

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
3rd & 4th Floor, Vanijyikar GST Bhawan, North Block Sector-19,
Atal Nagar, District-Raipur (C.G.) 492002
Email ID – gst.aar-cg@gov.in

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

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri. Rajiv Kumar Agrawal
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur (C.G)

Subject :-Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 sought by M/s Savex Techonologies Pvt. Ltd., E-7/8, Sector-5, Devendra Nagar, Raipur, Chhattisgarh. 492009, GSTIN: 22AAACS5547H2ZH under application dated 21/05/2022 regarding clarification on applicability of GST Rate on Interactive Flat Panels (IFPs)

Read :-Application dated 21/05/2022 from M/s Savex Techonologies Pvt. Ltd., E-7/8, Sector-5, Devendra Nagar, Raipur, Chhattisgarh. Pin- 492009, GSTIN: 22AAACS5547H2ZH

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/06/2022

Raipur Dated 17-08-2022

M/s Savex Techonologies Pvt. Ltd., E-7/8, Sector-5, Devendra Nagar, Raipur, Chhattisgarh. 492009, GSTIN: 22AAACS5547H2ZH [hereinafter also referred to as the applicant] has submitted application for advance ruling dated 21.5.2022 enclosing duly filled form ARA-01 (the application form for Advance Ruling) along with certain annexures and attachments U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling on the following questions –

- a) Whether Product i.e., Interactive Flat Panels (IFPs) being traded by the Applicant, qualifies under Chapter heading 84714190?



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- b) Rate of tax applicable on such goods is 9% CGST and 9% SGST in terms of Entry No. 360 of Schedule- III of Notification No. 03/2017 –Central Tax (Rate) dated 28-06-2017.

2. Facts of the case:-

2.1 M/s Savex Technologies Private Limited (herein after referred to as "Applicant") is registered under GST vide GSTIN 22AAACS5547H2ZH and is engaged in the trading of electronic items such as projectors, LCD monitors, LCD screens and its after sales service & is also the distributor of Information Communication and Technology Products and allied services. Applicant has approached this authority under Section 97(2)(a) & (b) of the CGST Act, 2017 on the following questions:-

a. Whether their product Interactive Flat Panels (IFPs) being traded by the Applicant qualifies under Chapter heading 8471 41 90?

b. Rate of tax applicable on such goods is 9% CGST & 9 % SGST in terms of Entry No. 360 to Schedule – III to Notification No. 01/2017 – Central Tax (Rate) dated 28.06.2017.

2.2 Applicant has purchased goods i.e., "BenQ Interactive Flat Panel RP7502 Black 75", from supplier namely i.e., M/s Benq India Private Limited vide Invoice Number TN-23-INV-10570 dated 19-May-2022.

2.3 That, the supplier in the present case has classified the goods under tariff item 847141 90 charging IGST @ 18%. Heading 8471 of the GST/Customs Tariff covers "automatic data processing machines and units thereof: magnetic or optical readers, machines for transcribing data on to data media in coded form and machines for processing such data, not elsewhere specified or included" and CTI 84714190 covers "Other" Automatic Data Processing Machines 'Comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined'.

3. Contentions of the applicant: -

About the Product – Interactive Flat Panels: -

3.1 The Interactive Flat Panels ("IFP/IFPs") are of different sizes i.e., 55 inches, 65 inches, 75 inches, 86 inches, and 98 inches & also of different models which may vary depending upon the size, year of manufacture & generation. Despite having so many varieties in sizes & models, the basic character of machine (IFP) remains same. Depending upon the requirement of the customer the same are sold and the features and specifications of the aforesaid goods are as follows:



- It comprises of LCD panels with an LED backlight and allow multi touch interaction. It has an in-built **Central Processing Unit of 1.5GHz** processing speed (hereinafter referred to as the "CPU"), Graphics Processing Unit Mali-651MP4 (hereinafter referred to as the "GPU"). The IFP comes with 4 GB RAM and it has an internal storage capacity of 32 GB.
- It has a pre-installed operating system i.e., Android 8.0. In addition, it has OPS Slot which can be used to download and operate other operating systems such as Windows/ Linux.
- The IFP has capability to connect with range of Wi-Fi printers. Internet can be accessed on the aforesaid goods by connecting external USB Wi-Fi dongle or by the use a LAN cable. It can also be connected to other monitors, laptops and PC's and input can be given either from the aforesaid goods to the monitor, the laptops and PC's or vice versa.
- It allows the user to download and install new programs & applications according to the requirements of the user.
- It has additional features such as multitouch interaction, handwriting recognition, freehand touch, on-screen key board typing/go typing, etc. along with applications such as calculator, stopwatch, buzzer, etc. The catalogue of the aforesaid goods explaining the above specification/features has been enclosed.

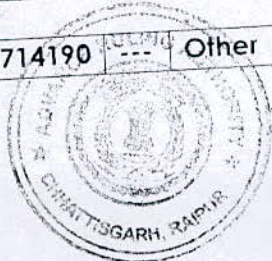
3.2 The Applicant's Supplier i.e., Benq India Private Limited has also obtained BIS Certification dated 27.11.2020 for the aforesaid goods under the description "Interactive Flat Panel (Automatic Data Processing Machines)".

