under CTH 8708 of Customs Tariff Act, 1975.



2.3 The Applicant, in their interpretation of law stated that

- The ownership of the Synchronizer core supplied by the customer, always remains with the customer only; After bonding of the carbon strips to the metal component, the Synchronizer ring is sent back to the customer and the ownership of the imported carbon strip is transferred to the customers, when the goods are supplied back to the customer.
- The activity undertaken by them amounts to supply of services in terms of sl.no.3 of Schedule II of the CGST Act, which states that the activity of treatment or process which is applied to another person's goods is treated as a supply of services.
- Further, Explanatory notes under Chapter 99 for supply of services provides description of services and corresponding classification; Heading 9988 covers manufacturing services on physical inputs owned by others and further at the six digit level, their activity fits into the description given under 998873
- Job work is defined under Section 2(68) of the CGST Act, 2017 and their activity is as per the definition; Further CBIC vide circular No.38/12/2018-GST dated 26.03.2018 has clarified that job worker in addition to the goods received from the principal can also use his own goods for providing the services of job work, and hence usage of carbon strips, imported by them, on the metal component sent by the customer will not alter the nature of the services.
- They rely on the ruling of the Advance Authority of Kerala in the case of Estera Polymers – 209 (23) GSTL 481(AAR-GST), which is in their favour.
- There are two supplies involved in their hands viz. supply of specialized carbon friction strips and supply of services falling under the SAC 9988; The supply of carbon friction lining strip and bonding services are naturally bundled and both supplies are made in conjunction with each other and hence this amounts to composite supply as defined in Section 2(3) of the CGST Act, 2017 and the predominant element of the said composite supply remains supply of service falling under heading 9988.
- Without prejudice to the above, even if it considered that the predominant element of the said composite supply is goods, then the activity remains classified as a composite supply of Carbon friction lining strips falling under heading 6815 of the Customs Tariff Act, 1975.



3.1 The Centre jurisdictional Officer vide his letter dated 17.11.2023, has submitted that

- From the activities undertaken by the Applicant, it is seen that the product 'Carbon friction lining strip' which is being imported by them is not a common product, which is easily available in the market and hence the activity of bonding the carbon strips to Synchronizer core may not come under the ambit of job work.
- From the broad definition given to SAC 9988, the activity undertaken by the Applicant does not come under said SAC and thereby the six digit SAC as claimed by the Applicant need not be considered.
- The Applicant submitted that from amongst the two supplies i.e supply of service and supply of goods, the activity of job work is the predominant element of the said composite supply; In the Circular No.34/8/2018-GST dated 01.03.2018, it was mentioned that 'Value may be one of the guiding factors in determination but not the solo factor in determination of principal supply'; The Applicant is also supplying 'Carbon friction strips' with the service; Therefore it appears that the composite supply(with principle supply of the goods i.e. Carbon friction strips) may be applicable to the Applicant.
- Further, it was also stated that no proceedings pending or decided on the issue related to the question raised by the Applicant.

3.2 The State jurisdiction Officer has not submitted any remarks and hence it is construed that there no proceedings pending/decided on the issue related to the question raised by the applicant.

4. The Applicant, after consent, was given an opportunity to be heard in person on 02.11.2023. Shri Sunil Kumar, Consultant, who is the Authorized Representative of the Applicant appeared for the hearing and he reiterated the submissions made in their application. The Members requested the AR to submit sample copy of agreement executed by them with their customers and also a write-up about the end-use of the product sent back by the Applicant. Further to this, the Applicant vide their letter dated 09.11.2023 submitted technical write-up about the activity carried out by them for tier I manufacturers and also the stated that they are tier II manufacturers for M/s Tata Motors, M/s Mahindra & Mahindra and M/s Toyota Motors. The Applicant vide their email dated 17.11.2023 stated



that they do not have any job work agreement but have only purchase order and sales order, wherein terms and conditions are mentioned.

#### **DISCUSSION AND FINDINGS:**

5.1. We have carefully considered the submissions made by the Applicant in their application, submissions made during the personal hearing and the comments furnished by the Centre and State Tax jurisdictional Officers.

