

**THE AUTHORITY FOR ADVANCE RULING  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU – 560 009**

**Advance Ruling No. KAR ADRG 19/2020**

**Date : 31-03-2020**

Present:

1. **Dr. M.P.Ravi Prasad**  
Additional Commissioner of Commercial Taxes . . . . Member (State Tax)
2. **Sri. Mashhood ur Rehman Farooqui,**  
Joint Commissioner of Central Tax . . . . Member (Central Tax)

1.	Name and address of the applicant	M/s New Space India Limited, Room No. F01, HSFC Building, New BEL Road, ISRO Head Quarters, Bengaluru – 560094, Karnataka.
2.	GSTIN or User ID	29AAGCN4411P1Z1
3.	Date of filing of Form GST ARA-01	14.02.2020
4.	Represented by	Sri Radha Krishnan D, Director & Authorised Representative
5.	Jurisdictional Authority – Centre	The Commissioner of Central Tax, North Commissionerate, Bengaluru
6.	Jurisdictional Authority – State	NA
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act vide CIN RBIS20022900132675 dated 14.02.2020 & Rs.5,000/- under KGST Act vide CIN RBIS20022900128353 dated 13.02.2020

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017  
& UNDER 98(4) OF THE KGST ACT, 2017**

1. M/s New Space India Limited, Room No. F01, HSFC Building, New BEL Road, ISRO Head Quarters, Bengaluru – 560094, Karnataka having GSTIN number 29AAGCN4411P1Z1, have filed an application for Advance Ruling under Section 97 of CGST Act 2017 & KGST Act 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a Limited Company and is registered under the Goods and Services Act, 2017. They are into the business of **Leasing of Satellite Transponders** and sought advance ruling in respect of the following questions:



- 1) *Whether Leasing of Satellite Transponder which is covered under SAC Code 997319 be charged at 5% GST as per HSN Code 8803 – Parts Goods of Heading 8802 (Satellites)?*
- 2) *Whether the applicant can levy GST @5% for Leasing of Satellite Transponder Services which is covered under SAC 997319 as per HSN Code 8803-parts goods of Heading 8802 (Satellites) from the date of commencement of the service-Leasing of Satellite Transponder?*
3. The applicant furnishes the following facts relevant to the stated activity:
  - a. The applicant stated that they are a commercial arm of Indian Space Research Organisation (ISRO) and are a Government of India company (CPSE) under the administrative control of the Department of Space (DOS). They entered into an agreement MOU with DOS, inter alia, for leasing of Satellite Transponder capacity to service providers, as part of the mandate to carry out production and marketing of space based services.
  - b. The applicant enables satellite communication service providers with necessary transponder capacity on INSAT/GSAT fleet in C, Ext C, Ku and Ka-Ku bands to Indian users for Television Broadcasting (TV), Direct to Home (DTH), Digital Satellite News Gathering (DSNG), Very Small Aperture Terminal (VSAT) and Telephony services. They also acquire the transponders from foreign satellite operators on lease and provide the leasing services of the same to the service providers.
  - c. A communication satellite has the following basis parts :
    - i. Satellite Housing – This is the outside container of the satellite
    - ii. Power System - This consists of Solar Panels as well as Batteries to power the satellite.
    - iii. Antenna System – This is to receive signals to make the satellite's operation in orbit.
    - iv. Command and control system – This monitors the satellite to ensure that all vital operating parameters are working.
    - v. Transponders – Electronic systems that amplify the frequency of an uplink signal for retransmission to earth.
  - d. A communication satellite can not be without any of the aforesaid parts. There will not be utility for such an equipment without Transponders, which receive the frequency of uplink signals, amplifies



them and retransmit the same to the earth in a downlink frequency. The following two examples showcase the utility of Transponders.

1. The TV programmes which are seen through DTH (Airtel TV, Dish TV, TataSky etc.,) are first uplinked to a Transponder from earth and then downlinked to respective antennas at home. Uplinking and downlinking of the signals is not possible without the Transponders.
2. Financial Transactions through ATMs use satellite network system at the backend. Withdrawal requests through ATM travel from ATM to HUB via satellite link. Further the HUB sends the said requests to respective bank & branch to process the transaction and update the bank account statement.

