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Ref.No.MAIT/PY/2473

May 12, 2022

Shri G D Lohani, IRS
Joint Secretary – TRU-1
Central Board of Indirect Taxes & Customs (CBDT)
Ministry of Finance

Sub: Clarification and duties on Telecom Products

Ref: Customs Notification 57/2017

Respected Sir,

Greetings from MAIT!

I am writing to you on behalf of MAIT (Manufacturers' Association for Information Technology), India's apex ICT Industry body. Founded in 1982, MAIT represents India's IT Hardware, Telecom manufacturers, Recyclers, PROs & Testing Laboratories. At the outset, we are thankful to your goodself for organising the Custom Commissioner's open house at short notice to address Industry concerns w.r.t ICEGATE.

We are now approaching you for another major Industry concern where Classification of Duties for Telecom Products is of concern. As you know, the majority of telecom/networking equipment such as routers, switches, access points, line cards, firewall/security appliances, network modules, etc. are classified under HSN 85176290.

Importers determine the classification and duty rate based on General Rules of Interpretation (GRI), global classification rulings, primary function of the equipment, end use/ end user, how it is marketed, any available global technical standards and whether any exemption available such as under WTO Information Technology Agreement (ITA), local customs notifications, etc. Due to continuous advancement and convergence of technologies, these products are highly configurable and have multiple features and enhancements continue. Some of these features/ enhancements could give the product its primary character, while others may just be supporting/ application characteristics.

Please refer Customs notification 57/2017 SN#20. As you can see, the categories below from b to f are not defined anywhere by the authorities and hence this leads to ambiguity in classification.

We have observed that many times FAG/PAGs are taking divergent views based on below guidelines which is causing hardship and uncertainty for importers. Some officers question duty exemption on products which have been granted exemption over last many years by other assessing groups despite submission of detailed technical justification by importers. During personal hearing, even though importer's in-house technical team provides all details and justification for determining the nature of the product, assessing officers ask importers to clear the goods provisionally and apply for advanced customs ruling or send products to testing labs to determine true technical features. In addition to uncertainty, this leads to delays in customer deliveries, many of which include critical infrastructure and public telecom network, disrupting the spirit of Digital India.

Customs Notification 57/2017

All goods other than following goods, namely:

- (a) Wrist wearable devices (commonly known as smart watches);
- (b) Optical transport equipment;
- (c) Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS);
- (d) Optical Transport Network (OTN) products;
- (e) IP Radios;
- (f) Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers;
- (g) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS[1]TP) products;
- (h) Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) products

will attract 10% BCD. Else, BCD rate is 20%.

Industry Ask: We humbly request your goodself to clarify which products qualify for duty exemption and which do not. Such a technology-based list of exemption will continue to cause ongoing confusion and is not in spirit of ease of doing business in India.

This clarification will put speculation aside and provide clarity on the assessment process.

May we also request you for a **brief meeting either today or tomorrow at a time convenient to you** to apprise you of the matter in detail.

With regards,



George Paul
CEO