

AUTHORITY FOR ADVANCE RULING, TAMILNADU
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI -600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai 34
and
2. Tmt K.Latha., M.Sc., (Agri), Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

ORDER No. 35 /ARA/2021 Dated: 30.09.2021

GSTIN Number, if any / User id	33AAKPS4623H1ZN
Legal Name of Applicant	JOSHNA CHANDRESH SHAH
Trade Name of the Applicant	M/s Navbharat Imports
Registered Address / Address provided while obtaining user id	B-3,32/34, Golden Primrose Apartments, Saravana Street, T.Nagar, Chennai -600017
Details of Application	Form GST ARA - 001 Application Sl.No.19/2020 dated 30.07.2020
Concerned Officer	Centre: Chennai North Commissionerate State: T.Nagar Assessment Circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for	
A Category	Retail Business
B Description (in brief)	Traders of various types of toys like baby tricycle, kids scooter, etc
Issue/s on which advance ruling required	Classification of goods
Question(s) on which advance ruling is required	When Physical force is the primary action of a toy and if the light and the music are ancillary to it then whether it is to be classified under "Electronic Toys" or "other than Electronic Toys"

Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s Navbharat Imports, B-3,32/34, Golden Primrose Apartments, Saravana Street, T.Nagar, Chennai-600017 (hereinafter called the 'Applicant') are registered under the GST Vide GSTIN 33AAKPS4623H1ZN. They have sought Advance Ruling on the following question:

When Physical force is the primary action of a toy and if the light and the music are ancillary to it then whether it is to be classified under "Electronic Toys" or "other than Electronic Toys"

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/ each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1. The applicant has stated that they are regular importers and traders of toys from various countries, they sell these goods in India, in retail as well as through E-Commerce platforms. They also intend to manufacture these toys in India in future. The toys imported include both electronically operated toys as well as manually operated toys in which electronic parts were fitted for providing light, music and horn etc. Some of the toys and their functionalities are listed below:-

Children's Scooter SC-007: It is a scooter toy applicable for the age range between 3-5 years old in which the toddler will be placed in the seat provided and has to move with the wheels provided only by applying pressure with the

legs and handle bar shall be used to change the direction. This toy is provided with light in the handle bar and the music.

Activity Ride-on: It is a car toy applicable for the age ranging from 12 Months — 36 Months old. The toddler will be placed in the seat provided and has to be pushed by the other person for the movement and the steering provided shall be used for changing the direction. This toy is provided with electronic lights and Music in the form of buttons present in the steering.

Smart Tri-Cycle : It is a tri-cycle toy which is applicable for the age range up to 18 months. The toddler has to be placed in the seat provided and has to pedal for the movement of the tri-cycle. The handle bar provided shall be used for direction also in the handle bar there are buttons present for light, horn and Music.

Kick Scooter : It is a tri-cycle applicable for the age ranging from 3-14 years. This tri-cycle has to be driven upon standing on one leg in the tri-cycle and pushing with the other leg. The direction of the tri-cycle shall be changed by turning the handle bar. The bottom of this tri-cycle is provided with battery provision for light and music.

2.2 On interpretation of law, the applicant has stated that in so far as toys are concerned they are classified under chapter heading 95.03 (Tricycles, Scooters, Pedal Cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds.) The applicable rate of tax is 12% under Sl.No.228 of Schedule II of Notification 01/2017 CT(rate) (Toys like tricycles, scooters, pedal cars etc. (including parts and accessories thereof) [other than electronic toys] and 18% under Sl.No. 440 of Schedule III (Electronic toys like tricycles, scooters, pedal cars etc. (including parts and accessories thereof). The applicant has stated that the toys imported and sold by them are meant for engaging the kids in the activity of enjoyment and recreation rather than serious or practical purpose. It is a toy used by the child to play with. These toys are equipped with music and light facility powered by a small pencil cell. It is solely provided for attracting the children towards the toys. These toys are manually operated and remain fully operational and functional even without light, music or horn. Electronic circuits are dedicated only for the purpose of enhancing quality of entertainment through light, music, horn etc. and it does not interfere with operational features of the toy.