3.3 Further, that the aforesaid goods are indeed ADPM and thus are classifiable under CTI 8471 41 90 for the reasons explained above and that CTI 8471 41 90 covers "Other" ADPM comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined. Relevant portion of CTH 8471 has been extracted below for reference:

8471		AUTOMATIC DATA PROCESSING MACHINES AND UNITS THEREOF; MAGNETIC OR OPTICAL READERS, MACHINES FOR TRANSCRIBING DATA ON TO DATA MEDIA IN CODED FORM AND MACHINES FOR PROCESSING SUCH DATA, NOT ELSEWHERE SPECIFIED OR INCLUDED

	-	Other automatic data processing machines:
847141	--	Comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined:

84714190	---	Other



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3.4 that Note 5(A) under Chapter 84 defines the expression 'automatic data processing machines' as any machine capable of fulfilling the conditions specified therein. The relevant Note is extracted below for easy reference;

"5. (A) For the purposes of heading 8471, the expression "automatic data processing machines" means 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;"

3.5 Further, HSN Explanatory Notes to CTH 8471 further elucidates on what constitutes an ADPM. The relevant portion of the Explanatory Notes are extracted below:

"(I) AUTOMATIC DATA PROCESSING MACHINES AND UNITS THEREOF

Data processing is the handling of information of all kinds, in pre-established logical sequences and for a specific purpose or purposes.

Automatic data processing machines are machines which, by logically interrelated operations performed in accordance with pre-established instructions (program), furnish data which can be used as such or, in some cases, serve in turn as data for other data processing operations.

This heading covers data processing machines in which the logical sequences of the operations can be changed from one job to another, and in which the operation can be automatic, that is to say with no manual intervention for the duration of the task. These machines mostly use electronic signals but may also use other technologies. They may be self-contained, all the elements required for data processing being combined in the same housing, or they may be in the form of systems consisting of a variable number of separate units.

This heading also covers separately presented constituent units of automatic data processing systems described above.

However, the heading **excludes** machines, instruments or apparatus incorporating or working in conjunction with an automatic data processing machine and



performing a specific function. Such machines, instruments or apparatus are classified in the headings appropriate to their respective functions or, failing that, in residual headings (See Part (E) of the General Explanatory Note to this Chapter).

(A) AUTOMATIC DATA PROCESSING MACHINES

The automatic data processing machines of this heading must be capable of fulfilling simultaneously the conditions laid down in Note 5 (A) to this Chapter. That is to say, they must be capable of:

- (1) Storing the processing program or programs and at least the data immediately necessary for the execution of the program;
- (2) Being freely programmed in accordance with the requirements of the user;
- (3) Performing arithmetical computations specified by the user; and
- (4) Executing, without human intervention, a processing program which requires them to modify their execution, by logical decision during the processing run.

Thus, machines which operate only on fixed programs, i.e., programs which cannot be modified by the user, are excluded even though the user may be able to choose between a number of such fixed programs.

These machines have storage capability and also stored programs which can be changed from job to job.

Automatic data processing machines process data in coded form. A code consists of a finite set of characters (binary code, standard six bit ISO code, etc.). The data input is usually automatic, by the use of data media such as magnetic tapes, or by direct reading of original documents, etc. There may also be arrangements for manual input by means of keyboards or the input may be furnished directly by certain instruments (e.g., measuring instruments). The input data are converted by the input units into signals which can be used by the machine, and stored in the storage units. Part of the data and program or programs may be temporarily stored in auxiliary storage units such as those using magnetic discs, magnetic tapes, etc. But these automatic data processing machines must have a main storage capability which



is directly accessible for the execution of a particular program and which has a capacity at least sufficient to store those parts of the processing and translating programs and the data immediately necessary for the current processing run. Automatic data processing machines may comprise in the same housing, the central processing unit, an input unit (e.g., a keyboard or a scanner) and an output unit (e.g., a visual display unit), or may consist of a number of interconnected separate units. In the latter case, the units form a "system" when it comprises at least the central processing unit, an input unit and an output unit (see Subheading Note 2 to this Chapter). The interconnections may be made by wired or wireless means.

A complete automatic data processing system must comprise, at least :

- (1) A **central processing unit** which generally incorporates the main storage, the arithmetical and logical elements and the control elements; in some cases, however, these elements may be in the form of separate units.
- (2) An **input unit** which receives input data and converts them into signals which can be processed by the machine.
- (3) An **output unit** which converts the signals provided by the machine into an intelligible form (printed text, graphs, displays, etc.) or into coded data for further use (processing, control, etc.).

Two of these units (input and output units, for example) may be combined in one single unit."

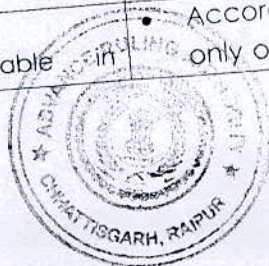
(emphasis supplied)

3.6 That, therefore, in light of the above Chapter Note and Explanatory Notes, an ADPM is any machine which can store a processing programme; is freely programmable; performs arithmetical functions; and can execute logical decisions without intervention of humans.

3.7 Further, an ADPM must have a Central Processing Unit, an input unit and an output unit either in the same housing or separate processing, input and output unit interconnected to each other.

