

Govt eyes duty fix for telecom gear amid tax disputes

Plans new product classification for items at heart of Samsung, Nokia cases

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The Union finance ministry is considering levying a 10 per cent Basic Customs Duty (BCD) on a key category of mobile tower components through a new product classification, aiming to curb the misuse of tariff exemptions and bolster domestic manufacturing.

This policy rethink comes against the backdrop of two high-profile disputes involving Samsung India and Nokia Solutions – which have claimed zero-duty benefits on the import of such items. The government, however, considers this as a case of misclassification.

Earlier this year, Samsung was served a \$520 million tax demand for allegedly misclassifying the imports of remote radio heads (RRHs) to avoid Customs duty. RRHs are a type of component used in base stations to process signals in mobile towers. The company has contested the demand before the Customs Excise and Service Tax Appellate Tribunal (Cestat) in Mumbai, arguing its classification adhered to industry standards and had not previously been challenged by authorities.

In a similar case, Nokia secured relief in February from the Delhi High Court, which overturned an order by the Authority for Advance Ruling that sought to categorise small form-factor pluggable (SFP) transceivers as com-



Plugging the loophole

- Zero duty to stay for components needed for state-of-the-art telecom equipment production, not for ready-to-use gear
- Centre plans to challenge Delhi HC ruling in Nokia case via SLP in Supreme Court
- Policy rethink follows duty dispute over duty-free imports by Samsung and Nokia

plete telecom apparatus, attracting 20 per cent duty. The court held that SFPs are network components – not standalone machines – and thus fall under a category attracting zero Customs duty.

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Duty tweaks to arrest classification disputes

“The objective is to maintain zero duty on genuine components required for high-end state-of-the-art telecom equipment production, in line with the ‘Make in India’ initiative. However, certain components having independent functions are often joined to build large or expansive telecom networks. It is these components that are likely to face a 10 per cent BCD. The objective may be achieved through withdrawal

or narrowing of existing exemptions, or by way of reclassification under a new tariff line,” said a senior government official who did not wish to be named.

An email query sent to the finance ministry remained unanswered until the time of going to press. Another official said the government also plans to file a special leave petition (SLP) in the Supreme Court to challenge the Delhi High Court’s deci-

sion in the Nokia case.

Harpreet Singh, partner, indirect tax, Deloitte, said a separate tariff sub-heading with 10 per cent BCD on certain telecom networking components would aim to regulate exemptions while still encouraging genuine manufacturing. “The intent is to deny the benefit for some components that function independently. This will help mitigate classification disputes,” he said.