

18% GST leviable on Interactive Flat Panel Screens if used for data processing purposes only

The AAR, Chhattisgarh in the matter of *M/s. Savex Technologies Pvt. Ltd. [Order No. STC/AAR/06/2022 dated August 17, 2022]* has held that, Interactive Flat Panel Screens used only for data processing purposes will attract Goods and Service Tax (“GST”) rate of 18% and in case the same provides any additional function, GST at 28% will be attracted.

Facts:

M/s Savex Technologies Private Limited (“**the Applicant**”) is involved in the sales and service of electronic items. The Applicant has purchased “BenQ Interactive Flat Panel Screen” (“**the Impugned Product**”) from M/s. BenQ India Private Limited (“**the Supplier**”) dated May 19, 2022. The Supplier has classified the Impugned Product as ‘automatic data processing machines’ under tariff heading 8471 41 90 of the Customs Tariff Act, 1975 (“**the Customs Tariff Act**”) attracting GST at 18% and has also obtained Bureau of Indian Standards (“**BIS**”) certification for the same.

The Applicant has contended that the Impugned Product has an in-built central processing unit with RAM and storage, an input unit i.e. a virtual keyboard/ an infrared pen and an output unit i.e. a display and that the Impugned Product can be used identically as a regular personal computer. Hence, classifiable under tariff heading 8471 41 90 of Chapter 84 of the Customs Tariff Act, 1975 (“**the Customs Tariff Act**”).

The Applicant has sought an advance ruling regarding classification of the Impugned Product and the effective rate of GST.

Issue:

Whether the Impugned Product qualifies under tariff heading 8471 41 90 of the Customs Tariff Act?

Held:

The AAR, Chhattisgarh in **Order No. STC/AAR/06/2022 of 2022** has held as under:

- Noted that, the BIS certification of the Impugned Goods is not sufficient to conclusively hold that the classification of the same as ‘automatic data processing machine.’
- Observed that, as mentioned Chapter note 6(E) of Chapter 84 of the Customs Tariff Act, if the Impugned Product performs any additional function other than data processing, it would be disentitled from being classified under heading 8471 of the Customs Tariff Act. Further noted that there is no evidence to suggest that the Impugned Product performs any additional functions.
- Stated that, any modifications to the Impugned Product would result in the change in the rate of GST applicable owing to the functionality of such modified product.
- Held that, the Impugned Product needs to satisfy the stipulations as mentioned in the section note and chapter note of Section XVI and Chapter 84 respectively of the Customs Tariff Act. Further, it must contribute to a clearly defined function covered under any of the headings in Chapter 84 or Chapter 85, and then the same would merit classification under the heading appropriate to that function.
- Further held that, according to the Sl. 360 of Schedule – III of the **Notification No. 01/2017 – Central Tax (Rate) dated June 28, 2017** (“the Goods Rate Notification”), the Impugned Product will attract 18% GST if it is classified under tariff heading 8471. In case, the Impugned Product are classifiable under any heading other than tariff heading 8471 owing to their functionality, the same shall attract 28% GST as appended by the Goods Rate Notification.

Relevant Provisions:

Note 6 to Chapter 84 of the Customs Tariff Act (w.e.f. January 1, 2022):

"[6]. (A) For the purposes of heading 8471, the expression "automatic data processing machines" means machine capable of :

(i) storing the processing programme or programmes and at least the data immediately necessary for the execution of the programme

(ii) being freely programmed in accordance with the requirements of the user;

(iii) performing arithmetical computations specified by the user; and

(iv) executing, without human intervention, a processing programme which requires them to modify their execution, by logical decision during the processing run;

(B) Automatic data processing machines may be in the form of systems consisting of a variable number of separate units.

(C) Subject to paragraph (D) and (E), a unit is to be regarded as being a part of an automatic data processing system if it meets all of the following conditions :

(i) it is of a kind solely or principally used in an automatic data processing system;

(ii) it is connectable to the central processing unit either directly or through one or more other units; and

(iii) it is able to accept or deliver data in a form (codes or signals) which can be used by the system.

Separately presented units of an automatic data processing machine are to be classified in heading 8471.

However, keyboards, X-Y co-ordinate input devices and disk storage units which satisfy the conditions of (ii) and (iii) above, are in all cases to be classified as units of heading 8471.

(D) Heading 8471 does not cover the following when presented separately, even if they meet all of the conditions set forth in paragraph (C) :

(i) printers, copying machines, facsimile machines, whether or not combined;

(ii) apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network);

(iii) loudspeakers and microphones;

(iv) television cameras, digital cameras and video camera recorders;

(v) monitors and projectors, not incorporating television reception apparatus.

(E) Machines incorporating or working in conjunction with an automatic data processing machine and performing a specific function other than data processing are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings.”

Sl. No. 360 of Schedule – III to the Goods Rate Notification:

“Schedule III – 9%

S. No.	Chapter/ Heading/ Subheading/ Tariff item	Description of Goods
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360.	8471	<i>Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included”</i>
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