3.8 Therefore, for the purpose of being classified under CTH 8471 as an ADPM, a product must perform all the functions as listed under Chapter Note 5 (A) to Chapter 84. Further that the aforesaid goods satisfy all the aforesaid pre-requisites/conditions for the reasons tabulated below:

Storing processing programme(s) for execution of programmes	The aforesaid goods have an internal storage capacity of 16GB to 32GB. Thus, the aforesaid goods are machines capable of storing data or programmes for the execution of programmes. Thus, they satisfy the said condition (i) to Chapter Note 5 (A).
Freely Programmable	According to HSN explanatory notes, machines which operate only on fixed programs are not ADPM. It further states that if a



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accordance with the requirement of the user	machine which operates on one or more programs and that none of the programs can be modified by a user to suit his requirements, then such machine is not an ADPM. • The aforesaid goods come with a pre-installed operating system i.e. Android 8.0. The said Android version is a customized operating system for the aforesaid goods. Further, they also have an OPS slot. With the use of the OPS Slot, in addition to the pre-existing android system, the user can also operate other systems such as Windows, Mac OS, Chrome, Ubuntu, Linux etc. • Also, the user can, with the use of either Android or other operating systems, download and install new programmes in accordance with their need and usage. Thus, the user of the aforesaid goods may program the machine as per his/her requirement. • Aforesaid goods are machines on which the user is able to load and execute a program. In other words, they are capable of executing any application/ program which is stored on its memory. Thus, they are machines which can be freely programmed in accordance with the need of the user. • Thus, they satisfy the said condition (ii) to Chapter Note 5 (A).
Performing Arithmetical Computations	The aforesaid goods are capable of performing such arithmetical computations depending on the input as provided by the user. All computers are primarily based on arithmetical computing capabilities. In fact, computer programs are nothing but logical & arithmetical instructions. It can also install applications/programs for that purpose. Thus, they satisfy the said condition (iii) to Chapter Note 5 (A).
Executing, without human intervention, a processing programme	The aforesaid goods are capable of fulfilling this condition as well. The user gives a command to the aforesaid goods and the same would be executed by the machine without any further intervention from the user. The processing programme of the aforesaid goods, i.e., the CPU along with the operating system, executes the command so given by the user by taking logical decision during the processing run.

3.9 That, in view of the above, it is evident that the aforesaid goods satisfy all the four conditions stipulated in Chapter Note 5A to Chapter 84 and therefore, qualify as ADPMs for the purpose of classification under CTH 84.71.

The aforesaid goods are nothing but an All in One Personal Computer

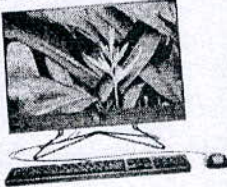


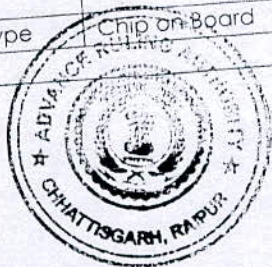
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3.10 that the features and specification of the aforesaid goods, as mentioned supra, also clearly show that the aforesaid goods satisfy the requirement of an ADPM as contemplated under Heading 84.71 of the Customs Tariff. For the ease of reference, the same are extracted below:

- Dual Core A73 + Dual Core A53/1.5 GHz (HV811) Processor;
- Input unit (virtual keyboard/infra-red pen), output unit (display) & 4GB RAM along with 32GB Storage;
- Android Operating System along with OPS slot which supports Ubuntu 14.04 or above, Windows 7/8/8.1/10, Mac OS X 10.12 or above;
- The machine can be programmed or modified in the manner in which the user wants;
- That the aforesaid goods can be used identically as a regular personal computer;
- The touch screen display feature makes it possible for the user to work with the machine in close proximity.

3.11 In fact, the specification/features are strikingly similar to another form of ADPM, viz., all-in-one Personal Computer ("All in One PCs"). The following table captures the similarity between the aforesaid goods and two other models of All in One PCs which are available and known in the market as such:

Specifications	RP7502	HP All in One PC (HP 200 Pro G4 22)	Lenovo All in One PC (Idea Centre AIO)
			
System Features			
Operating System	Android 8.0 [Compatible with Windows OS/Chrome OS/iOS/ubuntu]	Windows 10 Pro	Windows 10 Pro
Processor Name	Dual core A73+Dual core A53/ 1.5GHz (HV811)	Intel Core i5-10210 (1.6 GHz)	Intel Core i5-10400 (3.6 GHz)
Memory		Memory	
Memory (RAM)	4GB	8 GB DDR4	8 GB DDR4
Storage		Storage	
Storage	32GB	1 TB 7200 rpm SATA HDD	512 GB SSD
Storage Type	Chip on Board	HDD	SSD
Display and Graphics			



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Display	75 inch	21.5 Inch	23.8 inch
Graphics	Mali-G51MP4	Intel UHD Graphics	Integrated Intel UHD Graphics
Sound			
Audio	Chip on Board	Realtek ALC3247	Dolby Audio Premium
Input Devices			
Keyboard	USB compatible	HP USB wired keyboard	Wireless Keyboard
Pointing Device	USB Compatible	HP USB wired Optical Mouse	Wireless Mouse
I/O Ports			
Ports	1 Power connector; 1 Mic in; 3 Type A HDMI 2.0; 3 USB 2.0; 2 USB 3.0; 1 Type C; 1 RS232	1 HDMI-out 1.4; 1 headphone/microphone combo; 1 power connector; 1 RJ-45; 2 USB 2.0; 2 USB 3.2 Gen 1	1 HDMI-out; 1 headphone/microphone combo; 1 power connector; 1 RJ-45; 2 USB 2.0; 2 USB 3.2 Gen 1

3.12 that the above comparison clearly shows that the aforesaid goods have all the characteristics/ features of an All in One PCs and for this reason also, they qualify to be automatic data processing machines.

