



**सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण**  
**CUSTOMS AUTHORITY FOR ADVANCE RULINGS**  
**नवीन सीमाशुल्क भवन, बेलाई इस्टेट, मुंबई - ४०० ००१**  
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The 06<sup>th</sup> of January, 2022

Ruling Nos. CAAR/Mum/ARC/01/2022

in

Application No. CAAR/CUS/APPL/72/2021 - 0/o Commr-CAAR-MUMBAI

Name and address of the applicant: M/s Alvest Millennium Aviation Leasing IFSC Pvt Ltd, Unit 412, 4th floor, Bldg No 14A Block 14, Brigade International Financial Centre, GIFT SEZ Gandhinagar, Gujarat-382355

Commissioner concerned: The Principal Commissioner of Customs (Preventive)(CPC), 55-17-3, C-14, 2nd Road, Industrial Estate, Auto Nagar, Vijayawada (AP) – 520007

Present for the applicant: Shri. Mihir Zatakia, Director;  
Shri. Milan Zatakia  
Shri. S. Reddy  
Shri G.V. Sagar  
Shri Maxime Mahieu

Present for the Department: Shri. Sowmya Nuthalapati (Joint Commissioner, CPC Vijaywada);  
Shri. Vijaykumar Kavilikatta (Deputy Commissioner, CPC Vijaywada);

**Ruling**

M/s. Alvest Millennium Aviation Leasing IFSC Private Limited (the applicant, in short) has filed an application for advance ruling before the Customs Authority for Advance Ruling, Mumbai (CAAR, in short) and the said application was received in the secretariat of the CAAR on 18.10.2021 along with enclosures in terms of section 28H (1) of the Customs Act, 1962 (the Act, in short). The applicant is seeking advance ruling on the classification of the APU Off Combo Unit proposed to be imported.

2. The applicant has indicated that they propose to import trailer mounted aircraft APU OFF COMBO-20 (the Unit, in short) which is a combination of 400 Hz. diesel ground power unit and air-conditioning system, with some optional facilities. APU stands for Auxiliary Power Unit. The goods are called APU OFF Unit, as its sole purpose is to substitute the aircraft's Auxiliary Power Unit (APU) when the aircraft is on the ground. They intend to import the said goods from M/s. Smart Airport Systems, France. Accordingly, comments from the jurisdictional Commissioner of Customs were invited in respect of the application for advance ruling.

3. The comments of the Commissioner of Customs (Preventive), Vijayawada are on record. In the said comments, it is stated that the applicant is not in possession of an IEC which is a precondition for obtaining an advance ruling; that, not all parts/components of an aircraft merits classification under Chapter



88, the aircraft engines(heading 84.07) being a prime example; that, the affixing the term aircraft before the Unit shows that the applicant has a predetermined view regarding classification; that, if the facts of the Mak Controls (2001 [138] E.L.T. 1152) case is applicable to the applicant's case, there would have been no necessity for seeking an advance ruling. The commissionerate has also studied the product characteristics, specifications, and functionalities in detail from various sources and there is a detailed discussion on the basis of the proposed classification of the Unit with respect to the suggestion of applicant to classify the same under heading 8803. An apprehension is also cast that the applicant intends to import two separate units, namely, 400 Hz. Diesel Ground Power Unit (heading 85.02) and Air-Conditioning System (heading 84.15) possibly Lebrun and PV90-4, manufactured by M/s. Smart Airport Systems. Thereafter, keeping in view the classification of Air Conditioning System and 400 Hz Static Converter under CTH 84.15 and 8504 respectively, it is suggested that if the two units are presented together as a combination machine, such a machine is required to be classified in terms of Section Note (4) to Section XVI, which would be the heading 84.15 covering AIR CONDITIONING MACHINES, COMPRISING A MOTOR-DRIVEN FAN AND ELEMENTS FOR CHANGING THE TEMPERATURE AND HUMIDITY, INCLUDING THOSE MACHINES IN WHICH THE HUMIDITY CANNOT BE SEPARATELY REGULATED. This suggestion has been made on the premise that the principal utility of the Unit is to provide ventilation, cold or heated air in one single piece of equipment, placing reliance on the HS Explanatory Notes which explain the scope of the heading 84.15 as one covering certain apparatuses for maintaining required conditions of temperature and humidity in closed spaces.

