

PROCEEDINGS OF THE
AUTHORITY FOR CLARIFICATION AND ADVANCE RULING

ACAAR No.037/2014-15
Acts cell – II/20116/2014

Dated 21.10.2014

- 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. K.Mahalingam,
Additional Commissioner (CT), (Revision Petitions)

1.	Name and address of the Applicant	:	Tvl. Phoenix Medical Systems (P) Ltd., No.DP 42, SIDCO Industrial Estate, Thirumudivakkam, Chennai- 600044.
2.	Registration Certificate No.	:	TIN: 330421420474 / CST:588887
3.	Date of application	:	09.06.2014
4.	Date of receipt of application	:	20.06.2014
5.	Clarification sought for	:	Rate of tax on "Smart Cane Device."
6.	Date of Personal Hearing	:	25.08.2014
7.	Represented by	:	Thiru. V.Sashikumar Managing Director

ORDER

Tvl. Phoenix Medical Systems (P) Ltd., @ No.DP42, SIDCO Industrial Estate, Thirumudivakkam, Chennai- 600044 (TIN: 33421420474), the manufacturers of Smart Cane Device, in the files of Saligramam Assessment Circle, Chennai, 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 for "**Smart Cane Device**".

3.1. The applicant-dealers have stated that they are manufacturers and of "Smart Cane Device. The applicant-dealers have stated in the Annexure to their application, the following:

The "Smart Cane Device" is an electronic travel aid used in conjunction with a normal white cane that assists a visually impaired person in mobility and navigation. The normal white cane helps to detect the obstacles only up to knee level. Whereas the "Smart Cane Device" helps to detect obstacles above knee level up to head. The "Smart Cane Device" is not to replace the white cane but to augment its functionality. This device can detect obstacles in the 3 metre radius in outdoor and 1.8 metres radius in indoor. Thus it ensures collision free path for the visually impaired persons.

The "Smart Cane Device" uses ultrasonic sensors to detect the presence of obstacles, by emitting the ultrasonic waves and receiving the ultrasonic waves emitted on getting reflected from the obstacles. On receipt of reflected waves indicating the obstacles, the user is informed by way of vibrations. The user is to necessarily grip the sensor in the direction of upcoming obstacles.

The Smart Cane Device is fitted onto top fold of the white cane and acts as a natural extension to the white cane. It can be detached from the white cane as and when it is not necessary and re-attached to white cane using a simple latching mechanism. It cannot detect the obstacles below the knee level and therefore it is always recommended for use along with white cane. It can be used in the most familiar places without white cane. It cannot detect the change in surface such as staircases, elevated halls and the nature of obstacles. It can detect the presence of obstacles in a safe range of distance; thus enables the user to sense the obstacles in his path even before coming into contact the obstacles and to navigate around the obstacle. Moreover, it helps the user to prevent dangerous collision with others, garbage dump, etc., and thus enables to navigate faster with the sense of greater confidence. Apart from its functionality, it has an ergonomic grip, fits on the white cane and is easy & intuitive to use, particularly with a fully accessible interface.

The smart cane device is designed to CE marks to meet international standards, equipped with safe ultrasonic sensor. It is easily attached on the white cane after simple modification; but also available as mounted on the normal white cane as an integral part of that.

Besides, the applicant-dealers have also enclosed a brochure of the "Smart Cane Device" containing the literature on that. With this background, the applicant dealers have pointed out that the Smart Cane Device would fall under Serial No. (3), in the list of goods notified to be the aids and implements for differently able persons under Entry 2 of Part-B of Fourth Schedule to the Act and prayed that it may accordingly be clarified.

3.2. The applicant-dealers have further sought for personal hearing. The Authority for Clarification and Advance Ruling has convened a meeting for personal hearing on 25.08.2014. The applicant dealers were informed of the personal hearing and Thiru. V.Sashikumar, the Managing Director of the applicant-company has appeared and represented before the Authority on 25.08.2014. The Managing Director of the applicant-company has reiterated the facts regarding structural and functional aspects of the Smart Cane Device and demonstrated how the Smart Cane Device is fitted with normal white cane and could be used. Conclusively, he has claimed that it may be clarified to be exempt from VAT as an aid or implement to the differently able, especially, the visually impaired, persons under Entry 2 of Part-B of Fourth Schedule to the TNVAT Act, 2006.

4. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007, the relative entries under Parts A and B of First and Fourth Schedules to the TNVAT Act, 2006. Section 48-A provides for seeking clarification in respect of any point concerned with rate of tax for commodities. The applicant-dealers have sought for clarification regarding rate of tax on "**Smart Cane Device**" for visually impaired persons.

