

# S.MURUGAPPAN

ADVOCATE, HIGH COURT

**ASSISTED BY:**

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**CONSULTANTS:**

GST, CUSTOMS, FOREIGN TRADE LAWS,  
FOREIGN EXCHANGE MANAGEMENT ACT.

## OPINION

**1. Querist :**

M/s. Nandi Marketing,  
1 to 6, Dheeraj Leelaa,  
Padasalai Road (School Road),  
Opp. Govt. Vet. Hospital, Ayanambakkam  
Chennai – 600 095.

**2. Facts :**

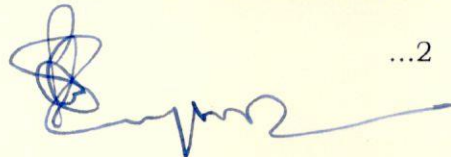
The querist seeks to import from China electric bicycle conversion kits which are referred to as 'iMortor' by the manufacturer. 'iMortor' consists of an electric motor, rechargeable battery and controller along with the front wheel of a bicycle. One who already owns a bike, can just change the front wheel and it will turn into an electric bike. It is fully wireless with no display, no sensors. Its maximum speed can be 37km/h, max range is 40km and its motor rated power is 350W, but maximum outpower will be up to 800W. There are five sizes altogether i.e. 24'/26'/27.5'/29'/700C. The battery is removable and one can have more than one spare battery for charge. Battery voltage is 36V with the capacity of 7.8ah. This product has two choices, one is, it is an app and fully wireless, and the other choice is it has a LCD display and a wire, but it has two options which are, no pas sensor and no break sensor. The manufacturer mainly sells the front wheel.

**3. Query :**

On the basis of the above information, the querist would like to know the appropriate classification for the goods to be imported.

**4. Opinion :**

- 4.1 It is seen that basically the product under reference is a conversion kit for converting bicycles into electric bikes. The kit consists of motor, rechargeable battery, controller and other fitting accessories. It is also seen that the manufacturer supplies the kit with the front wheel. This can be easily assembled in an existing bicycle by removing the front wheel and replacing it with the supplied wheel and the conversion kit. After fitment the bicycle becomes an electric bike.

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- 4.2 From the information available in the internet that these conversion kits are sold without wheel also. There are various combinations and models available in the market.
- 4.3 As far as the classification is concerned, it is to be noted that the product is sold as a **kit** consisting of different items i.e. motor, battery, controller, wheel etc. The classification of such a kit is to be decided in terms of Interpretative Note 3(b) and (c). Interpretative Note 3 reads as follows:

“3. When by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows :

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and **goods put up in sets for retail sale**, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.”

- 4.4 The Explanatory Notes to HSN with regard to Rule 3(b) and especially, with regard to **goods put up in sets for retail sale** reads as follows:

(X) For the purposes of this Rule, the term “goods put up in sets for retail sale” shall be taken to mean goods which :

- (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule;

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- (b) consist of products or articles put up together to meet a **particular need** or carry out a specific activity; and
- (c) are put up in a manner suitable **for sale directly to end users** without repacking (e.g., in boxes or cases or on boards).

“Retail sale” does not include sales of products which are intended to be re-sold after further manufacture, preparation, repacking or incorporation with or into other goods.

The term “goods put up in sets for retail sale” therefore only covers sets consisting of goods which are intended to be sold to the end user where the individual goods are intended to be used together. For example, different foodstuffs intended to be used together in the preparation of a ready-to-eat dish or meal, packaged together and intended for consumption by the purchaser would be a “set put up for retail sale”.

Examples of sets which can be classified by reference to Rule 3(b) are :

- (1) (a) Sets consisting of a sandwich made of beef, with or without cheese, in a bun (heading 16.02), packaged with potato chips (French fries) (heading 20.04) :

Classification in heading 16.02.

- (b) Sets, the components of which are intended to be used together in the preparation of a spaghetti meal, consisting of a packet of uncooked spaghetti (heading 19.02), a sachet of grated cheese (heading 04.06) and a small tin of tomato sauce (heading 21.03), put up in a carton :

Classification in heading 19.02.”

- 4.5 In the present case, the kit will meet the above requirements and accordingly, the classification is to be decided in terms of 3(b) of the Interpretative Rules. In the kit the essential character will be given by the motor which will be the prime mover for converting the bike into an electric bike and the battery is acting only as a power source. Thus, the classification will be as ‘motor’ under Chapter Heading ‘8501’.

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- 4.6 It is also to be noted that in terms of Section Notes to Section XVII, all electrical machinery and equipment falling under Chapter 85 are excluded from Section XVII (chapter 87 covering bicycle falls within Section XVII) even though they may be used as parts and accessories for motor vehicles, including bicycles. Thus in any case, the items will be excluded from Chapter 87.
- 4.7 Also it is to be noted that in this context, all the import restrictions and BIS standard requirements with regard to import of motors, batteries, controllers will apply to import of such conversion kits.
- 4.8 At the same time, it may be noted that if the product is imported as a **completely assembled wheel** i.e. front wheel with motor, battery and controller assembled, then at the time of import, the product under question will be a **single piece of equipment/part** covering the front wheel of an electric bike. In such a case, it may be possible to consider the assembled front wheel as a **part** of electric bicycle. Assessments take place by taking into account the condition in which the goods are presented to customs at the time of import. Thus, a fully assembled wheel will make a difference. Electric bicycles are covered under 8711 of the Schedule to the Customs Tariff Act and parts of such bicycles will get covered under Heading 8714.
- 4.9 Even in such a case notwithstanding the classification under 8714, the customs authorities may insist that the batteries and motors should meet BIS standards, as may be applicable. In the past such instances have taken place.



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