

TAMILNADU STATE APPELLATE AUTHORITY FOR ADVANCE RULING
(Constituted under Section 99 of Tamil Nadu Goods and Services Tax Act 2017)

A.R.Appeal No.05/2023 AAAR

Dated :01.02.2024

BEFORE THE BENCH OF

Sh. Ashish Varma, I.R.S., Principal Chief Commissioner of GST & Central Excise, Tamilnadu & Pondicherry Zone, Member (CGST), Appellate Authority for Advance Ruling, Tamil Nadu	Dr. D.Jagannathan, I.A.S., Commissioner of Commercial Taxes, Member (SGST), Appellate Authority for Advance Ruling, Tamil Nadu
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Order-in-Appeal No. AAAR/3 /2023 (AR)

(Passed by Tamil Nadu State Appellate Authority for Advance Ruling under Section
101(1) of the Tamil Nadu Goods and Services Tax Act, 2017)

Preamble

1. In terms of Section 102 of the Central Goods & Services Tax Act 2017/Tamil Nadu Goods & Services Tax Act 2017 ("the Act", in Short), this Order may be amended by the Appellate authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the applicant within a period of six months from the date of the Order. Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made, unless the appellant has been given an opportunity of being heard.
2. Under Section 103(1) of the Act, this Advance ruling pronounced by the Appellate Authority under Chapter XVII of the Act 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.
3. Under Section 103 (2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the said advance ruling have changed.
4. Under Section 104(1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-section (1) of Section 101 has been obtained by the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the appellant as if such advance ruling has never been made.

Name and address of the Appellant	M/s Lions Seat Cushions Private Limited, No.130/1, Murugappa Chambers, Saradha College Road, Alagapuram, Salem-636016.
GSTIN or User ID	33AACCL1446J1ZP
Advance Ruling Order against which appeal is filed	Order No.105/AAR/2023 dated 05.09.2023 received on 18.09.2023 by the Appellant
Date of filing appeal	06.11.2023
Represented by	Shri M. Arumugam, Managing Director & Shri M. Saravanan, Consultant, Chartered Accountant Firm
Jurisdictional Authority-Centre	Salem Commissionerate
Jurisdictional Authority -State	Salem Division, Alagapuram Assessment Circle
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Payment of Rs. 20,000/- (CGST-Rs.10,000 + SGST-Rs.10,000) made vide Form DRC-03, with debit entry No. DC3311230012254 dated 03.11.2023

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are in *pari materia* and have the same provisions in like matter and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act, 2017.

2.1. The subject appeal was filed under Section 100(1) of the Tamilnadu Goods & Services Tax Act 2017/Central Goods & Services Tax Act 2017 (hereinafter referred to 'the Act') by M/s Lions Seat Cushions Private Limited (hereinafter referred to as 'Appellant'). The Appellant was registered under the GST Act vide GSTIN 33AACCL1446J1ZP. The appeal was filed against the Order No.105/AAR/2023 dated 05.09.2023 passed by the Tamilnadu State Authority for Advance ruling on the Application for Advance ruling filed by the Appellant.

2.2. It was seen that along with the 'Grounds of Appeal' filed with the Appeal Application in Form GST ARA – 02, the appellant had also enclosed a 'Petition for condonation of delay', as the appeal was admittedly filed after a delay of 21 days, beyond the normal time limit of 30 days from the date of receipt of the order. Accordingly, an opportunity of personal hearing was accorded to the appellant for the limited purpose of condonation of delay. As Shri M.Arumugam, MD, had a condition that required medical care during the relevant period of time, and as the appellant has presented sufficient cause that prevented them from filing the appeal

within the normal period, their request for condonation of delay of 21 days in filing the appeal was considered and it was ordered vide Order-in-Appeal No.AAAR/01/2024(AR) dated 22.01.2024, as follows :-

"The delay of 21 days in filing the appeal by the appellant beyond the normal time limit of 30 days is condoned in terms of proviso to Section 100(2) of CGST Act, 2017, and the appeal will be taken up for consideration on merits."