3.13 Further, with respect to impugned goods, the Applicant enclosed the sample copies of bills of entry filed by the supplier i.e. Benq India Private Limited for importing the said goods from outside India under which the Custom Authorities as well are classifying & clearing the impugned goods under 8471 41 90. Sample copies of few of the latest bill of entries enclosed.

Without prejudice, the Aforesaid Goods are similar to Tablet computer which have been recognized by the WCO as ADPM classifiable under CTH 8471

3.14 that the aforesaid goods are also similar to Tablet Computers with respect to its features and specifications. The Tablet Computers have been classified by the World Customs Organization ('WCO') as an ADPM classifiable under Tariff Sub-Heading 8471 30 and consequently, even the aforesaid goods deserve to be treated as ADPM.

3.15 The features of the aforesaid goods have been tabulated alongside the features of a tablet in order to show the similarity between the two products:

FEATURES	TABLET COMPUTERS AS PER CIRCULAR R/W WCO RULING	RP7502
Display	Touch Sensitive Display- 7 inches	75" 4K UHD with Fine + IR touch technology
Central processing unit (CPU) to process data & Processor	Yes. ARM Cortex-A8	Yes. Dual core A73+Dual core A53/ 1.5GHz (HV811)
GPU		Mali- G51MP4
Random-access memory (RAM)	0.512 GB RAM	4 GB RAM
WiFi	Yes. 802.11a/b/g/n	No.
Cellular Connectivity	Yes	No



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Storage	16 / 32 GB Internal Storage-Expandable using SD card	32 GB Internal Storage
Weight	400 gms	61 KG
Battery	5100 mAh. Rechargeable. Battery Life- 9-10 hours	Power Supply AC100 to 240V, 50 to 60 Hz
Processing Functions	It can process data, execute programs, and connect to the Internet via a wireless network in order to, for example, exchange and manage e-mails, exchange or download files, download software applications, conduct video or VoIP ("Voice over Internet Protocol") communications, etc.	It can process data, execute programs, and connect to the Internet via a wireless network in order to, for example, exchange and manage e-mails, exchange or download files, download software applications, conduct video, etc.
Designed as a replacement for Laptop/Computer	Yes	Yes
Recording and reproducing sound	Can reproduce and record sound	Can reproduce and record sound
Using voice commands to control device (e.g., to send messages, take photos, set an alarm, check weather or schedules)	Primarily operated by using its touch screen. Can also be operated by Voice Commands.	Primarily operated by using its touch screen. Can also be operated by Voice Commands.
Making and receiving calls	Allows user to make/accept/decline calls, but not intended to be a substitute for a mobile phone to make voice calls	Does not have a SIM Slot. Allows user to make calls over internet through LAN port.
Ability to connect to internet and transmit data	Capable of connecting to the Internet via a wireless network in order to, for example, exchange and manage e-mails, exchange or download files, download software applications, conduct video or VoIP ("Voice over Internet Protocol") communications, etc.	Capable of transmitting data on realtime basis, download files, download software applications, conduct video calls.

3.16 that the specifications/ features of the aforesaid goods are very much similar to that of a Tablet and that the World Customs Organization's (WCO) Harmonized System Committee in the 49th session (March 2012), also considered certain machines commercially referred to as "tablet computers", featuring Wi-Fi and Bluetooth connectivity only, and classified them also under Tariff Sub-Heading 8471 30.

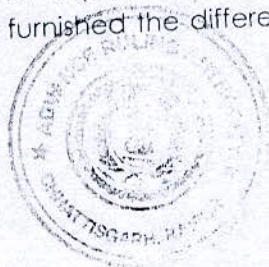


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3.17 Further, Circular No. 20/2013-Customs dated 14.05.2013 issued by the Central Board of Customs & Excise, India clarified that the function as an Automatic Data Processing Machine (ADP) is the main function of a Tablet and therefore, they are classifiable under CTH 84.71. The relevant portion of the Circular has been extracted below for reference:

4. It is seen that "Tablet Computers" can be programmed in a variety of ways thereby qualifying as machines capable of being freely programmed in accordance with the requirements of the user, as required by Note 5 (A) (ii) to Chapter 84. It is also held that the products at issue have essentially the same functionality as a laptop. The function as an Automatic Data Processing Machine (ADP) is the main function of the product, while other functionalities of said machines are not different from the auxiliary functions that could be seen on any computer, such as desktop or laptop computers. The mobile phone calling function could be provided by the products only as a supplementary function because it could not be activated without running an operating system of the "Tablet Computer", and in order to use the function a headset had to be used. The size of such machines when exceeding the dimensions mentioned in Note 8 to Chapter 84 relating to the "pocket-size" machines of heading 8470, is too big to be used principally for making voice calls. The tablet computers are not intended to be a substitute for a mobile phone to make voice calls, but, according to its main technical features is designed as a substitute for laptops. The difference between a "Smartphone" and a "Tablet Computer", is not based on whether the product has a voice calling function or not, but on the principal features that a producer has intended for the device when designing and developing it.