The applicant has placed reliance on the following case laws, wherein it was held that while classifying goods the common parlance of the goods has to be applied.

- Indo-International Industries Vs Commissioner Of Sales Tax, U.P. 1981 (8) E.L.T. 325 (S.C.)
- Ramavatar Bhudaiprasad Etc. vs. Assistant Sales Tax Officer, Akola (1961) 12 ST 286 (SC)
- Commissioner of Sales Tax, Madhya Pradesh vs. Jaswant Singh Charan Singh (1967) 19 STC 469 (SC)
- Commissioner of Central Excise vs. Connaught Plaza Restaurant (P) Ltd. (2012) 13 SCC 639 (SC).
- Ponds India Ltd. Vs. Commissioner of Trade Tax, Lucknow 2008 (5) TMI 46 - SUPREME COURT

Further, to substantiate their interpretation the applicant has relied on the decision of Hon'ble Maharashtra Tribunal in Nandi Marketing Vs. The State of Maharashtra --- VAT Appeal No.661 of 2017 --- Wherein the tribunal has held as follows:-

"16. For the purpose of coming to a correct conclusion in the instant case, if common parlance test is applied, it is crystal clear that a customer will never buy articles such as Baby Walker, Pull Push Car, Swing Car and Kick Scooter in the present case as electrical or electronic toy. When the word 'electric' or 'electronic' toy is used, it implies that the movement of the toy is powered either by electronic circuit or electricity. In the instant case, the toys are not powered by electricity or electronic circuit. For the purpose of playing with the toys, physical strength and energy of the child is required to be applied. For this simple reason, we are of the firm opinion that order passed by the Advance Ruling Authority is incorrect and the same is required to be struck down."

The applicant has stated that Sl.No.440, of the GST Tariff @18% shall apply to the goods that are those which are electronically operated toys. Electronically operated means the toys primary action shall be administered only by electrical supply. However, the toys that are imported and sold by them are those which are operated manually by applying physical force and the electronic components that are attached are ancillary to the primary function of the toys. In view of the above facts, the applicant has sought the authority to clarify the rate of GST payable for their products.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was held on 17.09.2020. Shri. S.Murugappan, the authorized representative, appeared for virtual hearing. He stated that they are seeking ruling on the classification of the four products raised in the application. He reiterated the written submissions. He undertook to furnish the fliers used for advertising the products; process of manufacture (proposed); copies of bill of entry for imports; Copies of sales invoice(local) and the decision of the Hon'ble Maharashtra Tribunal in Nandi Marketing vs State of Maharashtra relied upon by them.

3.2 The applicant vide their email dated 01.10.2020 stated that they had not made any imports so far of the items under reference in the application and procure from other importers for trading at present. They submitted the following documents:

- VAT APPEAL NO.661 OF 2017 M/s Nandi Marketing vs The State of Maharashtra
- Bill of entry No. 4394859 dated 07.08.2019 of Nandi Marketing along with import invoice covering import of Cosmic Kick Scooters of various models of COSMIC KICKSCOOTER KS-630,661,231,530
- Bill of entry No.9784180 dated 24.01.2019 of Nandi Marketing for Push Ride (Activity Ride)
- Local sales Invoice through Amazon.in Tax Invoice for supply by Navbharat Imports covering Baby Ride, Smart Tricycle and Kick Scooter
- Advertisement Brochure for Smart Tricycle, Cosmic Kick Scooter and EZ Ride

3.3 The applicant, further, vide their letter dated 19.11.2020 stated that no direct imports have been made by them,; they buy from another importer M/s Nandi Marketing and based on the request made by the applicant, a copy of bill of entry was provided to the applicant by the importer. With regard to the manufacturing process, they submitted that the proposal is for proceeding with the manufacture at a future date. Hence the details could not be furnished earlier. They have submitted the flow chart with regard to the proposed manufacture of four products.