4. **Applicant's understanding of the law :**

The applicant submits, as per their understanding, that Leasing of Transponders is covered under SAC 997319, which covers "Leasing or rental services concerning other machinery and equipment with or without operator"; the applicable GST rate, in terms of Notification No.8/2017-Integrated Tax (Rate) dated 28.06.2017, as amended, under entry No.17, in respect of the services with SAC 9973 and with description "(viii) *Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi) and (vii) above*" is **"same rate of Integrated Tax as applicable on supply of like goods involving transfer of title in goods"**; Transponder is a part of Satellite, falling under Chapter Heading 8803 as "Parts of goods of Heading 8802 Satellites"; Goods of Heading 8802 60 00 i.e. Spacecraft (including satellite) and suborbital and spacecraft launch vehicles are charged at Nil rate of Tax (GST) vide Sl.No.140 of Notification No.2/2017-Integrated Tax(Rate) dated 28.06.2017, as amended till date; Parts of goods of Heading 8802, falling under Heading 8803 i.e. Transponder, is charged at 5% IGST under Sl.No.245 of Schedule I to Notification No.1/2017-Integrated Tax(Rate) dated 28.06.2017, as amended.

**PERSONAL HEARING: / PROCEEDINGS HELD ON 10.03.2020.**

5. Sri Radha Krishnan D, Director and duly authorised representative of the applicant appeared for personal hearing proceedings held on 10.03.2020 & reiterated the facts narrated in their application and also made the following written submissions inter alia stating that:

5.1 The Applicant, New Space India Limited in short 'NSIL' has been incorporated on 05/03/2019 under the provisions of Companies Act 2013 as a wholly owned Government of India undertaking/ Central Public Sector



Enterprise(CPSE), under the administrative control of the Department of Space (DOS).

## 5.2 THE VISION AND MISSION OF NSIL:

### **VISION**

*“Excel in providing space related products and services emanating from Indian Space Programme to global customers and to further spur the growth of Indian Industry in undertaking technologically challenging space related activities”*

### **MISSION**

*“Enabling Indian Industries to scale up high-technology manufacturing base for space programme through technology transfer mechanisms, catering to emerging global commercial small satellite launch service market, satellite services for various domestic and international application needs and enabling space technology spin-offs for betterment of mankind through industry interface.”*

## 5.3 A) MANDATE OF NSIL

NSIL has the primary mandate of commercially exploiting the Research and Development (R&D) activity(ies) carried out by ISRO, in the area of space and also enable production of space systems through Indian Industry. Some of major activities involved are related to viz.,

- i. Small Satellite technology transfer to industry wherein NSIL will obtain license from DOS/ISRO and sub-license it to industries.
- ii. Manufacture of Small Satellite Launch Vehicle (SSLV) in collaboration with Private Sector.
- iii. Production of Polar Satellite Launch Vehicle (PSLV) through Indian Industry.
- iv. Production and marketing of Space based services, including launch and application.
- v. Transfer of technology developed by ISRO Centres and constituent institutions of DOS.
- vi. Marketing spin-off technologies and products / services.
- vii. Any other subject which Government of India deems fit.

## **B) TRANSPONDER LEASING SERVICES**

NSIL has been mandated with Production and marketing of Space based services, including launch and applications. As a part of marketing of space based



services, NSIL has entered into an MOU with Department of Space (DOS), for management of commercial relationship with respect to SATCOM services (MOU No. DOS/ NSIL/ MOU/ 2019 signed on 13 June 2019 enclosed as **Annexure -1)**

As per MOU, Satellite Communication Program Office (SATCOM PO), on behalf of DOS, allocates satellite transponders/ space segment capacity to various customers and enters into an agreement/MOU with the Customers in this regard. In this agreement/ MOU, NSIL is designated as “Contract Manager” and is vested with the rights and powers to administer the agreements/ MOUs in its entirety. Towards this, NSIL carries out activities related to interfacing with customers and SATCOM-PO for formulating and finalizing the Agreements, amendments, securing caution deposits and bank guarantees, invoice raising and payment receipts. Provisioning of space segment capacity on a transponder from a satellite to user, involves leasing of transponder capacity to the user for a specific period of time for his use. For ease of understanding, this activity could be considered analogous to leasing out a Flat to a tenant, wherein the owner (in case of transponder it is DOS/NSIL) lets out the flat (equivalent of transponder) and the tenant (transponder capacity user) utilizes the flat ( transponder capacity) for his purpose for a specific period of time.

Following relevant clauses of the agreement indicating provisioning of space segment capacity as leasing of transponder capacity is indicated below for reference (Copy of agreement enclosed as Annexure-2).

I. **Article 2, Transponder capacity of the Agreement** – It states that DOS provides certain bandwidth capacity on a satellite (part of INSAT/GSAT system) to the user and this space segment capacity is known as transponder capacity. Both the term, space segment capacity and transponder capacity are used interchangeably.

II. **Article 5, Operational Requirements of the Agreement** – It reflects that the ownership of satellite rests with DOS, GOI and only the transponder capacity is made available to the user to meet their requirements. Hence only transponder capacity is leased to the customer. The rights over transponder, satellite and orbital resource rests with DOS/GOI.