3.1. Accordingly, the appeal is now taken up for consideration on merits. The Appellant has stated that they are manufacturers of Seat Covers for 2 wheelers, bikes and scooters and that they had applied for Advance Ruling with regard to classification and applicable rate of tax on the seat covers manufactured by them with the Authority for Advance Ruling vide their application dated 06.06.2022. The question raised in the application was as under :-

"Whether the GST rate of tax of 28% collected and paid for Bike and Scooter seat cover manufactured and sold by them under CTH 87089900, is correct."

The Authority for Advance Ruling (AAR) vide Order No.105/AAR/2023 dated 05.09.2023 ruled as follows :-

"Two wheeler seat covers merit classification under CTH 87149990 and are taxable at 14% CGST + 14% SGST vide entry No.174 of Schedule IV of Notification No.01/2017-CT(Rate) dated 28.06.2017, as amended."

3.2. The Original Authority (AAR) had arrived at the above decision based on the following discussions held therein, viz.,

- The heading 8708 relates to parts and accessories of Motor Vehicles falling under 8701 to 8705, which covers Motor vehicles such as Tractors, Motor Car etc. and not two wheelers, and since the product involved is seat cover for two wheeler, which are not parts and accessories of Motor vehicles under headings 8701 to 8705, it will not get covered under 8708.
- The heading 940120 covers 'seats for motor vehicles', whereas the Appellant is not manufacturing 'Seats' as such but only a seat cover which is fitted over the seat, which is already factory fitted in the two wheeler, and therefore the the product manufactured by the applicant will not get covered under 940120.
- The seat covers are only accessory to the seats and the same are purchased by the customer for comfort. Hence, the correct classification for seat covers would be 8714, which covers parts and accessories of vehicles of heading 8711 to 8713, wherein 8711 relates to Motorcycles and thereby will attract 28% GST.

3.3. Aggrieved of the above decision of the AAR in Oder No. 105/AAR/2023 dated 05.09.2023, the Appellant has filed the present appeal. The grounds of appeal as submitted by the Appellant, are as under:

- The Chapter heading 9401, not only covers seats but also parts of seats as given below:

Tariff Item	Description
(1)	(2)
9401	SEATS (OTHER THAN THOSE OF HEADING 9402), WHETHER OR NOT CONVERTIBLE INTO BEDS, AND PARTS THEREOF
94011000	- Seats of a kind used for aircraft
94012000	- Seats of a kind used for motor vehicles
	- Swivel seats with variable height adjustment:
94013100	-- Of wood
94013900	-- Other
	- Seats other than garden seats or camping equipment, convertible into beds:
94014100	-- Of wood
94014900	-- Other
	- Seats of cane, osier, bamboo or similar materials :
94015200	-- Of bamboo
94015300	-- Of rattan
94015900	-- Other
	- Other seats, with wooden frames :
94016100	-- Upholstered
94016900	-- Other
	- Other seats, with metal frames :
94017100	-- Upholstered
94017900	-- Other
94018000	- Other seats
	- Parts
94019100	-- Of wood
94019900	-- Other

- The seat covers manufactured by them are nothing but the part of the seat.
- The CTH 8708 is a general entry for parts and accessories of motor vehicles but there is no specific entry for seat or its parts.
- The Chapter heading 9401, has an entry specifically for seat and entry 94012000 describes 'Seats of a kind used for motor vehicles' and entry 94019900 is for parts of seats, which includes seats of a kind used in motor vehicles.
- The AAR had come to erroneous conclusion that the seat cover is purchased by the customer for comfort and convenience, whereas the seat covers are tailor made for each type of two wheeler seats and it cannot be used for different vehicles. It is to protect the seat and there is no comfort or convenience to the rider or the pillion rider by any means.
- As per note 3 to Section XVII of the Customs Tariff Act, 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 and accessory.

- As per Rule 3(a) of the General Rules for the Interpretation of import Tariff, heading which provides the most specific description shall be preferred to headings providing a more general description.
- CTH 94019900 that refers to parts of seat for two wheeler is more specific as compared to CTH 87141090, which is a general entry as it speaks about parts of two wheeler as a whole.
- The finding of AAR that it is an accessory to two wheeler falling under 87149990 is factually incorrect and as per the Rules of interpretation, seat cover is a part of the seat, which has a specific entry under 94019900.
- Therefore the correct classification for seat covers is 9401 and the applicable rate of tax is 18% only as per entry no.435A of Schedule III of Notification No.01/2017-CT(Rate) dated 28.06.2017, as amended.