4.1 The State Jurisdictional officer vide their letter dated 01.02.2021 has submitted their remarks as below:

“ Even though physical force is the primary action of a toy and if the light and music are ancillary to it, but the light and music are operating by the battery and assembled with the toy. Hence, it is to be classified as “Electronic toys”

4.2 The State Jurisdictional officer was asked to verify the place of business of the applicant and submit a detailed report on the products for which the ruling is sought.

4.3 The State Jurisdictional officer vide their letter dated 04.08.2021 submitted the following:

➤ The place of business of M/s. Navbharat Imports, Flat No. B3, 3rd Floor, Golden Primrose Apartments, No.32-34, Saravanan Street, T.Nagar, Chennai-17 was visited on 09.08.2021 at 10.30AM. At the time of visit the Proprietrix Tmt. Joshna Chandresh Shah was present and displayed the goods for which they have applied Advance ruling.

➤ The following children's toys which were produced were verified physically and the remarks on functioning of the toys are as below:

i. **Children's Scooter SC-007:** Full plastic body. Moves forward by manually turning the steering wheel left and right alternatively. Movement not electrically powered. 2AA size batteries are provided which powers the lights and sound.

ii. **Activity Ride-on:** Full Plastic body on metal frame. Movement by pushing and turning by manually moving the steering wheel. Movement not electrically powered. 2AA size batteries are provided for light and sound.

iii. **Smart Tricycle:** Plastic body on metal frame. Moves forward or backward by pedaling. Not electrically powered. 2AA size batteries are provided for light and sound.

iv. **Kick-Scooter:** Provided with a foot board, handle and wheels. Driven by holding one leg on the board and pushing the other leg on the floor. No batteries provided. Light glows in the wheels during movement which is said to be powered by electricity generated during movement.

It is found that all the above 4 toys/tri cycles, scooters are operated manually and the batteries provided to the items in (i) to (iii) are for lights and sounds and not for the main functionality (i.e) mobility.

4.4 On receipt of the verification report of the jurisdictional administrative authority, the applicant was extended another hearing and the virtual hearing was held on 22.09.2021. Shri. S.Murugappan, Advocate and The Authorised representative appeared for the hearing virtually. He stated that the application is to arrive at the applicable rate in respect of the 4 toys namely Children's Scooter SC 007; Activity ride-on; Smart Tri-Cycle; Kick -Scooter. He reiterated the written submissions. He stated that the feature of the toys are used by manual power which is the principal power and the electricity from the battery is used for horn, to produce music etc. and therefore these products are not electronic toys. The Authorised representative referred to the decision of Maharashtra Advance Ruling Authority, Maharashtra VAT. He was asked to explain the entry Sl.No. 4-10 of Schedule III, wherein, the rate is specified for 'Pedal Cars' also as to how their product 'Pedal Car' is different. The Authorised representative explained that the battery and circuit are only for providing music, horn and is not the principal power and these products do not have dual option of manual/electrical. The Assistant Commissioner, T-Nagar Assessment Circle, the State Jurisdictional officer appeared and stated that he undertook physical verification of the premises. He stated that out of the 4 toys 3 are provided with 2AA battery for light and sound and in one the light and sound are based on induction force. The State Jurisdictional officer stated that all the products works under physical/manual force.

5. The Central Jurisdictional authority reported that there are no pending proceedings on the issue raised by the applicant in their Advance Ruling application.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application and thereafter, submissions made at the time of the hearings and the comments/ verification report of the Jurisdictional Authorities. The applicant has sought the classification of the toys viz., 'Children's

Scooter SC-007; 'Activity Ride-on'; 'Smart Tri-Cycle'; and 'Kick Scooter', i.e., they have sought to clarify

Whether these four toys in which physical force is the primary action and have electronic circuits/parts for providing light, music, horn etc are 'electronic toys' attracting 18% GST as per Sl.No. 440 of Schedule-III of the rate Notification or 'Other than electronic toys' attracting 12% GST as per Sl.No. 228 of Schedule -II of the rate Notification.

The question raised is within the ambit of this authority as per Section 95/97(2) of GST Act and therefore the application is admitted.