3.18 Further, with respect to aforesaid goods being different from television set, the applicant furnished the differentiation between the goods under question & TV: -



Features	TV	IFP
Computing Power	No	YES, 1.5 GhZ or Higher Processor
Internal Storage	No	32 GB or Higher SOC Internal Storage
Touch Interactivity	No	YES, IR Technology or Pcap technology based
White Boarding Software	No	IN built for use in Calsrooms and Meeting rooms, Digital format Saving option
Emailing from Device	No	YES, Inbuilt with AMS and Account login support
Toughened Glass	No	YES, 3.2 to 4mm thick toughened Glass for optimum us ein classrooms and meeting rooms
Ports - HDMI Out	No	YES, HDMI Out inbuilt which can connecte dthru a cable for cascading what is on the IFP in one unit to another unit or a projector
Brightness	100-200 nits	300-500 nits
Operating System Inbuilt	No	Custom Android Operating System inbuilt
Sizes	Normally upto 55inches	Ranges from 65", 75", 86" and 98" diagonal szies
Eye Care Utility	No	TuV Certified Low Blue Light and Flicker Free Technology

3.19 That, in light of the above it is evident that the aforesaid goods are nothing but ADPM and correctly classifiable under CTH 8471.

Bureau of Indian Standards considers the goods as ADPM as well

3.20 that the Bureau of Indian Standards has issued BIS Certification dated 27.11.2020 for the aforesaid goods under the description "Interactive Flat Panel (Automatic Data Processing Machines)". Therein, the certificate has been issued for the aforesaid goods under the category of "Automatic Data Processing Machines".

3.21 Therefore, the aforesaid goods are in fact ADPM and classifiable under CTH 84.71.

Chapter Note 5(E) to Chapter 84 is not applicable

3.22 Chapter Note 5(E) to Chapter 84 provides that machines incorporating or working in conjunction with an automatic data processing machine and **performing a specific function other than data processing** are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings.

3.23 that the aforesaid goods perform the specific function of data processing. In the present case, the aforesaid goods can perform the functions of a laptop or a computer. It is not a machine performing any function other than data processing.

3.24 The aforesaid goods perform an array of functions beyond mere display of content. Thus, they cannot be said to perform function which is other than data processing. In view of the above, Note 5(E) is not attracted to the aforesaid goods and the aforesaid goods are correctly classifiable as ADPMs under CTH 84.71.



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- 3.25 In view of the same, the applicant has filed the instant application seeking ruling of this Hon'ble Authority on the following: -
- 3.26 The goods merit Classification as ADPM's under Chapter heading 8471.
- 3.27 The goods qualify in Entry 360 to Schedule - III of Notification No. 01 - 2017 & its rate of tax on supply is 9% CGST & 9% SGST?

4. Personal Hearing:-

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant in person, as requested by them and accordingly, Shr. Jitendra Singh Khanuja, C.A. & authorized representative, of the applicant appeared before us for hearing on 10.08.2022 and reiterated their contention.

5. The legal position, analysis and discussion: -

At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

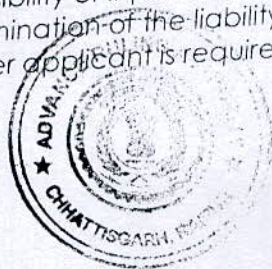
6. Section 96 of CGST Act, 2017, Authority for advance ruling, stipulates as under: -

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Section 97(2) of CGST Act, 2017 stipulates that: -

The question, on which the advance ruling is sought under this Act, shall be in respect of—

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;



(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Further section 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: -The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only -

- a. On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
- b. On the concerned officer or the jurisdictional officer in respect of the applicant.

Thus, in view of the above section 103 of CGST Act, 2017, the ruling so sought by the Applicant would be binding only on the Applicant and on the concerned officer or the jurisdictional officer as stipulated above.

7. We have gone through the submissions made by the applicant and have examined the contentions raised by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2)(a) and Section 97(2) (b) of the CGST Act 2017 being a matter related to classification of goods and applicability of a notification issued under the provisions of this Act. We therefore, admit the application for consideration on merits.

8. Now we proceed to decide the issues raised by the applicant on merits. On perusal of the Tax Invoice issued by BenQ India Pvt. Ltd. Tamil Nadu GSTIN: 33AACCA6005CIZ1 to the applicant M/s Savex Technologies Pvt. Ltd. Raipur (C.G.) GSTIN: 22AAACS5547H2ZH it is seen that the same depicts the product name as BenQ INTERACTIVE FLAT PANEL RE 6501 BLACK 65 IN, HSN Code as 84714190 with IGST charged @18%. The Bureau of Indian Standards has issued BIS certification granted license documents to the BenQ India Pvt.Ltd., mentioning the product name as INTERACTIVE FLAT PANEL (Automatic Data Processing Machine) vide Document No. R-41151858 dated 6.2.2020 and document dated 17.2.2020 (inclusion document). Besides this the bill of entry summary issued by the Indian Customs, Chennai Port to the BenQ India Pvt. Ltd. Tamil Nadu (Importer) mentions the goods description as BENQ-9H,F6YTK.DN4-(BIS REG R-41164488) REGULATORY MODEL-RE6501 BENQ INTERACTIVE FLAT PANEL RE6501WITH (ADPM)3GB RAM, A with HSN Code 84714190.

9. Thus, based on the above and the comparative details furnished by the applicant before this authority, it has been the contention of the applicant that their product namely BenQ-Interactive Flat Panel RP7502 Black 75", received from supplier namely i.e., M/s Benq India Private Limited merit classification under chapter heading



8471 leviable to 9% CGST and 9% SGST as stipulated under entry no. 360 to Schedule-III of Notification no. 01/2017-CT(Rgte) dated 28.6.2017.