Hence, the Appellant prayed that the Appellate Authority may pass orders to set aside the impugned order under appeal, classify the seat cover under CTH 94019900 and pass such further or other order[s], as may be deemed fit and proper in facts and circumstances of the case.

PERSONAL HEARING:

5.1. The Appellant was therefore provided with another opportunity of personal hearing on 23.01.2024 to discuss the merits of the case. Shri M. Arumugam, the Managing Director of M/s. Lion Seat Cushions Private Limited and Shri M. Saravanan, Consultant, Chartered Accountant Firm, who is the authorized representative (AR) of the company, appeared for the Virtual Hearing. The AR reiterated the submissions made by them in the 'Grounds of Appeal' furnished along with the appeal application filed by them. He stressed the point that a specific entry would prevail over a general entry and therefore according to them, the seat covers would fall under chapter 9401 which covers parts for two wheelers also.

5.2 When the Members raised a query regarding the nature of customers to whom they supply the seat covers, the AR stated that they supply the same to the two wheeler dealers and also to local market. To another query raised by the Members regarding the mention of HSN number in the invoices raised by them prior to April 2022, the AR replied that different suppliers of seat covers mention different HSN codes in the trade. It was then clarified by the Members that from the sample invoices of the appellant available on record, it was seen that chapter heading 9401 was mentioned prior to April 2022, when the GST rate of 28% was adopted by them, and that the same chapter heading 9401 is mentioned in the invoices raised from April 2022 onwards, when they started charging GST at the rate of 18%. The appellant could not clarify this particular point, and they concluded saying that they have nothing further to add.

DISCUSSION AND FINDINGS:

6.1. We have carefully considered all the material on record, the various submissions made by the Appellant and the applicable statutory provisions. We find that the product in question is Bike and Scooter Seat covers. The Authority for Advance Ruling (hereinafter referred to as 'AAR') has classified the product "Two wheeler seat covers" (that includes Bike and Scooter seat covers) under CTH 87149990. The Appellant is before us, seeking to set aside the Ruling given by the Authority for Advance Ruling (AAR), classify the seat cover under CTH 94019900 and pass any such further or other order(s) as deemed fit and proper in facts and circumstances of the case.

6.2. We find that the Appellant are manufacturers of seat covers for two-wheeler bikes and scooters. From the submission made by the Appellant, we find that in the said manufacturing process the "U" Foam which is purchased from other dealers are cut to the shape of Two-Wheeler Seats and along with Rexine sheets are stitched and the said Seat Covers are fitted into the Two Wheelers like Bike and Scooter. Then they supply the same to the two-wheeler dealers and also to local market. As per the Appellant, these seat covers are meant for the protection of the seats and there is no comfort or convenience to the rider or the pillion rider.

6.3. We observe that the main contention of the Appellant is that seat covers manufactured by them for two wheelers are 'parts' of seat and thereby, the goods are to be classified under 94019900. They contend that the finding of AAR that it is an 'accessory' to Two-wheeler falling under 87141090 is factually incorrect and as per the Rules of interpretation, seat cover is 'part' of the seat, which has a specific entry 94019900.

6.4. We find that the said goods to get classified under chapter 9401 9900, the same has to be in the nature of 'parts' of 'seats'. The term 'part' carries immense significance in this case. The meaning of 'part' as per Cambridge dictionary,

"a separate piece of something, or a piece that combines with other pieces to form the whole of something"

"One of the pieces that together form a machine or some type of equipment".

As mentioned above, 'parts' combine to form a whole and they are integral to the completion of any article or equipment.

Against this, when we examine the definition of 'accessories', as per Merriam - Webster, an 'accessory' is,

"an object or device that is not essential in itself but adds to the beauty, convenience, or effectiveness of something else."

eg: auto accessories and clothing accessories.

"a thing of secondary or lesser importance: ADJUNCT"

From the above definitions, we find that 'part' per se means a portion of an equipment or a machinery which is essential to the functioning of that particular equipment or machinery. In other words, 'part' is an integral element of machinery or equipment without which the specific product cannot function. The 'part' in question should be so inextricably linked to the product that the product cannot be brought into use without the 'part' in question. As against this, an 'accessory' is an addition to the main product, which merely adds to its beauty or convenience or effectiveness.