7.1 We find that the applicant is a dealer of 'Toys' and they intend to manufacture toys. The toys dealt with includes electronically operated toys as well as manually operated toys in which electronic parts are fitted for providing light, music and Horn, etc. The applicant has furnished the details of the toys & the Brochure to the product along with their application and the Advertisement Fliers, Invoice copies along with submission made on 01.10.2020. Summing the above, the following table is tabulated

Product	Applicable age range	Description in Brochure	Description in Flyer	Details of Invoice Copies	Details of Physical Verification Report
Children's Scooter SC-007	3-5 years	Consists of Car Body, Screw cover, Handle Bar, Rear Wheel, Vehicle Wheel; Execution Standards: GB6675.1-2014; GB6675-2-2014; GB6675.4-	No flyer produced	Not Produced	Full plastic body. Moves forward by manually turning the steering wheel left and right alternatively. Movement not electrically powered. 2AA size batteries are provided which

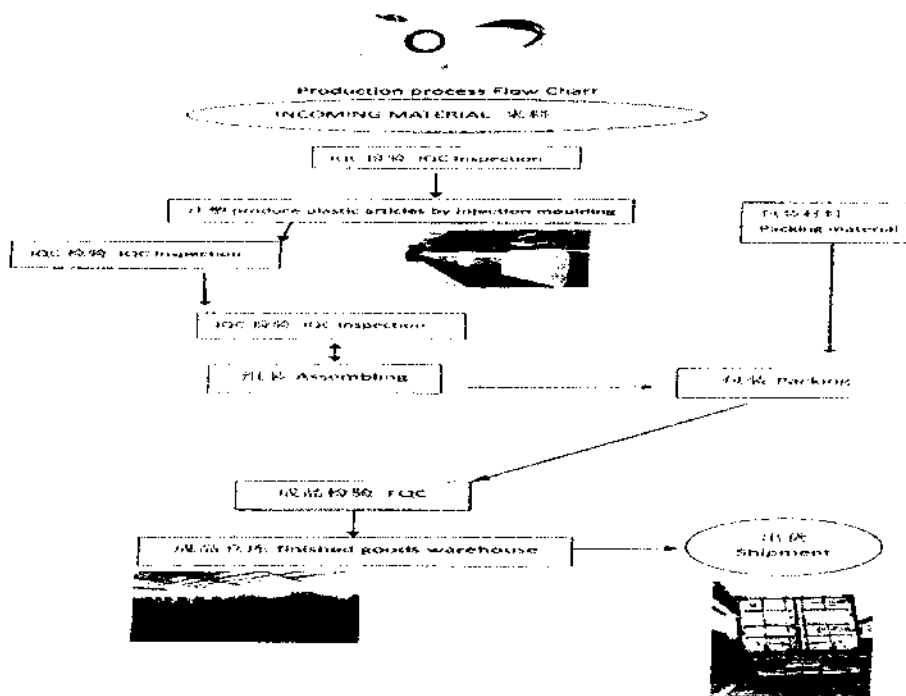
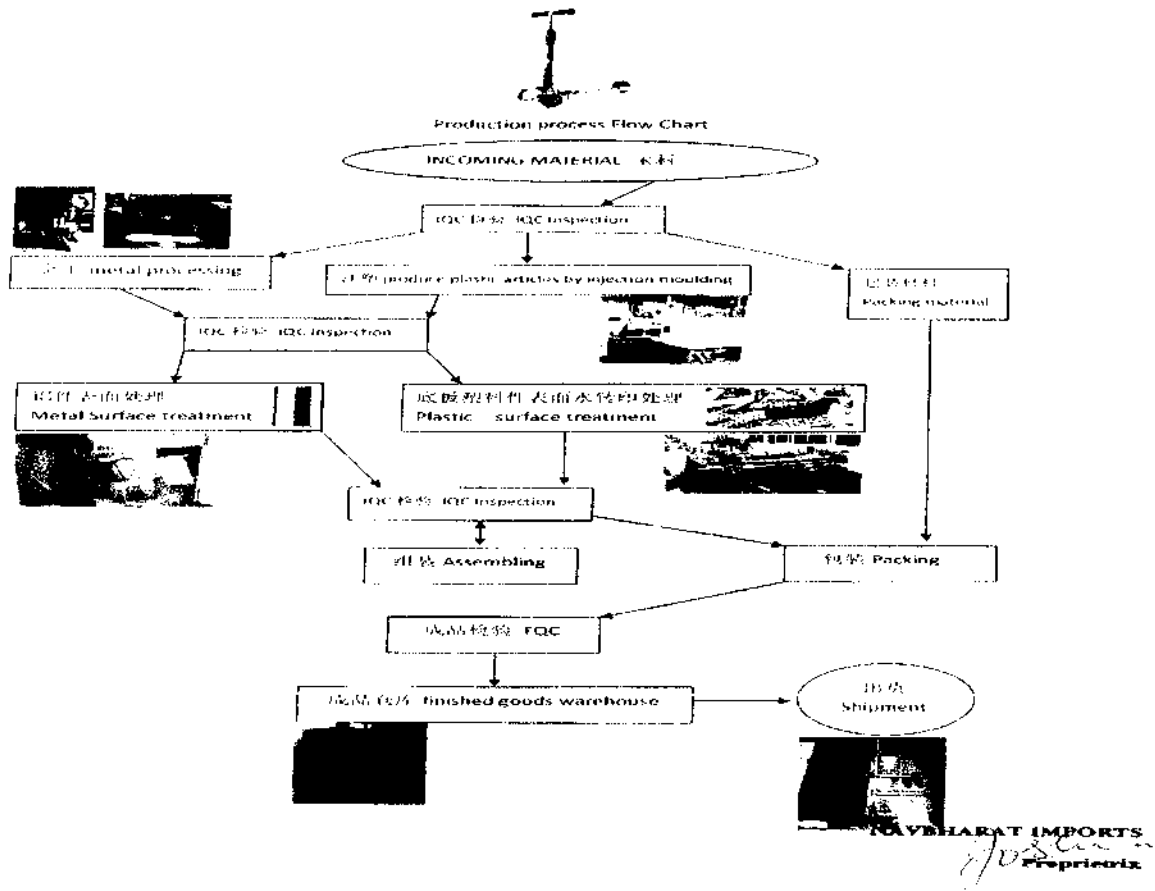