III. **Frequency Allotment Letter** – For example, DOS, vide letter no. SATCOM PO/F.631/157 dated February 12,2020 allotted 3 MHz C band capacity on Transponder No. C10 of GSAT-10 satellite. (A copy of frequency allotment letter attached as **Annexure-3**). The customer will be entitled to utilize this 3 MHz bandwidth for their up-linking and down linking of carriers and will pay a fixed charge for the same on a periodical basis. Once the agreement ends, the said leased capacity will automatically come back to DOS and will be further available for leasing to other users for which separate allotment and agreement will be entered into.



#### IV. Few other relevant Definitions:

- a) **INSAT/GSAT System** (Annexure 1, Definitions (8)) - INSAT/GSAT System means the system built and operated by ISRO/DOS at a given orbital location and ***satellite capacity leased by ISRO/DOS*** with Government approvals.
- b) **Space Segment Capacity** (Annexure 1, Definitions (16)) - 'Space Segment Capacity' or 'Transponder Capacity' or 'capacity' means any of the radio frequency transmission channels on the Serving Satellite through which DOS shall provide the Capacity to the user. The term Space Segment Capacity and Transponder Capacity are same and are often used interchangeably. Generally, each transponder of INSAT/GSAT Satellite(s) has 36 MHz of bandwidth capacity. Based on the application and usage, customer demands for particular bandwidth capacity in the transponder of a satellite. This bandwidth capacity gets used by the customer for uplink and downlink purposes.

#### C) PARTS OF COMMUNICATION SATELLITE

A Communication Satellite has the following basic parts:

##### i) Satellite Bus:

- a. Satellite Structure: This is the mechanical structure of the satellite on which various satellite sub-systems are integrated.
- b. Power System - This consist of Solar Panels as well as Batteries to power the satellite.
- c. Antenna System – This is to receive / transmit signals between earth stations.
- d. Command and Control System – This monitors the Satellite to ensure that all vital operating parameters are working.
- e. Thermal System – This protects the satellite and its sub-system from external environment.
- f. Propulsion System – This is used for station keeping and orbit correction, to ensure that the satellite stays in its orbit.

##### ii) Satellite Payload:

The payload of a communication satellite is Transponders. Transponder is an electronic part of the satellite that receives the signal at a particular frequency, amplifies it and transmits it back to earth. The transponder has the following parts

- i. Band Pass Filters



- ii. Low Noise Amplifier
- iii. Mixer and Oscillator
- iv. High Power Amplifier

- a. The Band Pass Filter is a device that passes frequencies within a certain range and rejects (attenuates) frequencies outside that range.
- b. Low Noise Amplifier: - An electronic amplifier that amplifies a very low power signal without significantly degrading its signal-to-noise ratio. In general, an amplifier increases the power of both the signal and the noise present at its input. LNAs are designed to minimize additional noise.
- c. Mixer: - An electronic system which converts the input frequencies to output frequencies with the help of oscillator frequency so as to avoid interference between uplink and downlink signals.
- d. High Power Amplifier: - An electronic amplifier that increases the power of a downlink signal to compensate the transmission losses so that user terminal receives sufficient signal strength to function adequately.

A Communication Satellite cannot be without any of the aforesaid parts and there will not be any utility for satellite without transponders.

In a Communication satellite, transponder is the satellite part through which various application services like TV Broadcasting services, Digital Signal Network Gathering (DSNG) services, Direct to Home (DTH) broadcast services, Very Small Armature Terminal (VSAT) for closed network communication services, Telephony, etc., are rendered to the users. Rest of the satellite systems, as detailed under Satellite Bus are the supporting systems for proper functioning of transponders.

#### **D) TAXABILITY OF LEASE OF TRANSPONDERS UNDER GST ACT.**

The Applicant submits that in their understanding, leasing of transponders are covered under the SAC Code 997319 – “Leasing or rental services concerning other machinery and equipment’s with or without operator”. The rate of GST applicable is covered vide Notification No. 8/2017 – Integrated Tax (Rate) dated 28/06/2017 as amended till date under the following entry.

<b>SL.No.</b>	<b>Heading</b>	<b>Description of Services</b>	<b>Rate of Tax</b>
17	9973	(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi) and (vii) above.	Same rate of integrated tax as applicable on supply of like goods involving transfer of title in goods.



As transponder is a part of satellite, it is covered under HSN 8803 – Parts of goods of heading 8802. Satellite are charged at Nil Rate of tax as per Sl. No. 140, HSN – 8802 60 00 – Space craft (including satellites) and sub-orbital and space craft launch vehicles vide Notification No.2/2017 – Integrated Tax (Rate) dated 28.06.2017 as amended till date.