4. The applicant has submitted a detailed write up describing the function and utility of the Unit being imported by them. It is submitted that the Unit is a combination of 400 Hz. diesel ground power unit and air-conditioning system for exclusive use in an aircraft when on ground. The Unit combines a 400 Hz. unit as primary source of power to an aircraft and the capability of circulating preconditioned air to complementarily provide ventilation, cold or heated air to an aircraft in one single piece of equipment. It is a substitute to the APU (Auxiliary Power Unit) using one single piece of equipment. An APU is located on-board the aircraft, generally in the tail, to mainly provide electrical power (400 Hz. used primarily in aviation) to aircraft systems when on the ground. It is commonly used to ensure ground operations at the airport, providing electrical power and starting the first jet engine. APU can also provide cabin ventilation when required. Usually, the APU is turned off as soon as jet engines are switched on. The Unit, acting as the substitute to the APU, provides the required electrical power and maintains adequate temperature in the cabin during pre-flight operations, boarding and maintenance. The Unit also has option of providing unique air disinfection system in case of such requirements (similar to the function of on-board HEPA filters when the APU runs). The diesel generator is a combination of a diesel engine with an electric generator (often an alternator) to generate electrical energy, primarily used in places without connection to a power grid, or as emergency power supply if the grid fails. Diesel generators produce power at 50 Hz. /415 volts and a normal diesel generator is not capable of supplying power to aircraft parked on the ground. Further, the DG set would not be able to perform functions that the Unit can perform, such as supply of preconditioned air or disinfect the cabin.

5. The applicant is claiming classification of the APU OFF COMBO Unit under customs tariff entry 88033000 and submitted that the Unit is classifiable under customs tariff heading/ HSN code 88033000 as 'Other parts of aeroplanes or helicopters' under the general description 'Parts of goods of heading 8801 or 8802' on the ground that the Unit is a part of aircraft, used solely and principally with an aircraft. Moreover, the Unit is not a propeller, rotor, under-carriage and parts thereof. Therefore, the Unit is most aptly classifiable under 88033000 as other parts of aeroplanes or helicopters.

6. Further, the applicant has referred of Note 3 to the Section XVII, that a part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory and has drawn an inference that those parts which are solely or principally used with an item falling under chapters 86 to 88 are to be classified as parts of those items. Hence, classification of a part or accessory is determined by its principal



use. The Unit provides the exact same functions that the on-board aircraft APU provides when the aircraft is on the ground. The Unit is used during transit or aircraft maintenance operations to replace the APU usage on the ground. It primarily powers electrical systems of the aircraft to ensure flight preparation. It also embodies a ventilation system to allow cabin air replacement and comfort whenever necessary. The Unit with its functions of powering an aircraft and supplying preconditioned air is solely or principally or exclusively used with aeroplanes and would hence be unquestionably a part of aeroplanes.

7. The personal hearing in the matter was fixed for 02.12.2021, but since the applicant requested for deferment of hearing, the same was held on 09.12.2021 in virtual mode. S/Shri G. V. Sagar, Maxine Mahien, Mihir Zatakia, Milan Zatakia and S. Reddy represented the applicant while the Commissioner of Customs was represented by Ms. Sowmya Nuthalapati, Joint Commissioner and Shri Vijaykumar Kavilikatta Deputy Commissioner. The representatives of the applicant emphasized the principal function of the equipment as a replacement for the auxiliary power unit of the aircraft, the ability of the equipment to sync with the electronics of aircraft etc. In this respect they submitted additional information as to the working of the said unit as a No Break Power Transfer (NBPT) device whereby the power consumption is transferred from the aircraft's own power generation units to ground generated power seamlessly without any interruption. It is stated that the synchronization and switching over of the power supply is carried out by the equipment on board the aircraft. The APU off combo's integrated power electronics and the aircraft systems operate in synchronisation whereby the mission specific systems "talk" to each other for a seamless transfer. Ordinarily, when transferring from one power source to the other there is a momentary break in supply. To transfer without a break, the two power sources are momentarily connected in parallel. The synchronization control is achieved by connecting an existing synchronization bus to a voltage zero-crossing signal of a generator power with discrete logic ICs and analog circuits. The officers of the Vijayawada Commissionerate emphasized that since the equipment is intended to provide air-conditioning to the aircraft it needs to be classified under heading 8415. They have also pointed to the fact of the applicant's reliance on the decision of the Tribunal and stated that if their product is covered under the said decision, the jurisdiction of advance ruling will get excluded.