Activity Ride -on	12 - 36 Months old	2014; GB6675.3- 2014; GB19865-2005 Consists of Wheels, Steering Wheel, battery house to house 2AA battery	Beautiful cute car Design; Musical Ride-On; Comfortable Broad Seat; Helps Develop Motor Skills	IN-317 dated 09.11.2019; 'EZ' Playmates Baby Ride On JEEP Red; HSN: 9503; GST is raised @12%	powers the lights and sound. Full Plastic body on metal frame.; Movement by pushing and turning by manually moving the steering wheel. Movement not electrically powered. 2AA size batteries are provided for light and sound
Smart Tri- Cycle	Upto 18 months	Consists of fender, fork, wheels, pedal, battery house to house 2AA battery	Classic Design Smart Tricycle; Big Full Wheels For Balance And Smooth Ride; Music Button On The Handle; Broad And Comfortable Seat For Safety; Helps Develop Gross Motor Skills And Balance For The Child; Stylish And Novel Design	IN-389 dated 12.12.2018; EZ' Playmates Smart Tricycle Red/Grey; HSN:9503; GST is raised @12%	Plastic body on metal frame. Moves forward or backward by pedaling. Not electrically powered. 2AA size batteries are provided for light and sound.
Kick Scooter	3-14 Years	Consists of Handgrip,	High Quality; Multi Coloured	IN-45 dated 15.04.2019;	Provided with a foot board.

