



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2019-20/04
(In Application No.: 04/2019-20, dated 28.05.2019)

Name & Address of the Applicant	:	M/s Shiroki Technico India Private Limited, Phase-II, Plot- 192C, Sector-4, HSIIDC, IMT Bawal, Rewari, Haryana.
GSTIN of the Applicant	:	06AAFCT0104J1ZQ
Date of Application	:	28.05.2019
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	Clause(a)- classification of any goods or services or both;
Date of Personal Hearing	:	17.07.2019
Present for the Applicant	:	Sh. Onkar Sharma & Sh. Rakesh Singla (AGM Finance)

Memo No: 1044/AAR
Dated: 28/8/2020

1. Facts in Brief:

1.1 The applicant is a registered manufacturer of seat devices, window regulators and other allied components of seats. The specific product which is subject matter of classification in the present application is 'seat adjuster' which is manufactured by the Applicant. As per the applicant, the applicant sells the manufactured parts to seat makers who affix the parts into the seats and thereafter the seat is affixed to the motor vehicle. The applicant claims that the item seat adjuster merits classification under Serial No. 435A of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 41/2017- Central Tax (Rate) dated 14.11.2017.

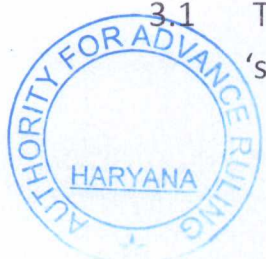
2. Issue for Ruling:

2.1 Whether the product; namely 'seat adjuster' merit classification under Chapter 8708 at Serial No. 170 of Notification No. 1/2017- Central Tax (Rate) dated 28.06.2017 or under Chapter 9401 at Serial No. 435A of Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 41/2017- Central Tax (Rate) dated 14.11.2017.

3. Discussion:

3.1 The Applicant submits that the specific functions which are performed by 'seat adjuster' are as under:

- Seat adjuster helps the driver and co-passenger to get into the most comfortable leg position inside the car by using it to move the seat forwards and backwards as per their convenience to maintain safe posture and position while driving. It helps in adjusting the position of the seat. Additionally, 'seat adjuster' contains necessary safety



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features to protect the occupants in case of a collision/accident. The major impact load in a collision is transferred through the 'seat adjuster', so it must be ensured that the mechanism has adequate strength to withstand the load because it plays an important role in protecting the car driver and co-passenger in the event of a crash. The 'seat adjuster' needs to be carefully designed, manufactured and fitted in way to meet the properties of a good car seat besides an attractive style.

- 3.2 The Applicant stated that before implementation of the Goods and Services Tax ("GST"), the Applicant used to classify 'seat adjuster' under HSN 9401 and discharged applicable excise duty on the same.
- 3.3 The Central Goods and Services Tax Act, 2017 ("CGST") was introduced with effect from 1.7.2017 wherein the Union and the State Governments were given concurrent powers to levy tax on intra state supply of goods and services. Accordingly CGST was enacted and every state enacted the State Goods and Services Tax Act, 2017 ("SGST"). The relevant SGST Act for the purpose of the present application is Haryana Goods and Services Tax Act, 2017 ("HGST"). The provisions of CGST and HGST are *inparimateria*.
- 3.4 Even after the implementation of Goods and Service Tax ("GST"), the Applicant classified 'seat adjuster' under the same HSN 9401 at Serial No. 211 under Schedule IV of Notification No.1-Central Tax (Rate) dated 28.06.2017 (hereinafter referred as "Notification No.1"). The applicable rate of CGST was 14% and an equivalent rate of HGST was also payable. The cumulative rate of CGST/HGST came to be 28%.
- 3.5 However, the rates of goods under CGST underwent a change *vide* Notification No.41-Central Tax (Rate) dated 14.11.2017 (hereinafter referred as "Notification No.41") wherein the rates of various goods were reduced pursuant to the recommendations of Goods and Services Tax Council ("GST Council"). The rate of 'seat adjuster' was reduced from 14% to 9%. A new entry at Serial No. 435A was inserted in Notification No.1 to give effect to the reduced rate of tax.
- 3.6 Similar notifications were also issued under HGST and the effective rate of tax for 'seat adjuster' under HSN 9401 with effect from 14.11.2017 came to be 18%. Since the Applicant was paying the tax under HSN 9401, the benefit of reduction in rate of CGST/SGCT was applicable to the Applicant. However, during an internal check of the processes adopted by the Applicant by a third party being carried out as a routine exercise, it was pointed out that there may be a competing entry at Serial No. 170 of Notification No.1 pertaining to parts and accessories of motor vehicles which may be applicable for 'seat adjusters'.