8. From the submissions of the applicant as well as available open-source information, it can be gathered that the Unit in question is used solely for providing power to an aircraft while on ground. In addition, this is capable of providing and maintaining proper temperature in the cabin during pre-flight operations, boarding and maintenance. These functions are usually provided by the APU which is located on-board the aircraft, generally in the tail. APU allows an aircraft to operate autonomously without reliance on ground support equipment such as a ground power unit, an external air-conditioning unit or a high-pressure air start cart. The Unit acts as a replacement to an APU by supplying a combination of 400 Hz. primary source of power to the aircraft as well as preconditioned air function to complementarily provide ventilation, cold or heated air to aircraft in one single piece of equipment. When parked on the ground an aircraft cannot use the normal 50 Hz. mains power as it needs 400 Hz. power. As a result, airports need specialised ground support equipment (GSE). Ground power units (GPUs) play a vital role, allowing the aircraft to function whilst on the ground. The Unit in question caters to the requirement of specific power supply to an aircraft when on ground along with the necessary preconditioned air supply to provide requisite ventilation, cold or heated air to the aircraft as well as the need of cabin sanitization from one single equipment.

9. I have considered all the materials placed before me in respect of the equipment for which advance ruling has been sought. I have gone through the written submissions made as well as the points made during personal hearing. The comments from the jurisdictional Commissioner of Customs, on the impugned subject goods have also been considered and taken on record. The subject goods for which advance ruling has been sought, its characteristics, functionality and utility etc. are broadly discussed in the aforementioned paras. The issue involved in the decision of the Hon'ble Tribunal in the case of Mak Controls vs CCE, Coimbatore, reported at 2001(138) E.L.T.1152 (Tri: Chennai)] has also been duly taken into account. In that case, the device involved was a Ground Power Unit (GPU), specially designed for use with aircrafts



and exclusively used with the aircrafts. The GPU is attached to the aircraft when it is on the ground to keep the aircraft in functional condition of readiness for taking off. GPU has an inbuilt computer system which synchronizes with the aircraft mechanism and which also activates the computer operations in the aircraft. The equipment is so designed that it could be fitted only to aircrafts and performs the function of servicing aircraft alone and could not be used as a generator elsewhere for generation of electricity. In the present application for advance ruling of an APU off combo unit, the similarities and differences between the two are readily apparent. On one hand, both of them are designed for exclusive use with an aircraft, can provide power to an aircraft while on ground and also capable of synchronising with the aircraft electronics for seamless transfer from one power source to another. The difference between the two is that the later equipment not only provides power to an aircraft, but also provides preconditioned air to it to maintain it at the desired temperature. Besides, the Unit is also capable to carrying out sanitisation functions, if required. The very fact that the jurisdictional commissionerate is of the view that the proper classification of the Unit is under heading 8415, despite the decision in the Mak Controls case, is sufficient to hold that an advance ruling is merited in this case. It is not in dispute that the Unit carries out functions of providing electrical power (400 Hz. used primarily in aviation) to aircraft systems during ground operations at the airport, providing electrical power and starting the first jet engine, providing preconditioned air supply to cater to requisite ventilation and also sanitisation of the aircraft cabin, if required. It can also not be disputed that it acts as a substitute for the on-board APU while the aircraft is on ground during pre-flight preparatory operations/maintenance activities, thereby functioning as a part of the aircraft. When parked on the ground an aircraft cannot use the normal 50 Hz. mains power as it needs 400 Hz. power. Thus, aircrafts require specialised ground support equipment (GSE) to function whilst on the ground. An Auxiliary Power Unit or APU allows an aircraft to operate autonomously without reliance on ground support equipment such as a ground power unit, an external air-conditioning unit or a high-pressure air start cart. In this background, an external unit plays a vital role in maintaining aircraft functionalities while it is on ground while at the same time reducing consumption of ATF and reducing carbon footprint of an aircraft. The Unit under question, therefore, being more advanced than a GPU, provides the same functionalities as that of an APU, i.e., supply power and preconditioned air supply during pre-flight operations/maintenance, while at the same time reducing consumption of ATF, reduction in emission of greenhouse gases like CO<sub>2</sub>, NO<sub>x</sub>, reduction in the noise levels etc.