Collar Clamp, Bullet holes and marbles, Plastic Clasp, Deck, Front Wheel, Rear Brake, Music & Light Switch, Battery box to house 2 batteries	Led Flashing Light; Attractive Graphic Design Scooter; Height Adjustable Handles; Foldable And Easy To Carry	Cosmic Zoomer LED Dazzel ; HSN: 9503 GST is raised @ 12%	handle and wheels. Driven by holding one leg on the board and pushing the other leg on the floor. No batteries provided. Light glows in the wheels during movement which is said to be powered by electricity generated during movement.
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Ongoing through the above submissions, the following are observed:

- The products are meant for specific age groups;
- The light, Music sound accomplishments powered by batteries are available in the Children's scooter, Activity ride-on, Smart Tri-cycle meant for the children of age group 3 5 years, 12 to 36 months and upto 18 months respectively
- The flyer for Activity ride-on calls the toy as Beautiful cute car Design; Music ride on, Helps Develop Motor Skills
- The flyer for Smart Tri-cycle states as Classic Design Smart tri-cycle, Music button on the Handle, Helps Develop Gross Motor Skills And Balance For The Child
- All the products are classifiable under HSN 9503 and the applicant makes the supply applying the GST rate of 12%

7.2 The applicant has furnished the Flow Chart with regard to the proposed manufacture of the four products under reference, which is reproduced as under:



From the flow chart it is seen that the process of manufacture involves assembling of Electric Part along with the metal processing, plastic Injunctions, etc involved in the manufacturing process of Kick scooter and Children's Scooter.

7.3 To sum up on the facts of the case, it is seen that the applicant are trading the 'toys', viz., Children's Scooter, Smart Tri-cycle, Activity Ride-on and Kick Scooter, which they have been considering as 'Toys - Other than Electronic' and has applied the rate as specified under Sl.No. 228 of Schedule-II of the Rate Notification. These toys are advertised to help the Kids to develop the motor skills. The Classification as per the Customs Tariff Act is CTH 9503 which states as follows:

Tariff Item	Description of goods
(1)	(2)
9503	TRICYCLES, SCOOTERS, PEDAL CARS AND SIMILAR WHEELED TOYS; DOLLS' CARRIAGES; DOLLS; OTHER TOYS; REDUCED-SIZE ("SCALE") MODELS AND SIMILAR RECREATIONAL MODELS, WORKING OR NOT; PUZZLES OF ALL KINDS
9503 00	- <i>Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages, dolls; other toys, reduced-size ("scale") models and similar recreational models, working or not, puzzles of all kinds.</i>
9503 00 10	--- Of wood
9503 00 20	--- Of metal
9503 00 30	--- Of plastics
9503 00 90	--- Other

From the above, it is evident that the Tricycles, Scooters, pedal cars, like the products in hand are to be classified under CTH 9503 only and the 8 digit classification in the Tariff is based on the material it is made of and classification is not provided based on whether it is operated manually or otherwise. The rate Notification provides two different rates for the goods falling under CTH 9503 which are as follows:

Schedule II - 6%

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
228.	9503	Toys like tricycles, scooters, pedal cars etc. (including parts and accessories thereof) [other than electronic toys]

Schedule III - 9%

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
440.	9503	Electronic Toys like tricycles, scooters, pedal cars etc. (including parts and accessories thereof)

The description of goods in entry Sl.No. 228 above says 'Toys like tricycles, Scooters, pedal cars, etc' and at Sl.No. 440 above, states as 'Electronic Toys like tricycles, scooters, pedal cars, etc'. Thus, we see that both the entries speaks of Tricycles, Scooters, Pedal Cars, while one gives the rate for 'Toys', the other gives the rate for 'Electronic Toys'. "Electronic Toys" are not defined in the said Notification and also in the Customs Tariff made applicable to GST.

7.4 The applicant has relied on the decision of Hon'ble Maharashtra Tribunal in Nandi Marketing Vs the State of Maharashtra, wherein it is stated that 'When the word 'electric' or 'electronic' toy is used it implies that the movement of the toy is powered either by electronic circuit or electricity'. We find that the decision is rendered with respect to the statutory provisions of Maharashtra VAT and the applicant has not produced how the said provisions are similar to the provisions under GST. That apart, we find that the Tribunal has relied on the decision of Apex Court in the case of BPL Ltd Vs. State of Andhra Pradesh, wherein the Court has stated that

'To sum up, since the entire activity of the machine was not controlled electronically, it is held that it is not electronic equipment'

and applying the above observations the VAT Tribunal has stated that

'It is not in dispute that even if there is no battery cell, though light, horn, etc are not functional, still the toy is operational and child can play with it. Once it is held that the toys are not powered by either electricity or electronic circuit they cannot be held to be electric or electronic toys'.