6.5. With the above definitions in hand, we proceed to analyse the subject goods i.e., 'Seat covers'. As mentioned by the appellants, the seat covers are made of U-foam and Rexine (cut to a particular shape and size). It is our understanding that U-Foam is only for the purpose of giving comfort and convenience to the rider and the pillion rider, while Rexine of various textures, colours, etc., lend primarily beauty and to some extent protection to the two-wheeler seat. Seats, as cleared from two-wheeler manufacturers, by themselves are quite sturdy and designed to weather all conditions, convenient to sit upon and by themselves are aesthetically designed. Hence use of seat covers is an option with two-wheeler owners to further add another layer of protection, convenience and beauty to the seats if they so desire.

6.6. The seat covers are generally not manufactured or cleared by the O.E. manufacturer of motorcycle seats when the supply is made by them to the motorcycle manufacturer. Instead it is the dealers of motorcycles that sell the seat covers separately, on optional basis, to the purchasers of motorcycles. Sometimes, even dealers of motor cycle do not sell it along with the new motorcycle and the customer has to buy it from a local shop elsewhere as per his choice of colour, texture etc. It is pertinent to note here that when the appellant was requested to explain the nature of customers to whom they sell the seat covers, during the personal hearing on 23.01.2024, they stated that they supply the same to the two-wheeler dealers and also to local market. Accordingly, it is clear that the seat covers in question are not being supplied to the O.E. manufacturer of motorcycle, or, to the O.E. manufacturer of motorcycle seats, and both are sold originally without the seat covers.

6.7. Hence seat covers are not integral element of seats and thus not by any means, part of the seat. 'Seat covers' are only accessories to the seat.

6.8. Seat cover for a two wheeler is an article which may be removed whenever desired by customers without causing any difference in the functions of the motor cycle. Seat covers are generally made by giving a layer of sponge, which gives a cushion effect and this adds to the comfort of the rider. Even in general trade parlance or in terms of their specific usage, seat covers are considered as accessories and are customized as per the preference of the clients. Trade circles consider the automobile accessories as a category of articles relating to non-essential automotive parts which embellish the look and feel of an automobile or add functionality. Seat covers provide new look to the vehicle, and also make it comfortable for riders. Thus,

we are of the considered opinion that 'seat covers' are not essential part of the seats but only accessories that enhance the functional value.

6.9. As far as the claim of the appellant that 'seat covers' are classifiable under 9401 99 00 is concerned, it is seen that the heading 9401 refers to "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof." Admittedly the product manufactured by the appellant is not seats; it is neither 'parts', in terms of foregoing discussions above.

6.10. To substantiate their arguments, appellant has claimed that tariff sub-heading 9401 20 00 refers to "Seats of a kind used for motor vehicles" (and tariff item 94019900 is for Parts of various seats). Against this we find that motor vehicles would also include three wheelers, four wheelers, six wheelers and various other vehicles fitted with motors also falling under CTH 8401 to 8405; and not merely motorcycles and scooters that find mention predominantly under CTH 8711; whereas the appellant is admittedly a manufacturer of seat covers for seats for motorcycles and scooters only and hence their arguments referring to tariff sub-heading 9401 20 00 do not support the specific classification of accessories of product falling under CTH 8711.

6.11. We find that CTH 8714 refers to 'Parts and Accessories of vehicles of headings 8711 to 8713'; of which 8711 covers two wheelers including motorcycles and scooters. Within the framework that both motorcycles and scooters fall under CTH 8711, the relevant entries for their accessories (i.e., seat covers) are reproduced hereunder :-

Chapter/ Heading/ Tariff Item	Description of Goods
8714	Parts and accessories of vehicles of headings 8711 to 8713
8714 10	- Of motorcycles (including mopeds)
8714 1010	--- Saddles
8714 1090	--- Other

From the above it is clear that parts and accessories of vehicles of heading **8711**, get covered under 8714 10. Since Scooters also fall specifically under CTH 8711, the same also applies to seat covers of scooters too. So, parts and accessories, other than 'Saddles', of both motorcycles and scooters get covered under 8714 10 90.