10. To determine the classification of the Unit, reliance has to be placed on the description of headings, sub-heading as well as relevant section/chapter notes. The Unit in question provides power as well as preconditioned air to parked aircrafts. Power generators are generally classifiable under heading 8502 of the customs tariff whereas, air-conditioning equipment are classifiable under heading 8415. The Unit under consideration includes both these functionalities as well as sanitising capabilities akin to the HEPA filters, if required. The Unit also has the capability of synchronising with the aircraft electronics system to ensure that the power transfer between the aircraft engines and the Unit is seamless without any break. Therefore, it is necessary to examine the applicant's suggestion on classification under chapter 88 and if that is found unsuitable, then examine the appropriate headings in chapter 84 or 85, as the case may be.

Note 3 to Section XVII say the following: -

'Parts and accessories which are not suitable for use solely or principally with the articles of Chapters 86 to 88 are excluded from those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory.'

The effect of Note 3 reproduced above is that a part or accessory shall qualify for classification under a heading of chapter 86 to 88 only when it is used solely or principally with an article of those chapters. In this case, it has been indisputably brought out and amply illustrated that the clearly defined function of an APU off combo unit is only as a replacement of a part of aircraft, i.e., it's APU. By combining several functions into a single unit, the Unit is clearly customized for use only with aircrafts. Therefore, it is reasonable to hold that the Unit can only be regarded as a part of aircraft which replaces the on-board



APU and contributes to operational efficiency and eco friendliness. The only function of the Unit that is clearly defined is its function as the substitute to the APU, i.e., substituting an aircraft part.

11. In the case of Mak Controls, referred supra, the Hon'ble Chennai Bench of the CESTAT was confronted with the issue of classification of a ground power unit for aircrafts. The Hon'ble Tribunal observed that a GPU is specially designed for use with aircrafts and also the same is exclusively used with aircrafts. The GPU is attached to the aircraft when it is on the ground to keep the aircraft in functional condition of readiness for taking off. When the aircraft is in the air, there is an inbuilt power unit which keeps the various instruments and controls functional and the GPU performs the same function on the ground when the aircraft is stationary. The GPU has an inbuilt computer system which synchronizes with the aircraft mechanism and which also activates the computer operations in the aircraft. The GPU cannot be used as a normal generating set in view of its inbuilt configuration, which facilitates only functions of aircrafts. Based on the above observations, in a majority decision, the Ground Power Unit (GPU) was held as classifiable under heading 8803 of schedule to Central Excise Tariff Act, 1985 as a part of an aircraft. It is worth noting here that the Central Excise Tariff and the Customs Tariff, so far as Chapter 88 is concerned, are fully aligned and therefore, the ratio of the aforesaid decision of the Hon'ble Tribunal is equally applicable in the present case. It is also noteworthy that this decision of the Hon'ble Tribunal was challenged before the Hon'ble Supreme Court and, as reported at 2005 (183) E.L.T. A73 (S.C.), the appeal was dismissed with the following observations, 'The issue raised in this appeal is primarily a question of fact. The facts have been duly considered by the Tribunal. In the circumstances we do not think it fit to interfere with the same. The appeal is accordingly dismissed.'