We find that in the case of BPL Ltd Vs. State of Andhra Pradesh, the issue is

'whether Fully Automatic Washing Machine can be regarded as "electronic goods" as defined in the notification issued by A.P.Government for the purpose to attract a lower rate of sales tax'

and in that context, the Court has interpreted the words of notification and has pronounced the decision therein. Hon'ble Supreme Court in the case of M/s. Msc.Co.Pvt.Ltd Vs. Union of India, 1985 AIR 76, has held as follows:

"But while construing a word which occurs in a statute or a statutory instrument in the absence of any definition in that very document it must be given the same meaning which it receives in ordinary parlance or understood in the sense in which people conversant with the subject matter of the statute or statutory instrument understand it. It is hazardous to interpret a word in accordance with its definition in another statute or statutory instrument and more so when such statute or statutory instrument is not dealing with any cognate subject."

...emphasis supplied

In the case at hand, as already stated, 'Electronic Toys' are not defined in the Notification and the applicable Tariff. In such a situation, there is no merit in importing the observation/decision based on a definition specific to a Notification and applying the same generally as observed by the Apex Court in the case of M/s. MscCo mentioned above.

7.5 The applicant claims that these products are toys meant for engaging the kids in the activity of enjoyment and recreation; these toys are equipped with music and light facility powered by a small pencil cell and are provided for attracting children; these toys are manually operated and remain fully operational and functional even without light, music or horn. The applicant claims that common parlance of the goods has to be applied and accordingly, Sl.No. 140 of the above Notification shall apply to the goods that are those which are electronically operated toys, i.e., toys primary action shall be administered only by electrical supply. They have contended that these toys are operated manually by applying physical force and electronic components that are attached are ancillary to the primary function of the toys. This is the interpretation of the applicant and the applicant has not furnished any evidence to establish that these toys are understood in common parlance as only 'Toys' and not 'Electronic Toys'.

7.6 Dr.Ramanathan Iyers' Law Lexicon, defines, 'Toy' as

'Broadly defined, a "toy" is an article mainly intended for the amusement of children.. "Toys" as used in Tariff Act, includes slides designed for use in magic lanterns for the amusement of children. The term "Toys" used in the tariff act, is to receive the signification ordinarily attributed to it in common usage, unless evidence shows that it has a different trade signification;...'

Further, as given in the Brochure of the products furnished by the applicants, the required standards of execution of the products are mentioned as GB6675.1-2014 GB6675.2-2014 GB6675.4-2014 GB6675.3-2014 GB19865-2005.

GB 6675 standards are China's mandatory technical requirements for toy safety, first published by Standardisation Administration of the People's Republic of China on 13 August 1986. These standards provide for requirements on mechanical and physical properties, flammability, chemical and electric properties, hygiene requirements, radioactive performance, labelling requirements, its implementation and supervision, legal responsibilities and requirements for specific products.

GB STANDARD GB 19865--2005 prescribes standards for Electric toys - Safety. Standard GB 19865 2005 provides in its scope,

'This Standard deals with the safety of toys that have at least one function dependent on electricity.... Toys using electricity for secondary functions are within the scope of this standard.

From the above, it is deduced that the legal definition of 'Toy' applicable to 'Tariff Act' includes those designed for the amusement of children. Thus, product designed for amusement of children are toys. The safety standards prescribed for the toys requires safety standards prescribed for 'Electric Toys' to be complied with by the products even if the electricity is used for the secondary function of the 'Toy'. This shows that a toy which is designed for the amusement of children may incorporate more than one functionality.

