

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULING		
ACAAR No. 122/ 2013-14. (Acts Cell – II/6691/2014)		Dated 02.09.2014
Present:	1. Thiru. K.Rajaraman, I.A.S., Principal Secretary & Commissioner of Commercial Taxes. 2. Thiru. R.Vayanaperumal, Additional Commissioner (CT), (Public Relations) 3. Thiru. Mahalingam, Additional Commissioner (CT), (Revision Petitions)	
1	Name and address of the Applicant	: Tvl. Sai Baba Business Solutions, No. 7/2, Sivaprakasam Street, II nd Floor, T.Nagar, Chennai – 600 017.
2.	Registration Certificate No.	: TIN:33611582505 / CST:870500
3.	Date of application	: 24.02.2014
4.	Date of receipt of application	: 25.02.2014
5.	Clarification sought for	: Rate of Tax on "Digital Multi Function Devices"
6.	Date of Personal Hearing	: 28.05.2014
7.	Represented by	: Thiru. P.Rose Reddy, The Partner

ORDER

Tvl. Sai Baba Business Solutions, No. 7/2, Sivaprakasam Street, IInd Floor, T.Nagar, Chennai- 17 (TIN:33611582505), the registered dealers in digital Multi Function Devices, in the files of Saligramam assessment circle, Chennai, manufacturing and marketing CMRI, the Hand Held Computers, have preferred application in Form 'VV' and sought clarification under Section 48-A (1) of the TNVAT Act, 2006, read with Rule 12-A of TNVAT Rules, 2007.

2. The applicant-dealers have sought for clarification on the following:

Rate of tax on **"Digital Multi Function Devices"**

3. The applicant-dealers have sought for personal hearing. The Authority for Clarification and Advance Ruling have convened a meeting for hearing on 28.05.2014 and the applicant-dealers were informed in writing to appear before the Authority on 28.05.2014. Thiru. P.Rose Reddy, the Partner of the applicant-firm has represented the business Firm before the Authority on 28.05.2014 and placed the facts relating to the clarification requested. The Partner of the applicant-firm has reflected the grounds as given in the annexure to the application.

4.1. The applicant-firm has stated that they are importing Digital Multi Function Devices of several brands, viz., Cannon, Sharp, and Konica Minolta, which are connectible to the computers to print, scan and copy, facsimile and fax the documents. These Digital Multi Function Devices are commonly referred to be the computer Peripherals, basically designed to connect with the computers so as to perform the functions like printing, scanning, copying the documents and besides faxing the documents. The applicant-firm has furnished the brochures of the Multifunction Devices; it deals with, revealing technical specifications and also literature relating to its functional applications. The applicant-firm has also furnished along with the application the Bills of Entry for home consumption, revealing its Customs Tariff Classification under the code 8443 3100. Besides, the Partner representing the applicant-firm has placed reliance on the decisions rendered by the Hon'ble High court of Madras in the case of Canon India Limited and Others vs. State of Tamil Nadu and Others reported in 2013-VIL-53-MAD and Hon'ble Supreme Court in the case of XEROX India Limited vs. Commissioner of Customs, Mumbai reported in 2010(260) E.L.T. 161 (S.C), wherein it has been adjudged that the Multifunction Devices are peripherals to the computer system. The Partner of the applicant-firm has finally pleaded that the structural and functional features of the digital Multifunction Devices may be considered as that the Computer peripheral, classifiable as an Information Technology Product liable to VAT at the rate of 5 % under Entry 68 of Part-B of the First Schedule to the Act.

5.1. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007 and Section 14 of the CST Act, 1956. The clarification is given accordingly as under:-

5.2. Section 48-A of TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities.

5.3. The applicant-dealers have sought for clarification regarding rate of tax on

"Digital Multifunction Devices (MFD)"

6.1. The Information Technology Products are liable to VAT at the rate of 5 % as per Entry 68 in Part-B of First Schedule to the TNVAT Act, 2006. Entry 68 of Part-B of First Schedule reads as given below:

'Information Technology products as notified by the Government.'

The list of Information Technology Products have been notified by the Government vide Notification No. II (1) / CTR / (a-6) /2007 in G.O.No.3, CT & R (B1) Department dated 1st January 2007. The computer s and computer systems found place vide item No. 22 in the list of information technology products, which reads as under:

22. *Computer systems and **peripherals**, Electronic Devices.*

*(a) Computer systems, **peripherals**, and parts.*

(b) Electronic diaries.

6.2. A computer **peripheral** is any external device that provides either input or output. A computer peripheral is also defined as, "an auxiliary device, such as a **printer**, modem, or storage system, that works in conjunction with a computer." Computer peripherals allow computers to accomplish several tasks at once, such as downloading software updates while simultaneously printing a document. Peripherals take in information, allow the computer to put out information in visible and audible form, and perform other important tasks, and thus make full use of the computers. Peripherals hook up electronically via cables or wireless connection to the main computer, but are separate from the main operating functions of the computer. Peripherals expand system functionality, not necessary for basic operation and are of hardware category that includes optional system components, such as external disk drives, **scanners**, **printers**, webcams, speakers and microphones. **Printers** provide the means for the computer to output information in portable form. Whether a document, a photograph or even an image on canvas, a printer

allows for reproducing and sharing the information. **Scanners** are input devices for computers, used for visual information such as photographs or drawing, or teamed with type-reading software to import documents and translate the hard copy to text that can be edited in word processing programs.