10. As regards the classification of goods under GST regime, the Central government on recommendation of GST council has notified the rate of applicable tax payable on goods vide notification no. 01/2017 - CT (Rate) / Integrated tax (rate) dated 28/06/2017. It may be noted that notifications regarding central tax (CGST) are issued by central government and notification regarding state tax (SGST) are issued by respective state government have identical provisions. The said notifications are subject to amendments from time to time by the government. The schedules in notifications issued have reference to chapter, heading, sub heading and tariff items.

10.1 Explanation at the end of above notification inter alia provides that "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, subheading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and further that the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification. Therefore, it is implied by virtue of above explanation that the classification of goods has to be done in accordance with Customs Tariff Act 1975. However, once the heading/tariff item is arrived at, the rate of GST would be governed by above notification. The Customs Tariff Act 1975 is based on HSN. The Customs Tariff Act 1975 is amended from time to time so as to align the same with HSN Tariff developed by world customs organization.

10.2 In the aforesaid context, it is seen that Section XVI covers chapter 84 as under: -

SECTION XVI MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES.

Further, Section note at clause 4 to above chapter 84 stipulates that

"4. Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function".

10.3 Similarly, for the sake of brevity, Chapter note 5 to chapter 84 is reproduced hereunder: -

5.(A) For the purposes of heading 8471, the expression "automatic data processing machine" means 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.

(B) Automatic data processing machines may be in the form of systems consisting of a variable number of separate units.

(C) Subject to paragraphs (D) and (E), a unit is to be regarded as being part of an automatic data processing system if it meets all of the following conditions: (i) it is of a kind solely or principally used in an automatic data processing system; (ii) it is connectable to the central processing unit either directly or through one or more other units; and (iii) it is able to accept or deliver data in a form (codes or signals) which can be used by the system. Separately presented units of an automatic data processing machine are to be classified in heading 8471. However, keyboards, X-Y co-ordinate input devices and disk storage units which satisfy the conditions of (ii) and (iii) above, are in all cases to be classified as units of heading 8471.

(D) Heading 8471 does not cover the following when presented separately, even if they meet all of the conditions set forth in paragraph (C): (i) printers, copying machines, facsimile machines, whether or not combined; (ii) apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network); (iii) loudspeakers and microphones; (iv) television cameras, digital cameras and video camera recorders; (v) monitors and projectors, not incorporating television reception apparatus.

(E) Machines incorporating or working in conjunction with an automatic data processing machine and performing a specific function other than data processing are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings

10.4 Thus from the above it follows that the much important aspect of classification of goods under scheme as envisaged under GST has to be done in accordance with Customs Tariff Act 1975, which in turn is based on Harmonised System of Nomenclature popularly known as HSN. The rules of interpretation, section notes and chapter notes as specified under Customs Tariff Act 1975 are also applicable for classification of Goods under GST. Further, once an item is classified in accordance with Customs Tariff Act 1975, the rate of tax applicable would be arrived at on the basis of notifications issued under GST which in this case is Notification no. 01/2017-CT(Rate) dated 28.6.2017.

11. For ease of reference, the relevant portion of GST Notification No. 1/2017-Central Tax (Rate) dated 28 June, 2017 is reproduced here under: -

GOVERNMENT OF
INDIA MINISTRY
OFFINANCE

(Department of Revenue)

Page 16 of 24



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Notification No. 1/2017-Central Tax Rate)

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendation of the Council, hereby notifies the rate of the central tax of-

- (i) 2.5 percent. in respect of goods specified in Schedule I,
- (ii) 6 percent. in respect of goods specified in Schedule II,
- (iii) 9 percent. in respect of goods specified in Schedule III,
- (iv) 14 percent. in respect of goods specified in Schedule IV,
- (v) 1.5 percent. in respect of goods specified in Schedule V, and
- (vi) 0.125 percent. in respect of goods specified in Schedule VI

appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on intra-

State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules.

Schedule I - 2.5%

S. No.	Chapter /Heading /Sub-heading/ Tariff item	Description of Goods
(1)	(2)	(3)
1.	0202, 0203, 0204, 0205, 0206, 0207, 0208, 0209, 0210	All goods [other than fresh or chilled] and put up in unit container and, - (a).... bearing a registered brand name; or (b).... bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE]
2.	[0303, 0304, 0305, 0306, 0307, 0308, 0309]	All goods [other than fresh or chilled] and put up in unit container and, - (a).... bearing a registered brand name; or (b).... bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE]
3.	----	-----
4.	-----	-----



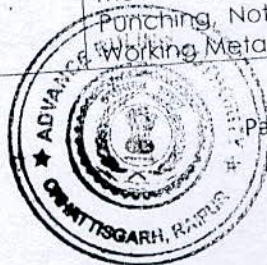
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5.	-----	-----
6.	-----	-----
7.	0401	Ultra High Temperature (UHT) milk
8.	0402	Milk and cream, concentrated or containing added sugar or other sweetening matter, including skimmed milk powder, milk food for babies [other than condensed milk]