7.7 In the case at hand, it is seen that the Children Scooter, Activity Ride-on, Smart Tri cycle and Kick Scooter, have an electronic circuit for flashing lights, playing music/sound and horn, which is either powered by the Battery housed in the toy or powered by the Induction force applied while playing with the toy. Thus all the four products consists of an electronic circuit as a part of the said 'Toy'. The toys are advertised as Musical Ride-on; having music button on the hand bar; Helps develop gross motor skills; Develops motor skills; has Multi-colored LED Flashing Lights, Attractive Graphic Design, etc. It is the fact that the electronic circuits in the Scooters, Tri-cycle and Ride-on meant for the children who are small i.e., upto 18 months, 18-36 months, 3-5 years, are powered with the battery, so that the function of the flash lights, music, sound are not dependent on the physical/ manual force. i.e., the toy, can be used for developing fine motor skills such as blinking, switching on/off of the music, etc even without applying physical force of pedaling or pushing to move the toy. In such cases, the claim that the

application of manual/physical force is the principal activity and that the light/music/sound are secondary activities do not find merit. On the other hand, it is not that the Scooters, Tri-cycle and Ride-on necessarily should have flashing lights, music/sound supplied by an exclusive electronic circuit. In the kick scooters meant for children upto the age of 14, the electronic circuit available in the product is powered by the Induction force, i.e., when physical force is applied and the kick scooter is moved, the physical force induces electrical energy which powers the electronic circuit and the LED starts flashing, thus encouraging the children while help improving the gross motor skills.

7.8 Sl.No 228 of the Schedule II of rate notification provides the rate for “Toys like tricycle, scooter, pedal cars etc.,” while Sl.no 440 of Schedule III of rate notification provides the rate for“Electronic Toys like tricycle, scooter, pedal cars etc.”. Question arises as to when does a “toy” like tricycle, scooter, pedal cars etc., become “electronic toy”?. Obviously the notification is not talking of toys which are powered by electric batteries; otherwise toys like “pedal cars”, which are human powered would not find mention under Sl.no.440. We, therefore, are of the firm opinion that the presence of electronic circuit for providing functionalities like flashing lights, playing music/sound and horn, is what that make them “electronic toys”.

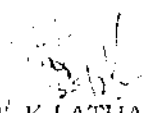
7.9 To sum up, we find that in the case at hand, the products are designed to develop gross motor skills in as much as they are designed to use the physical force and can be enjoyed by either pedaling, or by pushing with the leg and also fine motor skills like blinking, discrete tasks of switching on/off the music/light etc provided through the inbuilt electronic circuit, powered with the electrical energy (battery)/ induction force. Both the functions of the toys are targeted to develop a certain skill while amusing the child playing with it. Therefore, we hold that the products in hand are ‘Electronic Toys’ and the applicable GST Rate is as per Sl.No. 440 of Schedule-III of the Rate Notification.

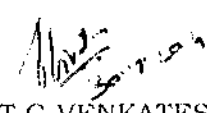
8. In view of the above, we rule as under:

Ruling

The products Children Scooter, Activity Ride-on, Smart Tri-cycle and Kick Scooter, in which physical force is the primary action and contains an in built electronic circuit, are ‘Electronic Toys’ and the applicable GST Rate

is CGST @ 9% as per Sl.No. 440 of Schedule-III of Notification No. 01/2017 C.T.(Rate) dated 28.06.2017 and SGST @ 9% as per Sl.No. 440 of Schedule III to Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017.


Smt. K.LATHA
Member (SGST)


Shri T.G.VENKATESH
Member (CGST)

To,

M/s Navbharat Imports,
B-3, 32/34, Golden Primrose Apartments,
Saravana Street,
T.Nagar, Chennai-600017

// BY REGD POST WITH ACK.DUE //

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Commissioner of GST & Central Excise, Chennai North Commissionerate.
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
4. The Assistant Commissioner (ST), T. Nagar Assessment Circle
46, Pasumpon Muthuramalingam Salai, 4th floor, Taluk Office building,
R.A Puram, Chennai- 600028.
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