Parts of goods of heading 8802 (Transponder) is charged at 5% Rate of tax as per Sl. No. 245, HSN 8803 – Parts of Goods of Heading 8802 of Schedule 1 of Notification No. 1/2017 – Integrated Tax (Rate) dated 28.06.2017 as amended till date.

Further the Applicant submits that the transponder cannot be classified under the heading 8525 60 92 as “Other Satellite Equipment” since it consist of ground segment that comprises of the following:

- Uplink Station (to send signals from earth to Satellite).
- Downlink Station (to receive signals from earth to Satellite).

Ground Segment is established at earth and which transmits (uplink) the signals to satellite transponders and receive (downlink) the signals from satellite at ground. Whereas, the Space segment comprises of Satellite located at a Specified orbital slot in space with transponder for catering various application/ user needs.

The Applicant further submits that, the tariff heading 8525 60 92 of the Customs Tariff Act – “Other Satellite Communication Equipment” covers those equipment’s which are in the Uplink Station and Downlink Station on earth which are not part of Space Segment. Some of such equipment are as follows:

- a) Amplifiers are used to regenerate and amplify signals.
- b) Antennas (receiving antennas or transmitting antennas) are Structures used to radiate electromagnetic waves.
- c) Modulators: Digital data is sent to the modulator which takes the data and converts it into a modulated signal in the Intermediate Frequency Range.
- d) Block up converters (BUC) are used to convert a band or a block of frequencies from lower to higher frequencies.
- e) Low-noise block converters (LNB) are down-converters that are used to receive (downlink) satellite signals.
- f) Equalizers: are communications equipment used to alter or adjust the frequency response of a device.
- g) Considering the above, the Applicant submits that it is clear that Transponders cannot be categorized in the Tariff heading Other Satellite



Communication Equipment covered under 8525 60 92 of the Customs Tariff Act.

The Applicant further places on the following judgements wherein a discussion on HSN Code 8525 60 92 and various equipments covered in the context of exemptions under notifications are dealt with. These decisions are referred only with the intent to show that the entry "Other Satellite Equipment" refers to the equipment which are in either Uplink Station or Downlink Station (together can be categorized as On Ground) and not in Space Segment. Further, Satellite Communication Equipment as such are categorized as HSN 8525 60 92 – Other Satellite Communication Equipment.

- a. U & I System Design Ltd. V Commissioner of Customs (Appeals), Bangalore – 2007 (218) ELT 603 (Tri-Bang).
- b. Modern Communication & Broadcasting Systems P. Ltd V Chief Commissioner, Kandla – 2009 (245) ELT 199 (Tri-Ahmd).
- c. Raj Television network V Commissioner of Customs, Chennai – 2007 (215) ELT 71 (Tri-Chennai).

The Applicant further places reliance on the Notification No. 153/ 93 – Customs dated 13/08/1993 which was issued in the context of exemption to telematic infrastructural equipment. The annexure in the notification covers the following Satellite Communication Equipment –

## **II. SATELLITE COMMUNICATION EQUIPMENT (GROUND SEGMENT)**

1. High Power Amplifier
2. Solid State Power Amplifier
3. Low Noise Amplifier
4. Ground Communication Equipment
5. Up/ Down Converter
6. Modulator / Demodulator
7. Antenna System
8. TDMA / TSI
9. Master Earth Station
10. Micro Earth Station
11. Radio Network Terminal
12. Inter-facility Link
13. Pilot Receiver"

These entries, which are classifiable under HSN Code 8525 60 92, refer to those equipment which are used to communicate with the Satellite and nowhere Transponders finds a place in this List. This proves that Transponders are not considered as part of the "Other Satellite Communication Equipment".



