

Customs: Samsung K Zoom Mobile phone is a phone not a camera: Advance Ruling

Galaxy K Zoom phone proposed to be imported by the applicant is powered by Android Kit-Kat operating system and a quad 1.3GHz processor along with the dual-core 1.7GHz processor. It has a 4.8" HD SAMOLED (Pentile) touch screen. It comes with 2 GB RAM, 8GB in built memory, and has external memory of up-to 64GB. It has a support system for micro SD cards.

Most of the specifications of the hardware and the software installed in the product, matches with the other mobile phones of the Galaxy series. However, one of the distinguishing features of this product from its predecessor in the Galaxy series is the quality of its camera. It is equipped with a 20.7MP BSI CMOS having 10x Zoom, w/Flash. Other important feature of the product is its In-Call feature. This allows the user of the product to capture and share an image even when on call, with a simple twist of zoom ring.

The questions on which advance ruling is sought by the applicant are as follows:-

(a) Whether the product is rightly classifiable as a telephone under Custom Tariff Heading (hereinafter referred to as "CTH") 8517 or as a Camera under CTH 8525?

(b) If the correct classification of the product is under CTH 8525, then whether the applicant is entitled to the benefit of the exemption provided under the Notification 25/2005?

The two competing Heads:

- 8517 Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as local or wide area network) other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528.
- 8525 Transmission Apparatus for Radio - Broadcasting or television, whether or not incorporation reception apparatus or sound recording or reproducing apparatus; Television Cameras, Digital Cameras and Video Camera Recorders.

The AAR observed,

In view of above legal position, we are required to ascertain whether the product Galaxy K Zoom has the primary function and essential character of a mobile phone. It is noticed that the mobile phone is essentially a communication device working on the basis of towers and base stations arranged into a network of cells, which send and receive radio signals for cellular/mobile phone for communication. Further, such cellular/mobile phone will remain telephony. To classify the subject product as camera, on the basis that it has higher Megapixel of 20; optical zoom instead of digital zoom and has the capability to click picture and send them via multimedia message while on call, in our view is not correct, as such additions are related to the phone and not to the camera. It also may not be appropriate to shift classification of the product from the category of mobile phone to camera, on the basis of said 3 additional features i.e., higher megapixel, optical zoom and click picture and transmit the same while on call.

Further, Galaxy K Zoom is also classifiable as cellular/mobile phone as per trade parlance and consumer perception test. It is reiterated that the applicant advertises said product as smart phone. We also agree with the applicant that the product is sold and marketed in India as smart phone and not as camera.

We have to see whether Galaxy K Zoom is sold at phone shop/market or at camera shop/market. The answer is clear that such a product is sold at phone shop. Therefore, as per trade parlance and consumer perception test also, the product is mobile phone, classifiable under CTH 8517 12.

Ruling:

The product i.e. Galaxy K Zoom is classifiable as telephone under Customs Tariff Heading 8517. Second question i.e., if the correct classification of the product is under CTH 8525, then whether applicant is entitled to the benefit of the exemption provided under Notification No. 25/2005, becomes infructuous.