5.1. The Entry 2 of Part-B of Fourth Schedule to the TNVAT Act, 2006 reads as given below:

2. Aids and implements for differently abled persons, as notified by the Government.

The following goods have been notified as falling under this item by Notification No. II(1)/CTR/(a-3)/2007 in GO.Ms. No.3, CT & R (B2) Department dated 1st January 2007.

Aids for physically challenged persons

- (1) *Electrical hearing aids and hearing aid cords.*
- (2) *Simple spectacles sold to Government for distribution at Government Free Eye Camps.*
- (3) *Crutches, Wheel chairs, **support sticks of all materials**, prosthetics, artificial limbs and parts*

and three wheelers with or without motor used by physically handicapped person and cycle carriage for invalid persons.

- (4) *Intra-ocular lenses.*
- (5) *Orthotics.*

5.2. The Smart Cane Device, as revealed from the literature in the brochure and the explanatory regarding its structural and functional features in the Annexure to the Application, is an electronic device so designed for use along with the normal white cane by mounting on the top of the white cane to enhance or augment the functionality of the white cane. It is found equipped with the ultrasonic sensor which emits and receives ultrasonic waves. With the help of the ultrasonic sensor, the reflected ultrasonic waves hit on the obstacles in the close vicinity of 3 meters forward in the outdoor and 1.8 metres in the indoor and above the knee levels up to the height of head. Even the smart cane device can be used standalone in the most familiar places. Since the smart cane device cannot detect the change in surface such as staircases, elevated halls and the nature of obstacles as well as the obstacles below the knee level and can detect the presence of obstacles in a safe range of distance. Thus, the smart cane device enables the user to sense the obstacles in his path even before coming into contact the obstacles and to navigate around the obstacle. Moreover, it helps the user to prevent dangerous collision with others, garbage dumb, etc., and thus enables to navigate faster with the sense of greater confidence. Apart from its functionality, it has an ergonomic grip, fits on the white cane and is easy & intuitive to use, particularly with a fully accessible interface. However, it is recommended that it would be most advantageous only when used as attached to the normal white cane as its integral part.

5.3. The expression, "**Aids and implements for differently abled persons**" employed under the Entry 2 of Part-B of Fourth Schedule to the Act, reveals the intention of the Government that the physically challenged persons should be made benefited by way of exemption from tax on purchase of any kind of devices or implements for the purpose of their use so as to enable them to reduce their dependency on others. The description employed under Serial No.3, in the list of goods notified to be exempt under Entry 2 of Part-B of Fourth Schedule reads, "*Crutches, Wheel chairs, **support sticks of all materials, prosthetics, artificial limbs and parts** and*". As correctly pointed out by the applicant-dealers, the expression, "**and Parts**" could be treated as hind arm of this part of the said entry following the fore arm of the crutches or wheel chairs or support sticks of all materials or prosthetics or artificial limbs. Thus it is evident that the benefit of exemption has also been extended to the spares or components or the

parts of such devices or implements also. It is the settled law, the benefit out of a specific entry in the Schedules as intended by the Government should be given on the beneficiary and therefore the Entry with its description should be understood as intended and interpreted in such manner to extend the intended benefit. Since the Smart Cane Device is an integral part of the normal white cane, enhancing the functionality of the white cane with its ultrasonic sensor to enable the user to detect the obstacles and navigate easily without any collision with other persons or subjects, it would fall within the scope of the interpretation, "support sticks of all materials and parts" as within the Entry in Serial No. (3) of the list of goods notified under Entry 2 of Part-B of Fourth Schedule vide Notification No. II(1)/CTR/(a-3)/2007 in GO.Ms. No.3, CT & R (B2) Department dated 1st January 2007 and therefore liable for exemption from VAT.

6. On the above observations, it is clarified as below:

Smart Cane Device, an electronic device, is **an integral part of the normal white cane** for use by visually impaired persons, **liable to exemption**, within the scope and meaning of the expression, "**support sticks of all materials and parts**" employed in the description **under Serial No. (3), in the list of goods notified** vide Notification No. II(1)/CTR/(a-3)/2007 in GO. Ms. No.3, CT & R (B2) Department dated 01.01.2007 **under Entry 2 of Part-B of Fourth Schedule to the TNVAT Act, 2006.**

Dated this the 21st Day of October, 2014.

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

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

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

To

Tvl. Phoenix Medical Systems (P) Ltd.,
No.DP 42, SIDCO Industrial Estate,
Thirumudivakkam,
Chennai- 600 044.

Copy to:

The Assistant Commissioner (CT)
Saligramam Assessment Circle

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

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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)