The Applicant submits that the uplink and /or downlink operations carried out by the customers require base station at ground which may be owned by them or leased from the Teleport operators. The customers, through the teleport or through their own ground equipment, uplink their data directly to satellite and it can be down linked in the area covered by satellite by using appropriate ground equipment such as antenna, down converters de-modulators, set top boxes, etc., when a customer intends to start any communication service like, Television, Broadcasting, Digital Satellite news gathering, outdoor Broadcasting, Direct to Home, VSAT (Very Small Aperture Terminal – ATM, Retail, Banking etc.,). Department of space (DOS) identifies and allots Satellite Bandwidth Capacity (in MHz) to customer to enable such services. A Transponder lease agreement/ MOU between DOS and the Customer with NSIL as Contract Manager is entered towards this. The Customer starts using the allotted Satellite Bandwidth Capacity after obtaining other regulatory approvals/ clearance. No intervention of NSIL / DOS is involved in either up linking or down linking. One such lease agreement entered on February 12th, 2020 with M/S. Odisha Television Limited is enclosed for your perusal. As per the agreement entered into between DOS with Odisha Television Limited vide Agreement No. DOS/ OT/ NSIL-GSAT10-DSNG-C-03-2020 dated February 12, 2020 for the provision of 3 MHz C band capacity on GSAT 10 satellite, the Customer will utilize this bandwidth (Uplink: 6304.5 – 6307.5 MHz/LH, Downlink: 4079.5 – 4082.5 MHz/LV) to transmit and receive DSNG carriers. The agreement for providing bandwidth capacity is entered for a fixed period of time and can be renewed based on mutual consent between DOS and the party. After closure of agreement, this capacity is free for allotment by DOS to any other party. Further the Applicants submits that, the transponders leased by the Applicant to its customers form part of communication satellite and do not form part of any other equipment / aircraft / navigational device, etc. The Applicant also submits that the transponder is a specific part of the satellite without which the Communication Satellite is of no use. Such a satellite transponder cannot be used in any other navigation equipment. It is specifically used only in a satellite. This Satellite Transponder is not of generic use. Any goods specifically designed for a particular product (Satellite in this case) will be classified as part of that machine and not a part of generic use. This is the rule of classification.

The Applicant relies upon the following judgement which explicitly brings out what is a part and also the classification of specific use of the part: - Commissioner of central Excise, Delhi v. Insulation Electrical (P) Ltd 2008 (224) ELT 512 (SC) – where in para 19, it is stated... *“Chapter 9401 covers all types of seats and not only the seats of a car and a seat is complete even without the rail assembly from seat, adjuster / assembly slider seat and rear back lock assembly. They are not essential parts of the seat. Chapter heading 9401 covers only the parts of the seats and not accessories to the seat. A “part” is an essential component of the whole without which the whole cannot function”.*



In the aforesaid judgement, the Apex Court has held that a Part is an essential component of the whole without which the whole cannot function and in the present case, the transponder is a part of the Communication Satellite without which the Communication Satellite cannot function.

Eureka Forbes Limited v. Commissioner of central Excise, Meerut 2001 (130) ELT 146 (Tri – Del) wherein it was held in Para 8 as under:

*“According to note 2(b) parts which are suitable for use solely or principally with particular machines or apparatus are classified in the same heading as those machines or apparatus. This has been confirmed by the Appellant Tribunal and Courts in many cases, including the decision in Sealol industan td., supra, and Plastic Craft Industries, supra, relied upon by the Ld. Advocate for the Appellants. The Board also clarified vide letter F. No. 145/12/87-CX4, dated 18-03-88 that Ice Trays, freezer doors, etc. would be classified under Heading 84.18 as parts of refrigerator. The Board, however, classified butter box under Chapter 39 as it was not solely designed for use with refrigerator. Accordingly, we hold that applying Rule 2(b) to section XVI, hoses in question are appropriately classifiable along with vacuum cleaner under Heading No. 85. 09 of the Tariff“.*

In the Applicant's case, the transponder is used solely and principally with the Communication Satellite and hence is a part of the Satellite. With regard to the issue as to why a Transponder cannot be categorized as an equipment as it is also made of few more parts, the Applicant submits that if a part is made of a different part, it does not mean that the resultant part will not be a part of a particular product/ equipment (in this case Satellite). In the context of Part of Part being considered as part of Equipment, there are several judgments which goes to show case that, even if the primary part of an equipment is made of other parts, still the character of Primary Part of equipment doesn't get lost. The Applicant places reliance on the following judicial pronouncements where there are decisions considering part of part being considered as part of equipment. There is no view that since part is made of other part, the main part will become an equipment on its own. In fact, even the so-called equipment if it is intrinsic to a specific primary equipment, will be treated as part of the equipment:

- a) Collector of Central Excise v. MP (I) Ltd – 1990 (46) ELT 68 (Tri)
- b) Collector v. MP (I) Ltd – 1997 (95) ELT A142 (SC)
- c) Motor Industries Company Ltd v. Collector of Central Excise, Aurangabad – 1995 (75) ELT 65 (Tri)
- d) Collector of Central Excise, Aurangabad v. Motor Industries Company Ltd. 2003 (152) ELT 36 (SC)

With regard to the question as to whether Space Segment Capacity includes Spectrum, as mentioned in Article 2 of the Agreement between NSIL and DOS, the





*scope of the agreement* is leasing of bandwidth capacity on a satellite (part of INSAT/GSAT system) to the user and this space segment capacity is known as transponder capacity. Hence the scope of the agreement covers only Leasing of Satellite Transponder capacity and not Spectrum.

Considering the above, the Applicant states that it is clear that Satellite transponder, which is designed for specific use in satellite is to be classified as Part of Satellite and classified under HSN 8803.