6.3. A **MFP (Multi Function Product/ Printer/ Peripheral), multifunctional, all-in-one (AIO), or Multifunction Device (MFD)**, is also an office machine connected to a computer which incorporates the functionality of multiple devices in one, so as to have a smaller footprint in a small business or office setting or to provide centralized document management/ distribution/ production in a large-office setting. A typical MFP may act as a combination of some or all of the following devices, viz., *E-mail, Fax, Photocopier (Xerox), Printer & Scanner*. The products, viz., Digital Multi Function Devices of several brands such as Canon, Sharp, and Konica Minolta, imported and marketed by are connectible to the computers to print, scan and copy, facsimile and fax the documents. As per the details available in the brochure furnished along with the application by the applicant-firm of the imported Multifunction devices, it is found that they are predominantly usable, stands connected to the computers to perform the tasks for the performance of which the machines are so designed and programmed.

6.4. The Hon'ble Supreme Court, as rightly relied on by the applicant-firm, in the case of XEROX India Limited vs. Commissioner of Customs, Mumbai, has observed as below:

"We are satisfied that based on the nature of the functions they perform, the Multifunctional Machines would serve as input-output devices of an Automatic Data Processing Machine (ADPM)(Computer) and thus serve as unit of an ADPM."

Based on the above observation the Hon'ble Supreme Court has held as follows:

"..... the correct classification for the imported Multifunctional Machines involved in this case, namely models of XEROX Regal 5799, XEROX Work centre XD 100 and XEROX Work centre XD 155df should be under Customs Tariff Chapter Heading 84.71.60".

6.5. The Hon'ble High Court of Madras in the case of Canon India Limited and Others vs. State of Tamil Nadu and Others reported in 2013-VIL-53-MAD has answered to the question, "whether the ink or toner cartridges for computer printers or

multifunctional devices, are their parts and accessories or consumables" as given below:

*"..... that the ink jet cartridges and toner cartridges are parts and accessories of the **printer which is peripheral to a computer system** and would be covered under Entry 22 and 24 of Serial No.68 of Part-B of the First Schedule to the TNVAT Act".*

6.6. From the above, it is very much clear that the Multifunction Devices (old & used), imported and marketed by the applicant-firm are construed as being the "peripheral" to computer as within the scope and meaning of the expression, "peripherals" employed in the description under Serial No. 22 (a) in the list of Information Technology Products" notified by the Government vide Notification No. II (1) / CTR / (a-6) /2007 in G.O.No.3, CT & R (B1) Department dated 1st January 2007 or the purpose of Entry in serial No. 68 of Part-B of the First Schedule to the TNVAT Act, 2006. Therefore, the imported Multifunction Devices (old and used) of different brands and different models would attract the liability to VAT on sales inside the State at the rate of 5 % as being an Information Technology Product under Entry 68 (22) (a) of Part-B of first Schedule to the Act, 2006.

7. The clarification, based on the above observations, may therefore be that **Digital Multifunction Devices useable as peripherals to a computer system are liable to tax at the rate of 5% under Entry in Serial No. 68 of Part-B of the First Schedule read with Item 22 (a) in the List of Information Technology Products as notified by the Government vide Notification No. II (1) / CTR / (a-6) /2007 in G.O. Ms. No.3, CT & R (B1) Department dated 1st January 2007.**

Dated this, the 2nd day of September, 2014.

Sd/- R. Vayanaperumal,
Additional Commissioner (PR)

Sd/- K. Mahalingam,
Additional Commissioner (RP)

Sd/- K. Rajaraman,
Principal Secretary/
Commissioner of Commercial Taxes

To

Tvl. Sai Baba Business Solutions,
No. 7/2, Sivaprakasam Street,
IInd Floor, T.Nagar,
Chennai – 600 017.

Copy to:
The Assistant Commissioner (CT)
Nandanam Assessment Circle

6

The Joint Commissioner (CT),
Chennai (South) Division.

The Joint Commissioner (CS)

To host in the Department Website

The Principal Secretary to Government, Commercial Taxes & Registration
Department, Chennai - 9.

All Joint Commissioners (CT) including Enforcement, LTU, MOU and ISIC.
All Deputy Commissioners (CT), Territorial, Assessment and Enforcement
All Head of Offices (Assessment)

The State Representative, Sales Tax Appellate Tribunal, Chennai - 104.

The Addl. State Representative, (AB) Chennai, Madurai and Coimbatore.

The Director, CTSTI, Greams Road, Chennai - 6.

The Executive Officer, Traders Welfare Board, Chennai - 5.

The Accountant General (Audit)-II, No.44, Greams Road, Chennai - 6.

The Additional Commissioners, Deputy Commissioners, Assistant
Commissioners, Commercial Tax Officers in CCT's Office.

Personal Clerk to the CCT.

Stock File3 / Acts Cell-II / Spare - 5.

//Forwarded/By order//


Additional Commissioner (PR)