

**PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND
ADVANCE RULING**

ACAAR No. 59/ 2013-14.
Acts cell – II/25613/2014

Dated 16.06.2014

- 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. Signals & Systems (India) Pvt. Limited No.15/D-19, SIPCOT IT Park, Siruseri, Chennai- 600 103.
2.	Registration Certificate No.	:	TIN:33531421335 / CST:693332
2.	Date of application	:	21.08.2013
3.	Date of receipt of application	:	21.08.2013
4.	Clarification sought for	:	Rate of Tax on CMRI – Hand Held Computer
5.	Date of Personal Hearing	:	12.03.2014
6.	Represented by	:	Dr. L.R. Rajagopal, The Chief Executive Officer

Tvl. Signals & Systems (India) Pvt. Limited @ No.15/D-19, SIPCOT IT Park, Siruseri, Chennai- 600 103 (TIN: 33531421335), the registered dealers 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 **"CMRI – Hand Held Computer"**

3. The applicant-dealers have sought for personal hearing. The Authority for Clarification and Advance Ruling have convened a meeting

for hearing on 12.03.2014 and the applicant-dealers were informed in writing to appear before the Authority on 12.03.2014. Dr.L.R.Rajagopal, the Chief Executive Officer and Authorized Representative has represented the Company before the Authority on 12.03.2014 and placed the facts relating to the clarification requested. The learned Authorized Representative for the applicant-dealers has reflected the grounds as given in the annexure to the application.

4.1. The applicant-dealers have stated that they are manufacturing Hand Held Computer (HHC) which is used by Electricity Board engineers to transfer data from electronic meters located in industry to their Billing System in their Central Office. These hand held computers are commonly referred to Common Meter Reading Instrument (CMRI) for convenient understanding by the engineers, as they are familiar with its functionality it represents, that is meter reading application. This CMRI satisfies the definition of computers as in Webopedia.com as it contains the following hardware components, viz.,

(i) memory – typically 3 MB to 16 MB – enables to store the data and programs at least temporarily;

(ii) mass storage device – the hard disc with enough space to store the program and data;

(iii) input device – the key board with 45 keys for alphabets and numbers and input ports;

(iv) output device – a display screen to have a 4 line display of 20 characters in each line and output port to connect with printers and other peripherals;

(v) central processing unit – intel 80386 processor; and

(vi) an operating system – MS-DOS 6.22 version

In a press release during 1996, it has been featured as a Palmtop Microcomputer. Though CMRI is used for specific function, it qualifies in all aspects both structurally and functionally to be a computer, it could be classified as a hand held computer. Moreover, CMRI falls under Heading 8471 of Central Excise Tariff, which is applicable to the computers and automatic data processing machines.

4.2. The dealer-applicant has furnished the brochure for the product, "CMRI-Hand Held Computer", revealing technical specifications and also literature relating to the computers and automatic data processing machines to establish the product, "CMRI-Hand Held Computer" is also a computer. The Authorized Representative of the dealer-applicant has finally pleaded that the structural and functional

features of the CMRI-Hand Held Computers may be considered as such enables the processing of meter reading to the billing system to generate e-bills; and this product may be clarified that of a computer falling under Information Technology Products liable to tax at the rate of 5 % under Entry 68 of Part-B of First Schedule to the TNVAT Act, 2006.

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

"CMRI – Hand Held Computers"

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 () Department dated 1st January 2007. The computers 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 generally means a *programmable machine*. The two principal characteristics of a computer are: it responds to a specific set of instructions in a well-defined manner and it can execute a pre-recorded list of instructions, called a program. The hand held or palmtop computers and the tablets are categorically classified by Customs Department Circular No.20 of 2013, regarding the classification of the Tablet Computers under Customs Tariff, which is harmonized with the Harmonized Commodity Description and Coding system (HS Nomenclature and Coding) with reference to the major heading 8417 with the description, "Automatic Data Processing Machines". The classification is enabled by applying the General Rules for Interpretations of the First Schedule to the Customs Tariff Act, 1975 and Note 5 (A) to the Chapter 84 for the purpose of heading 8471.

6.3. As per Note 5(A) of the Chapter 84 for the purpose of heading 8471, the expression "Data Processing Machines" means the 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. As per the details and brochure furnished by the applicant dealers, the "CMRI - Hand Held Computer" comprises of the following hardware components, viz.,

(i) memory – typically 3 MB to 16 MB – enables to store the data and programs at least temporarily;

(ii) mass storage device – the hard disc with enough space to store the program and data;

(iii) input device – the key board with 45 keys for alphabets and numbers and input ports;

(iv) output device – a display screen to have a 4 line display of 20 characters in each line and output port to connect with printers and other peripherals;

(v) central processing unit – intel 80386 processor; and

(vi) an operating system – MS-DOS 6.22 version.

CMRI has been equipped with MS-DOS operational software and programmed into perform the functions of reading the data from the electronic electricity consumption measurement meters and process the electricity consumption data to enable the main system to generate bills to the consumer households and industrial consumers. The CMRI-Hand Held Computer developed and marketed by the applicant-dealers qualifies both structurally and functionally with reference to its design and performance to be classified as an automatic data processing machine as defined under the Customs or Central Excise Tariff Heading 8471 and hence considered to be a computer. Similarly, Hand Held Computer used as a Common Meter Reading Instrument (CMRI) would also fall within the ambit of the Item 22(a) in the List of Information Technology Products notified for the purpose of Entry 68 of Part-B of First Schedule to the Act, vide above referred notification in G.O. Ms. No.3/CT & R Department dated 01.01.2007.

7. The clarification, based on the above observations, is therefore that **the Hand Held Computer used as a Common Meter**

Reading Instrument (CMRI) is liable to VAT at the rate of 5 % under Entry 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.No.3, CT & R () Department dated 1st January 2007.

Dated this the 16th day of June, 2014.

R. Vayanaperumal,
Additional Commissioner (PR)

K. Mahalingam,
Additional Commissioner (RP)

K. Rajaraman,
Principal Secretary/
Commissioner of Commercial Taxes

To
Tvl. Signals & Systems (India) Pvt. Limited
No.15/D-19, SIPCOT IT Park,
Siruseri, Chennai- 600 103.

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

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)