## 6. **FINDINGS & DISCUSSION:**

6.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Radha Krishnan D, Director and duly authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

6.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

6.3 The Applicant seeks advance ruling in respect of the following question:

1. *Whether Leasing of Satellite Transponder which is covered under SAC Code 997319 be charged at 5% GST as per HSN Code 8803 – Parts Goods of Heading 8802 (Satellites)?*
2. *Whether the applicant can levy GST @ 5% for Leasing of Satellite Transponder Services which is covered under SAC 997319 as per HSN Code 8803-parts goods of Heading 8802 (Satellites) from the date of commencement of the service-Leasing of Satellite Transponder?*

The applicant contends that leasing of satellite transponder is covered under SAC 997319 and the said transponder is classifiable under Tariff heading 8803 as part of satellite, which is classified under Tariff heading 8802, and hence is taxable at 5% GST.

6.4 A copy of the Memorandum of Understanding between the Department of Space and the applicant was submitted to explain the business activity of the applicant. The applicant is a Government of India company under the administrative control of the Department of Space. The applicant is engaged in a variety of activities, inter-alia, including leasing of space segment capacity on satellites, leasing of space segment capacity procured from Foreign Service Providers/Operators, launch services, satellite services, remote sensing and data



services etc. In respect of Satellite services the applicant is empowered to market complete satellite systems. Further they are empowered to negotiate with the end user/customer for finalising the technical, commercial and contractual terms of the work proposed to be done. Further the applicant is christened as the 'Contract Manager' in all the agreements entered by the Department of Space with users for provision of INSAT transponder capacity with rights and powers to administer the agreements/MOUs in entirety. The MOU shows that the agreement is in respect of INSAT and GSAT satellites, which are purely communication satellites.

6.5 In the instant application the applicant, with regard to supply of the service of leasing/rental of satellite transponders and seeks clarification on the rate of tax applicable in respect of the said service.

6.6 In the subject matter and in relation to the questions for Ruling we examine the provisions of Notification No. 08/2017-Integrated Tax (Rate) dated 28.06.2017 and as amended subsequently. Serial Number 17 of the Notification, Heading 9973, pertains to *Leasing or rental services, with or without operator*. Against the aforementioned Heading the entries in Column (3) of the Notification from (i) to (vii) pertain to issues not related to the application. The entry at serial (viii) is a residual entry and applies to the applicant. Therefore the services provided by the applicant are aptly covered under Serial Number 17, sub-serial (viii) of the said Notification. In so far as the rate of tax applicable to the said service is concerned the Notification provides that the rate shall be as mentioned in Column (4) against the description of the service. The entry in Column (4) of the Notification against Serial No. 17(viii) reads as follows:

*Same rate of integrated tax as applicable on supply of like goods involving transfer of title of goods.*

In the instant case satellite transponders had been leased out. Therefore the rate of tax applicable on the service of leasing of the satellite transponders shall be the same as the rate of tax as applicable on the supply of the satellite transponders. This brings us to the question of determination of the rate of tax on supply of service of leasing of satellite transponders which in turn requires us to determine the classification of the said goods.

6.7 Before proceeding to examine the entries in the Tariff, we shall examine the nature and characteristics of a satellite transponder to understand its features, characteristics etc to correctly determine its classification.

6.8 A Transponder is an automatic electronic monitoring or control device that receives, cross examines, amplifies and retransmits the arriving signal and is primarily implemented in wireless communication (as ascertained from independent sources). The word 'Transponder' itself is a combination of two words, i.e. transmitter and responder. A transponder works by receiving a definite signal from a specific source (up link) on a component called





“interrogator”, then it amplifies the signal, converts the signal to a dissimilar frequency, through “frequency converter”, than that of the one received and automatically transmits the signal (down link). Therefore the input and output signals can be sensed concurrently. The device on board the satellite that performs the amplification and frequency conversion and also the main/key payload of any communication satellite is the “Transponder”.

In view of the above, the transponder essentially is a repeater which receives the signal transmitted from earth station on the uplink, amplifies the signal, converts to a dissimilar frequency and retransmits the same on the downlink. Therefore the essential / significant features of amplification and frequency conversion are done by the key payload of the communication satellite i.e. the transponder. Therefore the transponder becomes an integral part of the communication satellite, without which the communication satellite becomes defunct.

6.9 The Applicant contends that the said transponders merit classification under Tariff Heading 8803 as part of Spacecraft (including satellites), falling under Tariff heading 8802. The alternate classification is under Tariff heading 8525 as “Other Satellite Communication Equipment”. We proceed to examine the two Tariff Headings.

6.10 In respect of Tariff Headings and determination of Classification, Explanations (iii) and (iv) appended to the Notification No. 01/2017- Central Tax (Rate), dated 28.06.2017 are relevant. The said explanations are reproduced below for ease of reference.