Schedule II - 6 %

Schedule III - 9%

S. No.	Chapter /Heading / Sub-heading/Tariff Item	Description of Goods
(1)	(2)	(3)
		L
348.	8458	Lathes (including turning centres) for removing metal
349.	8459	Machine-tools (including way-type unit head machines) for drilling, boring, milling, threading or tapping by removing metal, other than lathes (including turning centres) of heading 8458
350.	8460	Machine-tools for deburring, sharpening, grinding, honing, lapping, polishing or otherwise finishing metal, or cermets by means of grinding stones, abrasives or polishing products, other than gear cutting, gear grinding or gear finishing machines of heading 8461
351.	8461	Machine-tools for planing, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine-tools working by removing metal or cermets, not elsewhere specified or included
352.	8462	[Machine-Tools (Including Presses) For Working Metal by Forging, Hammering or Die Forging (Excluding Rolling Mills); Machine-Tools (Including Presses, Slitting Lines and Cut-To-Length Lines) For Working Metal by Bending, Folding, Straightening, Flattening, Shearing, Punching, Notching or Nibbling (Excluding Draw-Benches); Presses for Working Metal or Metal Carbides, Not Specified Above]



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353.	8463	Other machine-tools for working metal, or cermets, without removing Material
354.	8464	Machine-tool for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass
355.	8465	Machine-tools (including machines for nailing, stapling, glueing or otherwise assembling) for working wood, cork, bone, hard rubber, hard plastics or similar hard materials
356.	8466	Parts and accessories suitable for use solely or principally with the machines of headings 8456 to 8465 including work or tool holders, self-opening dieheads, dividing heads and other special attachments for the machines; tool holders for any type of tool, for working in the hand
357.	8467	Tools for working in the hand, pneumatic, hydraulic or with self-contained electric or non-electric motor
358.	8468	Machinery and apparatus for soldering, brazing or welding, whether or not capable of cutting, other than those of heading 8512.5; gas-operated surface tempering machines and appliances
359.	8470	Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions; accounting machines, postage-franking machines, ticket-issuing machines and similar machines, incorporating a calculating device; cash registers
360.	8471	Automatic data processing machines and units thereof; magnetic or optical readers, for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included machines for processing such
361.	8472	[Other office machines (for example, hectograph or stencil duplicating machines, addressing machines, automatic banknote dispensers, coin sorting machines, coin counting or wrapping machines, pencil sharpening machines, perforating or stapling machines) (other than Braille typewriters, electric or non-electric)]

Schedule IV – 14%

S. No.	Chapter / Heading / Subheading / Tariff item	Description of Goods
(1)	(2)	(3)
154.	8528	Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing



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		apparatus [other than computer monitors not exceeding [32 inches], set top box for television and Television set (including LCD and LED television) of screen size not exceeding [32 inches]]
155.		

Schedule V – 1.5%

Schedule VI – 0.125%

11.1 To cite an example, it is observed that "Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing apparatus [other than computer monitors not exceeding [32 inches], set top box for television and Television set (including LCD and LED television) of screen size not exceeding [32 inches]]" falling under Chapter / Heading / Sub-heading / Tariff item 8528 finds mention at Sr. no. 154 to Schedule IV appended to Notification no. 1/2017 CT(Rate) dated 28.6.2017 attracting GST @ 14% + 14%(CGST+SGST).

11.2 The applicant in their defense, aiming to bring home their point of contention that the impugned product is Automatic Data Processing machine classifiable under CH 8471 have compared the features and specifications of impugned goods with that of All-in-one personal computer and Tablet computer. The applicant has also tried to distinguish the impugned good from a Television by comparing the features. It has also been their contention that BIS certification has been done under the description "Interactive Flat panel (Automatic Data Processing Machines). This comparison of features with that of personal computer or Tablet computer to claim classification of the impugned goods under CH 8471 hardly comes to their rescue, in as much as CH 8471

pertains to Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included. Thus, it becomes all the more important to ascertain as to whether the impugned BenQ Interactive Flat Panel RP7502 Black 75 on being supplied / traded by the applicant downstream, owing to it being programmed in a variety of ways thereby qualifying as machines capable of being freely programmed in accordance with the requirements of the user, has changed in functionality or not. The machine being Automatic data processing machine, alone would not entitle it being classifiable under CH 8471, rather for it to fall under the said CH 8471 it must not be specified elsewhere or included. Thus,



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the certification of the impugned goods as Automatic data processing machine by BIS in itself is not sufficient to conclusively hold the classification of the impugned goods under CH 8471. To conclusively arrive at a decision regarding the eligibility or otherwise of the claimed classification, it is of paramount importance to ascertain whether each such machine is a machine performing any function other than data processing.

11.3 Thus, irrespective of the fact that the impugned goods received by the applicant from supplier namely i.e., M/s Benq India Private Limited [who had classified the said goods under tariff Item 847141 90 charging IGST @ 18%] subsequent to its import which the applicant now intends to trade / supply in the market downstream, would merit classification under Heading 8471 only if the conditions as stipulated and discussed supra are adhered to. The rules of interpretation for classification, section notes and chapter notes as specified under Customs Tariff Act 1975 are applicable for classification of the impugned goods. It would not be out of place to mention here that chapter note 5 (E) of chapter 84 stipulates that machine performing a specific function other than data processing merits classification in appropriate headings / residual headings. Thus, any additional functionality other than data processing would disentitle the impugned goods from getting classified under heading 8471 *ibid*. Besides this, the technical information and parameters of the impugned goods intended to be traded by the applicant after its receipt from their supplier, consequent upon its import and supply by the supplier to the applicant is of much relevance for arriving at the appropriate classification of the same. Further this authority would like to mention here that although, there is nothing before us to suggest that the technology, *per se*, used in the impugned goods imported and thereafter supplied to the applicant, intended to be traded subsequently by the applicant perform any additional function such as receiving the composite video signals or convert input through VGA into an input for a video monitor etc., nevertheless the classification of the goods in question under heading 8471 claimed by the applicant would depend upon the functionality of the same as also the rules of interpretation, section notes and chapter notes as specified and discussed herein above.