5.2 In terms of Section 97(2) of the CGST/TNGST Act, questions on which advance ruling is sought under the Act, falls within the scope of Section 97(2)(a) of the CGST/TNGST Act, 2017, and therefore the application is admissible.

5.3. On perusal of the submission made by the Applicant in their application, we find that the Applicant are engaged in the activity of binding the carbon friction strips, which are imported from their Associate Company in USA, on metal components (i.e. Synchronizer Core) received from the customer, under job work challan. Accordingly the Applicant carry out the activity of bonding the carbon lining with the Synchronizer core, and the resultant product viz. Synchronizer ring is cleared back to the customer under a tax invoice. Their technical write-up submitted after the personal hearing, shows that they have a technology to do this activity of binding the carbon strips with the metal component and they claim that the process is rigorous that meets all the requirement of the tier I manufacturers i.e. their customers.

5.3 We intend to take the first question before us for consideration, which is whether the activity undertaken by the Applicant amounts to supply of service (job-work service) under the accounting code 9988.

Schedule II given under Section 7 of the CGST Act, 2017 lists the activities to be treated as supply of goods or supply of services and in which the relevant portion is reproduced below:

#### **3. "Treatment or process**

*Any treatment or process which is applied to another person's goods is a supply of services."*

From the above, the activity of undertaken by the Applicant i.e. the process of bonding carbon friction strip with the metal component belonging to another



person, will be supply of services in terms of Sl.No.3 of the Schedule II to CGST Act, 2017.

As per the Annexure given to the Notification No.11/2017-CT(Rate) dated 28.06.2017, wherein various services are listed with the corresponding service accounting codes(SAC), the subject activity would fall under SAC 9988. The explanatory notes to the Scheme of Classification of services, given under 9988 states as follows:

***“9988 Manufacturing services on physical inputs owned by others***

*The services included under Heading 9988 are performed on physical inputs owned by units other than the units providing the service. As such, they are characterized as outsourced portions of a manufacturing process or a complete outsourced manufacturing process. Since this Heading covers manufacturing services, the output is not owned by the unit providing this service. Therefore, the value of the services in this Heading is based on the service fee paid, not the value of the goods manufactured.*

Thus, we find that the subject activity undertaken by the Applicant is a supply of service falling under SAC 9988.

5.4 The next point for consideration is whether the said activity would fall under the term ‘job work’. This term is defined under Section 2(68) of CGST Act, 2017, which states that –

*“ ‘job work’ means any treatment or process undertaken by a person on goods belonging to another registered person and the expression ‘job worker’ shall be construed accordingly.”*

From the above, it is clearly evident that the activity undertaken by the Applicant is a job work, as the Synchronizer core belongs to their customer, throughout the entire process, as stated by them.

5.5. Further, CBIC vide Circular No.38/12/2018-GST dated 26.03.2018, has issued clarification on issues related to job work, wherein it was stated that-

***5. Scope/ ambit of job work:***

*Doubts have been raised on the scope of job work and whether any inputs, other than the goods provided by the principal, can be used by the job worker for providing the services of job 3 work. It may be noted that the definition of job work, as contained in clause (68) of section 2 of the CGST Act, entails that the job work is a treatment or process undertaken by a person on goods*



*belonging to another registered person. Thus, the job worker is expected to work on the goods sent by the principal and whether the activity is covered within the scope of job work or not would have to be determined on the basis of facts and circumstances of each case. **Further, it is clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.***

From the above, it is clear that the job worker can use his own goods for providing the services of a job worker and therefore usage of imported carbon strips by the Applicant will not alter the nature of services provided as job work services.

6.1 The next two questions raised by the Applicant relates to whether the bonding of imported carbon friction strips to Synchronizer cores received from customers would amount to composite supply of goods under CTH 6815 or 8708. As discussed earlier, the entire activity undertaken by the Applicant is a supply of service(job work service). The process, as submitted by the Applicant, is the Synchronizer Core is received from the customer under job work challan & Eway bill, then the Applicant carry out the activity of bonding the carbon lining, which is imported by the Applicant, with the Synchronizer core, and the resultant product viz. Synchronizer ring is cleared back to the customer under a tax invoice & Eway bill along with a delivery challan. From the submissions made by the Applicant, we find that the entire activity undertaken by the Applicant is a supply of service – job work service. The Applicant has mentioned in para 19 of their submission made along with the application that there are two supplies involved in their hands namely supply of specialized carbon friction strips and supply of services falling under heading SAC 9988. We find that there is a gross misunderstanding by the Applicant that there are two supplies involved. There is no supply of goods separately, as mentioned by the Applicant. The Applicant has bonded the carbon strips imported by them on the Synchronizer core belonging to their customer and the resultant product, after the job work being done, is sent back by the Applicant to their customers. The carbon strips are not sent separately under an invoice to treat that as a supply of goods.

6.2 On perusal of the copy of the invoices submitted by the Applicant, we find that the Applicant has mentioned in the item description as 'Synchronizer ring' falling under CTH 8708 and a taxable value mentioned therein. The mere look of the tax invoice gives an impression as supply of goods. However, it was explained



by the Applicant that the value includes the value of the carbon strips, job charges and a profit. Also, from the submissions made by the Applicant, specifically mentioning that the question of supply of Synchronizer Core or 'Carbon friction lining bonded Synchronizer Ring' by the Applicant to the customer does not arise, makes it clear that they are doing only job work on the goods belonging to their customer. We find that this claim of the Applicant is well supported by their Sales order and Purchase invoice. Thus, we find that it is not correct to mention in the item description as 'Synchronizer Ring' and the relevant CTH in their invoice, as done by the Applicant. Since the activity is a 'supply of service', the correct service and the appropriate SAC should be mentioned in the tax invoice. The procedure to be followed by the Applicant, regarding movement of goods from the principal to the job worker, the documents and intimation required therefor, liability to issue invoice, determination of place of supply and payment of GST are clarified in paras 8 & 9 of the CBIC Circular cited supra. In para 9.4 of the said Circular, it is clarified that the value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply under GST. Therefore, there is no supply of goods in the entire activity of the Applicant

6.3 Further, as per provision contained in Section 7(1A) of the CGST Act, 2017, it is expressly provided that certain activities or transactions shall be treated either as supply of goods or supply of services as referred to in Schedule II, which was discussed in para 5.3 above. Hence, when the law itself clearly states that the process undertaken on another person's goods is a supply of service, the question of composite supply does not come into picture. The concept of Composite Supply will be applied only when there is conscious supply of two or more taxable supply of goods or services or both. However, as discussed earlier, the Applicant is merely undertaking processing on the component sent by their customers and the ownership of the component remains with their customers. The Applicant is not supplying goods i.e. the carbon strips, separately, but they are binding these strips on to the component sent by their customers. As already stated in para 5.5 above, the job worker can use his own goods for providing job work and the valuation of such services are as per Section 15 of the CGST Act. Thus, the entire job work activity is clearly stated as supply of service in Schedule II of the CGST Act, 2017,



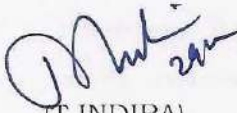
there remains no scope of doubt that along with supply of service there is also another the supply, i.e. supply of goods on the basis of component of materials used for providing the job work.

Based on the above discussions, we rule as under:

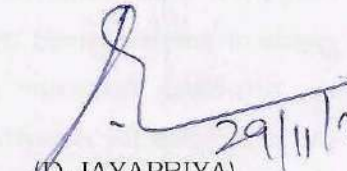
### **RULING**

For Question 1: The activity undertaken by the Applicant of Bonding of imported Carbon friction strips to Synchronizer core received from customers amounts to supply of job work services under SAC 9988.

For Question 2 & 3: As discussed in para 6.3 above.

  
(T.INDIRA)  
Member (SGST)



  
(D JAYAPRIYA)  
Member (CGST)  
29/11/2023

To

M/s Oerlikon Friction Systems (India) Private Limited,  
K17 & K 18, SIPCOT Industrial Park,  
Thandalam, Sriperumbudur Taluk,  
Irungattukottai, Tamil Nadu,  
Kancheepuram 602117

//by RPAD//

Copy submitted to:

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2. The Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

1. The Commissioner of GST & Central Excise,  
Chennai Outer Commissionerate,
2. The Assistant Commissioner(ST),  
Tiruvallur Circle.
3. Master File/ Spare – 2.