*(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).*

*(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.*

Accordingly we make a reference to the Section Notes and Chapter Notes of the relevant Chapters of the Customs Tariff and also the corresponding Explanatory Notes.

6.11 Chapter 85 is covered under Section XVI and Chapter 88 is covered under Section XVII of the Customs Tariff Act. We proceed to examine the two competing entries sequentially.

6.12 The applicant has stated that the competing entry in the Tariff is 85256092- “Other Satellite Communication Equipment”. The Tariff entry 8525



reads as under:

<b>Tariff Item</b>	<b>Description</b>
8525	Transmission apparatus for radio broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders
8525 50	- <b>Transmission apparatus</b>
8525 50 10	--- Radio broad cast transmitter
8525 50 20	--- TV broad cast transmitter
8525 50 30	--- Broadcast equipment sub-system
8525 50 40	--- Communication jamming equipment
8525 50 50	--- Wireless microphone
8525 50 90	--- Other
8525 60	- <b>Transmission apparatus incorporating reception apparatus</b>
	--- <b>Two way radio communication equipment</b>
8525 60 11	---- Walkie talkie set
8525 60 12	---- Marine radio communication equipment
8525 60 13	---- Amateur radio equipment
8525 60 19	---- Other
	- <b>Other:</b>
8525 60 91	---- VSAT Terminals
8525 60 92	---- Other satellite communication equipment
8525 60 99	---- Other
8525 80	- <b>Television cameras, digital cameras and video camera recorders:</b>
8525 80 10	--- Television cameras
8525 80 20	--- Digital Cameras
8525 80 30	--- Video Camera recorders
8525 80 90	--- Other

It could be seen from above that the heading 8525 primarily deals with *transmission apparatus for radio broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus in addition to television cameras, digital cameras and video camera recorders*. The heading is divided into three major sub-headings namely (a) Transmission apparatus under heading 8525 50, (b) Transmission apparatus incorporating reception apparatus under heading 8525 60 and (c) Television cameras etc., under heading 8525 80. Further 8525 60 1 series covers two way communication equipment and 8525 60 9 series covers others which include VSAT terminals, other satellite communication equipment.

6.13 In this regard our attention is drawn towards the brief outline of the basic satellite communication set-up. The basic elements of a satellite communication system include the ground segment and the space segment. The ground segment comprises the transmitting and the receiving Earth stations together with their associated instruments, antennae, electronic circuits etc.,.





These earth stations provide access to the space segment by transmitting/receiving information to/from the satellite. The space segment comprises one or more satellites, which act as repeater stations.

6.14 The tone and tenor of the goods covered under Heading 8525 shows that the transmission apparatus (i.e. Radio broadcast transmitter, TV broadcast transmitter, wireless microphone etc under Heading 852550), transmission apparatus incorporating reception apparatus (i.e. two way radio communication equipments etc.) are apparatus and equipments based on the land. Further the entry 'VSAT Terminals' under the category of 'Others' also relates to an earth station. VSATs are Very Small Aperture Terminal (**VSAT**) and are two-way ground stations that transmit and receive data from satellites. The competing entry "Other Satellite Communication Equipment" immediately follows the VSAT entry. This throws light on the nature of the equipments covered under 'Other Satellite Communication Equipment'. Such equipments ought to be in the nature of equipments located on the ground and used to establish communication with the satellite much as VSATs. This leads one to the conclusion that these equipments shall not be located on the satellite, but on the ground and used to establish communication from the ground up with the satellite. The flow of the classification of the apparatus/equipments, thus, leads to the inference that goods not specifically covered under 852550 and 852560 but used in transmission/communication from a ground station to the satellite find classification under the specific heading 85256092. In view of the above, it is evident that the goods / equipment covered under the heading 8525 60 are primarily meant for communication with the satellite and form part of ground segment.

6.15 In the instant case the transponder is a key payload of communication satellite and hence cannot form part of ground segment but is essentially a part of space segment and more specifically the main part to the communication satellite without which the communication satellite becomes defunct. Therefore transponders located on the communication satellite are not covered under the Heading 85256092.

6.16 We now proceed to examine the Tariff Heading 8803. The transponders are stated to be parts of Communication Satellites. In this regard we find that Heading 8802, and more specifically Heading 88026000 covers Spacecraft including Satellites. Therefore Satellites are covered under Tariff Head 8802. The next Heading in the instant Chapter is 8803 and it covers "Parts of goods of heading 8801 and 8802". Therefore it now remains to be determined whether the transponders qualify to be considered as parts of Satellite and whether the same are covered under Heading 8803 or not.



6.17 Chapter 88 falls under Section XVII of the Customs Tariff. Section Note 3 to Section XVII of the said Tariff stipulates that *“References in Chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory”*.

6.18 Further we are draw reference to the Explanatory Notes of the relevant Section and Chapter. Explanatory Notes to Section XVII at *General (III) Parts & Accessories* stipulate that all the following three conditions should be satisfied, for a product to be classified as a Part under the said Section.

- (a) *They must not be excluded by the terms of Note 2 to Section XVII (see paragraph (A) below)*
- (b) *They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below)*
- (c) *They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below)*

6.19 The communication satellite transponders are not covered in the list of parts/parts and accessories appearing under Note 2. Therefore the transponders are not excluded by the terms of Note 2 to Section XVII. Therefore the first condition stands complied with.

6.20 The second condition prescribes criterion of sole or principle use (paragraph (B)) inter alia stating that *under Section Note 3, parts and accessories which are not suitable for use **solely or principally** with articles of Chapters 86 to 88 are excluded from those chapters. The effect of Note 3 is therefore that when a part or accessory can fall in one or more other sections as well as in Section XVII, its final classification is determined by its principal use. Further in case parts and accessories classifiable in two or more headings of the Section i.e. when certain parts and accessories are suitable for use on more than one type of article/product they are to be classified in the heading relating to the parts and accessories of the articles / products with which they are principally used.*

In the instant case the product “Transponder” being an integral part of the communication satellite can be used solely or principally with the communication satellite falling under Tariff heading 8802. Hence the second condition is also complied with.



6.21 The third condition lists certain parts and accessories covered more specifically elsewhere in the Nomenclature (paragraph (C)). Such parts and accessories, even if identifiable as for the articles of Section XVII, are excluded if they are covered more specifically by another heading elsewhere in the nomenclature. It is observed from the list that the transponder does not find a place. Moreover the transponders are not more specifically classified elsewhere in the Tariff. Therefore the third condition is also complied with.

6.22 On the basis of the discussions above we find that Communication Satellite Transponders are appropriately classifiable under Tariff Heading 8803, more specifically under 8803 90 00.

6.23 Transponders, being parts of communication satellites, are covered under 8803 90 00 and any leasing of such transponders would be covered under the Entry No.17 of Notification No. 11 /2017 – Central Tax (Rate) dated 28<sup>th</sup> June 2017 at the rate applicable as on the supply of like goods involving the transfer of title in goods. Admittedly the transponders are goods and any transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration is covered under the clause (viii) of Entry No. 17 of the said Notification.

6.24 The applicant seeks advance ruling on the rate of tax applicable in respect of supply of service of Leasing of Transponder and hence we considered that the applicant is into supply of Leasing of Transponder service only. Therefore it is pertinent to mention here that in case if the applicant is into any other supply, in addition to the instant supply, then the ruling in this case will not be applicable. In such cases, the supply need to be examined whether it amounts to composite supply or mixed supply and accordingly the rate of tax need to be determined.

7. In view of the foregoing, we pass the following

### **R U L I N G**


1. The service of Leasing of Satellite Transponders, covered under SAC 9973 19, falls under the Entry No.17 (viii) of Notification No. 8 / 2017 – Integrated Tax (Rate) dated 28<sup>th</sup> June 2017, as amended, and is taxable to GST at the rate of 5% IGST (i.e. 2.5% of CGST and 2.5% of KGST), as applicable on the supply of like goods (transponder – part of communication satellite) involving the transfer of title in goods, covered under 8803 90 00, in terms of Entry no. 245 of the Schedule I of the Notification No. 1 / 2017 – Integrated Tax (Rate) dated 28<sup>th</sup> June, 2017, as amended.



2. The applicant cannot levy GST @ 5% for Leasing of Satellite Transponder Services covered under SAC 997319, as per HSN Code 8803-parts goods of Heading 8802 (Satellites), from the date of commencement of the said service that has already been provided, if tax (GST) is already charged & collected under any invoice. Any excess collection of tax needs to be paid to the Government within the specified time and the mistake shall only be corrected through a debit note-credit note mechanism, if applicable and subject to such conditions and within such time as specified in section 34 of the CGST Act.

  
(Dr. M.P. Ravi Prasad)  
MEMBER  
Karnataka Advance Ruling Authority

Place : Bengaluru - 560 009  
Date : 31-03-2020

  
(Mashhood ur Rehman Farooqui)  
MEMBER  
Karnataka Advance Ruling Authority  
Bengaluru - 560 009

To,

The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Tax, Bangalore North Commissionerate, HMT Bhavan, Bengaluru.
4. The Asst. Commissioner, LGSTO-150, Bengaluru
5. Office Folder