12. With respect to classification of parts and accessories, the notes to Section XVII of the HSN Explanatory Notes lay down the following: -

'These headings apply only to those parts or accessories which comply with all three of the following conditions:

- (a) They must not be excluded by the terms of Note 2 to this Section, and
- (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88, and
- (c) They must not be more specifically included elsewhere in the Nomenclature.'

The unit under consideration fulfils all the three criteria mentioned above. On the criterion of principal function, the HSN Explanatory Notes say that, 'Under Section Note 3, parts and accessories which are not suitable for use solely or principally with the articles of Chapters 86 to 88 are excluded from those Chapters. The effect of Note 3 is therefore that when a part or accessory can fall in one or more other Sections as well as in Section XVII, its final classification is determined by its principal use. Thus, the steering gear, braking systems, road wheels, mudguards, etc., used on many of the mobile machines falling in Chapter 84, are virtually identical with those used on the lorries of Chapter 87, and since their principal use is with lorries, such parts and accessories are classified in this Section.' It is needless to point out that this analogy is also applicable in the case of the Unit. It is also pertinent to mention here that in the list of exclusions in the HSN Explanatory Notes w.r.t. parts and accessories, which even if identifiable as for the articles of the Section XVII, are mandated to be excluded if they are covered more specifically by another heading elsewhere in the HSN Nomenclature, devices akin to the Unit do not appear. The HSN General Explanatory Notes to Chapter 88 lay down that, 'Subject to the provisions of the Notes to Section XVII, it also covers parts of such equipment.' The relevant Section Notes have already been discussed above and the conclusion thereof is that the Unit under consideration, based on its design and intention to be used solely as a source of power and preconditioned air to stationary/parked aircrafts, merits classification under Chapter 88 of the customs tariff.

13. Having taken a view that the Unit would merit classification under Chapter 88, now I turn my attention to the issue of its exact heading and sub-heading. Chapter 88 covers balloons and dirigibles, gliders, hang gliders and other non-powered aircraft as well as other aircrafts like helicopters, aeroplanes; and also spacecraft, including satellites and suborbital and spacecraft launch vehicles. Heading 8803 covers the parts of goods of heading 8801 or 8802 as follows: -



and also spacecraft, including satellites and suborbital and spacecraft launch vehicles. Heading 8803 covers the parts of goods of heading 8801 or 8802 as follows: -

- 8803 - PARTS OF GOODS OF HEADING 8801 OR 8802
- 8803 10 00 - Propellers and rotors and parts thereof
- 8803 20 00 - Under-carriages and parts thereof
- 8803 30 00 - Other parts of aeroplanes or helicopters
- 8803 90 00 - Other

According to the HSN Explanatory Notes, the heading 8803 covers parts of the goods falling in heading 88.01 or 88.02, provided the parts fulfil both the following conditions: -

- i. They must be identifiable as being suitable for use solely or principally with the goods of the above-mentioned headings; and
- ii. They must not be excluded by the provisions of the Notes to Section XVII.

Note 3 to Section XVII states that references in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory. It has already been discussed that the Unit can only be termed and considered as a part of aircraft which replaces the on-board APU and is suitable for use solely and principally with aircrafts falling under chapter 88 and is not hit by the exclusion provision of the notes to Section XVII. In view of my aforesaid discussions, I rule that APU off combo unit merits classification under chapter sub-heading 88033000 of the first schedule to the Customs Tariff Act, 1975.

  
(M. R. Mohanty)

Customs Authority for Advance Rulings,  
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This copy is certified to be a true copy of the ruling and is sent to: -

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✓ 8. Guard file.



  
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(Manoj Kumar Hessa)  
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F.No. CAAR/CUS/APPL/72/2021- 0/o Commr-CAAR-MUMBAI

Dated: 06.01.2022

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Receivers Signature



Senders Signature