11.4 The applicant during the course of Personal hearing before us had referred to Customs AAR ruling in the case of M/s. Audio Distribution House Pvt. Ltd. by the Customs Authority for Advance Rulings, Mumbai and AAR ruling in the case of M/s Next Education India (P.) Ltd., passed by AAR, Telangana. In this regard, it has already been discussed that classification of goods which in the impugned case in hand is dependent on the functionality of the machine *per se* cannot be generalized and ascertainment of classification of goods is much dependent on the circumstances and adherence to the conditions stipulated. Further as already discussed in the preceding para, section 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: -

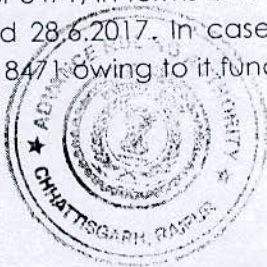


The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only –

- a. On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
- b. On the concerned officer or the jurisdictional officer in respect of the applicant.

Thus, in view of the above section 103 of CGST Act, 2017, the ruling given in the cited case would be binding only on the Applicant and on the concerned officer or the jurisdictional officer as stipulated above

12. In view of the above discussions we are of the considered view that it would be appropriate to conclude that BenQ Interactive Flat Panel RP7502 Black 75", imported and subsequently supplied to the applicant by their supplier namely i.e., M/s Benq India Private Limited would merit classification under chapter heading 8471 only when the stipulations as mentioned in the Section note and chapter notestands complied. In case the impugned machine consisting of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the same as a whole would merit classification in the heading appropriate to that function, as stipulated in Section note 4 to Section XVI supra. Similarly, chapter note 5(E) to chapter 84 supra stipulates that Machines incorporating or working in conjunction with an automatic data processing machine and performing a specific function other than data processing are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings. It is also observed that chapter note 5(D) to chapter 84 in very unambiguous terms stipulates that Heading 8471 does not cover monitors and projectors, not incorporating television reception apparatus when presented separately, even if they meet all of the conditions set forth in paragraph (C). Needless to point out here that any subsequent modifications / additions / programming in the impugned goods technologically or otherwise before the intended supply/trade to be undertaken by the applicant, would alter the classification of the same based on the functionality of the machine, therein resulting in change in the applicable rate of GST. The rate of tax applicable on such goods depends upon the classification of the same and the effective rates of the same is specified in schedules appended to Notification no. 01/2017-CT(Rate) dated 28.6.2017 and subject to the adherence of stipulations as discussed above, the applicable Rate of tax is 9% CGST + 9% SGST on goods classifiable under 8471, in terms of entry no. 360 to Schedule-III to Notification no. 01/2017-CT(Rate) dated 28.6.2017. In case the goods in question are classifiable under heading other than 8471 owing to its functionality as discussed, the said goods will attract rate of tax as



specified in the schedules appended to Notification no. 01/2017-CT(Rate) dated 28.6.2017 on such supplies on the basis of description specified therein.

Having regard to the facts and circumstances of the case and discussions as above, we pass the following order: -

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/06/2022

Raipur Dated 17-08-2022

The ruling so sought by M/s Savex Technologies Pvt. Ltd., E-7/8, Sector-5, Devendra Nagar, Raipur, Chhattisgarh GSTIN:22AAACS5547H2ZH the applicant is accordingly answered as under: -

RULING

- (a) For the product BenQ Interactive Flat Panel RP7502 Black 75" being supplied / traded by the applicant to qualify under chapter heading 84714190, it must necessarily satisfy the stipulations as mentioned in the Section note and chapter note of Section XVI and Chapter 84 respectively, as discussed herein above. In case the impugned machine consisting of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the same as a whole would merit classification in the heading appropriate to that function.
- (b) The rate of tax applicable on such goods depends upon the classification of the same and the effective rates of the same is specified in schedules appended to Notification no. 01/2017-CT(Rate) dated 28.6.2017. Subject to the adherence of stipulations as discussed in ruling (a) above, the applicable Rate of tax is 9% CGST + 9%SGST on goods classifiable under 8471, in terms of entry no. 360 to Schedule-III to Notification no. 01/2017-CT(Rate) dated 28.6.2017. In case the impugned goods are classifiable under heading other than 8471 owing to its functionality as discussed hereinabove, the said goods will attract rate of tax as specified in the schedules appended to Notification no. 01/2017-CT(Rate) dated 28.6.2017 on such supplies on the basis of description specified therein, including rate of tax @14% CGST + 14% SGST (specified in Schedule-IV to the Notification).



Sd/-
Sonal K. Mishra
(Member)

TRUE COPY

Place: - Raipur

Date:-

Sonal K. Mishra
17/8/22
MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR



Sd/-
Rajiv Kumar Agrawal
(Member)

TRUE COPY

Rajiv Kumar Agrawal
17/8/22
MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR