



Ministry of Finance
Central Board of Indirect
Taxes & Customs



कार्यालय, सदस्य, एडवांस रूलिंग दमण दीव
और दादरा नगर हवेली छठा तल, फार्च्यून
स्क्वायर, वापी-दमण मार्ग, चला, वापी
OFFICE OF THE MEMBER, ADVANCE
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F.No. V/AR-02/Western/DMN/2017-18

Date: 17.08.2018

Passed by:-

1. SHRI SATISH KUMAR,
MEMBER ADVANCE RULING
C GST, DAMAN
2 SHRI KANNAN GOPINATHAN, IAS
MEMBER ADVANCE RULING
UT GST, SILVASSA

Date of Advance Ruling: - 17/08/2018

Date of Issue :-

17/08/2018

Advance Ruling Number. : AR No. 03 /AR/Daman-Silvassa/2018/

N.B.:- This copy is granted free of charge for the private use of the person to whom it is issued.

1. Any person deeming himself aggrieved by this Advance Ruling may appeal against the Ruling before the Appellate Authority for Advance Ruling, in terms of Section 100 of the Central Goods & Service Tax Act, 2017. Such appeal shall be done within 30 days from the date of the communication of the order. The appeal papers shall bear fee of Rs. 10,000/- as provided under Rule 106(1) of the Central Goods & Service Tax Rules, 2017.
2. The Appeal should be filed in Form GST ARA-02, prescribed under sub-rule (1) of Rule 106 & GST ARA-03 of the Central Goods & Service Tax Rules, 2017, as the case may be, duly signed by the person specified in sub-rule (3) (a & b) of the Rule 106.
3. The appeal including the statement of facts and relevant documents, shall be filed in quadruplicate accompanied by equal number of copies of the order appealed against (one of which at least shall be certified copy).
4. An appeal against this order shall lie before the Appellate Authority of Advance Ruling on payment of Rs. 10,000/- as provided under Rule 106(1) of the Central Goods & Service Tax Rules, 2017.

AR No. 03//Daman/2018/ DATED 17.08.2018 PASSED BY SATISH KUMAR, MEMBER ADVANCE RULING CGST & KANNAN GOPI NATHAN, MEMBER ADVANCE RULING UTGST, SILVASSA. UNDER SUB SECTION 4 OF SECTION 98 OF THE CENTRAL GOODS AND SERVICE TAX ACT, 2017 ARISING OUT OF THE APPLICATION DATED 17.05.2018 MADE UNDER SUB SECTION 2 OF THE SECTION 97 OF THE CGST Act, 2017 BY M/S AAKASH ENGINEERS, PLOT No. 277/2 VILLAGE- DADRA., SILVASSA- DN&H.

Brief Facts of the Case:-

M/s Aakash Engineers, Plot No. 277/2, Village- Dadra, Silvassa, registered under Goods & Service Tax vide GSTIN Number 26AAAF5770 D1ZT, vide their letter dated 17.08.2018, submitted an application in form of GST ARA-01 under Rule 104(1) of Advance Ruling along with statements of facts and copy of Challan bearing No. HARR18052600001756 dated 16.05.2018 evidencing the payment of required fee of Rs. 10,000/-. In the said application the assessee has sought clarification for correct classification of their goods i.e. a Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use.

2. To verify the facts, application of the assessee was forward vide letter F.No. V/AR-07/Aakash/Damn/2017-18 dtd 24.05.2018 to the Assistant Commissioner, Div-VI, GST & CR, Silvassa, Daman Commissionerate for examination and their detailed reports on the following points was called for:-

- i. Classification of the said goods under Central Excise Tariff Act, 1985;
- ii. Whether any issue on the subject matter has been decided by the appellate Authority in their own case of the assessee or other cases. If yes, please furnish the copy of the said orders;
- iii. What is prevailing practice of classification of the product in question? and
- iv. Their report on classification of the subject goods under GST regime with supporting Case Laws/Notifications/Circulars or other similar documentary evidence.

2.1 The JAC, Division-VI, Silvassa, Daman Commissionerate vide their letter No. DSLV-VI/Misc-Tech/2017-18 dtd 21.06.2018 have submitted their reply on the following points.

A. *The assessee was a registered unit under Central Excise having registration No.AAAFA5770 DXM 001. The assessee has cleared the said goods under HSN code 87169090 under Central Excise Tariff Act, 1985. Currently after implementation of GST also the assessee is clearing the subject goods with the same HSN code i.e. 87169090. Sample invoice copies in respect of Central Excise regime as well as GST regime obtained from the assessee, have been submitted.*

B. *Issue in question, in the case of the assessee, has not been decided by the appellate Authority in their own case of the assessee or other cases.*

C. *The assessee is the only manufacturer of the subject goods in their jurisdiction.*

D. *From the photograph provided by the assessee, the product under consideration appears to be a baggage/Cargo trolley used at Air Cargo Complexes/Airport for shifting baggage/goods/parcels from airline ware house to on board the flights and vice versa. On going through the GST Tariff Act, 2017, it is noticed that there is no specific entry for the said product. However, it appears to be classifiable under heading 87168090.*

3. Defence Submission and Records of Personal Hearing:

To abide by the law of natural justice, the assessee were given a chance to be heard in person vide letter dtd 24.07.2018. They were also requested vide the said letter to submit documentary evidence in support of their claim, if any. In compliance of the said PH letter,

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Shri Milan R. Shah, authorized representative of the applicant appeared for personal hearing on 06.08.2018. . During the personal hearing, he submitted that as per their understanding the correct classification of the product appears to be 87169090. However, if in the above Chapter, the product is not classifiable then it may be considered as miscellaneous item may be allowed as such for payment of GST. He further requested that in light of the above submission the application may be disposed accordingly.

4. Discussion and Findings:-

In the present case we, the members of Advance Ruling, have to decide as to whether the above said product of the applicant in question i.e. *Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use* is to be classified under HSN Code 87169090 or otherwise.

4.1 The assessee in their application have contended that their product may be classified under HSN 84279000 or 87163100 or 87169090. Therefore, before deciding the issue we find need to discuss the products merit classifiable under the said HSN.

4.1.1 First of all we discuss HSN 84279000. On going through the GST Tariff Act, 2017 we find that major head of HSN 8427 covers "**Fork-lift trucks; other works trucks fitted with lifting or handling equipment**". It is very clear that major head 8427 covers fork lift trucks or other works trucks fitted with lifting or handling equipment which is different from the product manufactured by the assessee. Therefore, it is concluded that the product i.e. *Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use*, does not fall under HSN 84279000 which is specifically classified for **other trucks**.

4.2 Now we refer to the Chapter Note of Heading 8716 under GST Tariff which reads as under -

8716 : Trailers and Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof

87161000 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Trailers And Semi Trailers Of The Caravan Type, For Housing Or Camping

87162000 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Self Loading Or Self Unloading Trailers And Semi Trailers For Agricultural Purposes

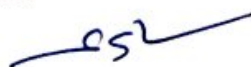
87163100 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Other Trailers And Semi Trailers For The Transport Of Goods : Tanker Trailers And Tanker Semi Trailers

87163900 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Other Trailers And Semi Trailers For The Transport Of Goods : Other

87164000 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Other Trailers And Semi Trailers For The Transport Of Goods : Other Trailers And Semi Trailers

87168010 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Other Vehicles Hand Propelled Vehicles (E.G. Hand Carts, Rickshaws And The Like)

87168020 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Other Vehicles Animal Drawn Vehicles



87168090 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Other Vehicles Other

87169010 : Trailers And Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Parts : Parts And Accessories Of Trailers

87169090 : Trailers and Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts Thereof Parts Other

4.2.1 On going through the HSN description of 8716, we find that HSN 8716 covers product **Trailers and Semi Trailers; Other Vehicles, Not Mechanically Propelled; Parts thereof** whereas the assessee manufacture product *Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use* which is nearer to their product. Therefore, we jointly take a view that their product i.e. Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use is merit classification under major head 8716.

4.3 The view of Members of Advance Ruling finds support from the Circular No. 696/10/2003 dtd 19.02.2003 wherein the issue have been clarified by the CBEC which reads as under-

Circular No. 694/10/2003
Dated 19th February, 2003

F. No. 171/15/200-CX.4
Government of India
Ministry of Finance & Company Affairs
Department of Revenue

Sub :- Classification of Hand Pallet Trucks / Trolley.

I am directed to say that a doubt has been raised whether the Hand Pallet Truck/Trolley are classifiable under heading 84.27 or under heading 87.16 of the Central Tariff. This classification issue had already been examined once by the Board for defending the Writ Petition filed by M/s Jaldoot Material Handling Pvt. Ltd., it was then clarified that the appropriate classification of the item would be under heading 87.16. The CEGAT however has held in this case that the correct classification of Hand Pallet Trucks is under chapter heading 84.27 of CETA, 1985. An appeal against the CEGAT judgement has been filed before Apex Court.

2. In case of a similar product described as Hand Trolley, the CEGAT has held (in the case of *Gujrat Industrial Trucks Ltd. Vs CCE Baroda*) that the correct classification of the item is under chapter heading 87.16 of CETA 1985.

3. The matter has been examined by the Board. In view of Ministry's stand to appeal against the CEGAT decision in the case of *Jaldoot Material Handling Pvt. Ltd.*, and also the Judgement in the case of *Gujrat Industrial Trucks Ltd. Vs. CCE Baroda*, it is clarified that the correct classification of the Hand Pallet Trucks/Trolley is under Heading 87.16. However, since in the case of *Jaldoot Material Handling Pvt. Ltd.* the CEGAT has taken a different view, for this particular party protective demands should only be raised and kept alive till the



decision of the Apex Court. In respect of other parties demands can be raised under the normal period prescribed under section 11A of the Central Excise Act, 1944 and adjudicated.

4. Trade and field formations may be suitably informed.
5. Receipt of this circular may please be acknowledged.
6. Hindi version will follow.

(MANISH MOHAN)
UNDER SECRETARY (CX.4)

4.3.1 We note that the Circular No. 696/10/2003 dtd 19.02.2003 specifically direct that in the Judgement in the case of Gujrat Industrial Trucks Ltd. Vs. CCE Baroda, it is clarified that the correct classification of the Hand Pallet Trucks/Trolley is under Heading 87.16. Therefore, we hold that the correct HSN classification for the product in question i.e. Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use **is merit classification under major head 8716.**

4.3.2 Now we discuss the product presently classified by the assessee under the HSN 87169090 is correct or otherwise. On going through the major head for HSN 871690 which is specifically cover **parts** whereas the detail description given under HSN sub heading 87169010 is meant for **Parts and accessories of trailers** and HSN code 871690920 for **other**. Here it is worth mention that the eight digit HSN for sub heading 87169090 is also a type of specification for parts only. Hence, it can not be the correct eight digit HSN for the *product in question i.e. Cargo Trolley* used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use.

5. We further note that the JAC in their reply have reported under point "d" that *from the photograph provided by the assessee, the product under consideration appears to be a baggage/Cargo trolley used at Air Cargo Complexes/Airport for shifting baggage/goods/parcels from airline ware house to on board the flights and vice versa. On going through the GST Tariff Act, 2017, it is noticed that there is no specific entry for the said product. However, it appears to be classifiable under heading 87168090*

5.1 On going through the GST HSN code for major 6 head 871680 which is cover "other Vehicle" whereas further sub heading 87168010 covers hand propelled vehicles e.g. hand cart, rickshaw and the like, hence, it can not be the proper HSN code for their product. Further sub heading 87168020 cover s the product "Animal drawn Vehicle" the product manufactured by the assessee is other than the product of animal drawn vehicle hence it can not be classified under sub heading 87168020. Now the last sub heading under the major head of 6 digit HSN for the product is 87168090 is meant for "Others". Therefore, we are of the view that the product in question i.e. Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use is correctly classifiable under HSN 87168090.

6. We note that **Harmonized System of Nomenclature (HSN)** is internationally recognized product/items coding system which has also been accepted in India. From the




above detailed Chapter Sub Heading wise classification of the product in the existing law i.e. under Central Excise it is found that the classification of the above said product is one and the same under GST regime as well as under Customs law. No change in the classification under all the entire three "Act" have been noticed. Therefore, find that the product in question i.e. Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use is correctly classifiable under HSN 87168090.

7. In view of the above discussing and findings, we hereby pronounce **Advance Ruling** under Sub Section 4 of Section 98 using power vested in us under sub Section 6 of Section 98, Section 96 of the Central Goods and Service Tax Act, 2017 read with Rule 103 of the Central GST Rules, 2017 and defined under Section 14 of the UTGST Act, 2017 as under-

Order/ Advance Ruling

7.1 We hereby take decision against application dtd 22.07.2017 of M/s Aakash Engineers, Plot No. 277/2, Village- Dadra, Silvassa. , and pronounce **Advance Ruling** that Cargo Trolley used to carry Cargo from one place to another, towable in nature and has solid tyre designed for transportation of baggage and light cargo with a minimum payload. The trolley is rugged and is suitable and treated for outdoor use is correctly classifiable under HSN 87168090. Their application dtd 17.05.2018 is disposed off accordingly. Present decision will be applicable for the payment of all types of taxes i.e. CGST/IGST and UTGST.

ATTESTED


(SHRI SATISH KUMAR)
MEMBER ADVANCE RULING
DAMAN


MEMBER ADVANCE RULING
SILVASSA

F. No. F.No. V/AR-07/Akash/DMN/2017-18

Dated 12.08.2018

To
M/s Aakash Engineers,
Plot No. 277/2, Village- Dadra,
Silvassa.

Copy to the following for information and necessary Action please.

1. The Commissioner of CGST and Central Excise, Daman Commissioner.
2. The Commissioner of UTGST, Silvassa for information and necessary action please.
3. The Asstt. Commissioner of CGST & CE, Division-VI, Daman.
4. The Superintendent of CGST & CE, Range-IV, Division-VI, Silvassa Daman Commissionerate.
5. Guard file.