The product link between the main machine, i.e., motorcycle and scooters (both of which fall under CTH 8711), and their parts and accessories i.e., 'two wheeler seat cover for motorcycles and scooters', is as follows :-

8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars
8714	Parts and Accessories of vehicles of Headings 8711 to 8713

8714 10 - Of Motorcycles (including mopeds)
8714 1090 --- Other

6.12. The appellant have contended in their grounds of appeal that the heading 9401 which is specific in nature would prevail over the heading 8714 which is general in nature. However, from the detailed discussions above, it becomes clear that what we are dealing here with is not a “part” at all but an “accessory”; hence heading 9401 does not apply to it at all. Even on the ground of specificity of applicability of 9401 against 8714 we find that a product, we find that 9401 refers to seats (in general) and parts thereof which will be more general in nature, as compared to the heading 8714, which is more specific as it relates specifically to accessories (seat cover) of vehicles of headings 8711.

6.13. It is pertinent to mention here that seat covers were covered under ‘accessories’ in the pre-GST regime as well. In this regard, we would like to take note of Circular No.541/37/2000-Central Excise dated 16.08.2000 issued by the Central Board of Excise & Customs, on the issue relating to classification of Car Seat covers. The text of the said circular is reproduced as under :-

“The Tribunal vide Final order No. 39/2000-D dated 4.1.2000 reported in 2000 (38) RLT 170 (CEGAT) in the case of Guru Overseas Pvt. Ltd. Vs. CCE, Delhi had decided that the car seat covers – whether of “Leather” or “Textile” are accessories and classifiable under Chapter sub-heading 8708.00. The CEGAT has followed ratio of the CEGAT judgement in the case of M/s. Kirloskar Pneumatic reported in 1991 (55) ELT - 207 (Tribunal and Supreme Court in the case of M/s. Mehra Bros Vs. Joint Commercial Officer reported in 1991 (51) ELT-173(SC).

The Board examined the said CEGAT Order and accepted the judgement of the CEGAT.

The Board has, however, observed that as the distinction between “parts” and accessories” is very thin proper care should be taken so that “parts” are not cleared as “accessories”.”

6.14 In continuation of the same into the GST period, the entry under HSN 8708 at Serial No.170 under Schedule IV of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 continues to be applicable for car seat covers attracting tax at the rate of 28% - IGST, or 14% - CGST plus 14% SGST. We further notice that in the instant case also, the relevant entries at chapter heading 8711 and 8714, as it existed during the pre-GST regime, continue to remain the same without any changes in the GST period as well.

6.15 It may be noted that though ‘car seat covers’ and ‘two-wheeler seat covers’ are two different products, they are very much similar in nature in terms of their functionality as an ‘accessory’. Accordingly, the analogy of the CBEC Circular discussed above, applies to ‘two-wheeler seat covers’ as well.

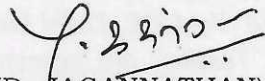
6.16 Based on the above discussions, we hold that the 'two-wheeler seat covers' are specifically covered under CTH 8714 10 90 and are taxable @ 14% CGST + 14% SGST, or @ 28% IGST.

6.17 We observe that the lower authority (AAR) had ruled that two-wheeler seat covers merit classification under 8714 99 90, whereas we find that the product is rightly classifiable under 8714 10 90, at applicable rates. Therefore, the ruling of the lower authority (AAR) is modified to the extent of CTH, whereas the rate of tax remains the same.

7. Accordingly, we pass the following order:

ORDER

The Advance Ruling No.105/AAR/2023 dated 05.09.2023 passed by the Authority for Advance Ruling in the case of the appellant is modified to the extent of the CTH of the goods 'motor cycle and scooter seat covers' to be classified under 8714 10 90 and the rate of tax is 14% CGST + 14% SGST or @ 28% IGST.



(D. JAGANNATHAN)

Commissioner of Commercial Tax
Tamil Nadu/Member AAAR



(ASHISH VARMA)

Pr. Chief Commissioner of GST
& Central Excise, Tamil Nadu &
Pondicherry Zone/Member AAAR

To

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//BY SPAD//

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