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3.7 The Applicant as a measure of caution and to avoid any steep interest liability changed the classification of 'seat adjuster' from HSN 9401 to HSN 8708 with effect from April 1, 2019 and paid the applicable GST from November 2017. However, the Applicant believes that 'seat adjuster' is rightly classifiable under HSN 9401 and the applicable rate of CGST/HGST ought to be 9%. The Applicant has also filed a letter with the jurisdictional officer on 10.05.2019 asserting their views and indicating that the payment of additional GST on account of change in classification is being made under protest.

3.8 In view of the aforesaid, the present application is being preferred by the Applicant to seek clarity on the appropriate classification of 'seat adjuster'.

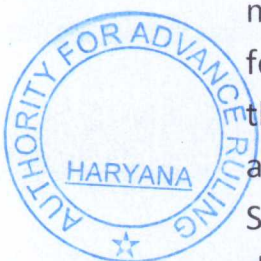
4. Findings:

4.1 The personal hearing opportunity was given to the applicant. Sh. Onkar Sharma & Sh. Rakesh Singla (AGM Finance), the authorised representative of the applicant presented the views of the applicant on 17.07.2019. The applicant has been heard at length, the documents tendered have been perused and the legal provisions have been read thread-bare.

4.2 Seat adjuster helps the driver and co-passenger to get into the most comfortable leg position inside the car by using it to move the seat forward and backward as per their convenience to maintain safe posture and position while driving. It helps in adjusting the position of the seat. Additionally, 'seat adjuster' contains necessary safety features to protect the occupants in case of a collusion/accident. These are the features of the product 'Seat adjuster' and it does not seem to be a part of a seat.

4.3 The Applicant themselves changed the classification of 'seat adjuster' from HSN 9401 to HSN 8708 with effect from April 1, 2019 and paid the applicable GST from November 2017. It seems that the applicant took a right step as a measure of caution and to avoid interest liability.

4.4 This issue was decided by the Hon'ble Supreme Court in the case of **Commissioner Of Central Excise, Delhi vs Insulation Electrical (P) Ltd on 27 March, 2008**. The assessee (respondent) was engaged in the manufacture of Rail Assembly front seat (Omni), Adjuster Assembly slider seat & Rear Back lock Assembly. The issue to be decided was whether the products manufactured by the assessee are the integral parts of the seats, as put forth by the department and classifiable under chapter heading 9401.00 or the same are parts and accessories of motor vehicles, as claimed by the assessee and classifiable under chapter heading 8708.00. The Hon'ble Supreme Court dismissed the Civil Appeal No. 5943 of 2002 filed by the department and upheld the decision of Tribunal.



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Para 3 at page 2 of the Judgement is reproduced below:-

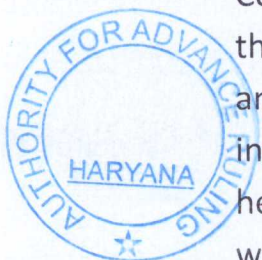
“.....Tribunal came to the conclusion that the items manufactured by the assessee are only adjuncts, additions to the seats for the better utilization of the seats for comfort and convenience of the passengers and they are not essential components or parts of seats. That the seats are complete in themselves without these mechanisms and therefore do not merit classification as parts of seats under Chapter 9401.00. Tribunal relying upon a judgment of this Court in the case of Mehra Brothers v. Joint commercial Officer reported in 1991 (51) ELT 173(SC) held that the products manufactured by the assessee merited classification under chapter heading 8708.00 as ‘parts and accessories of motor vehicles’.

It seems from the above that chapter heading 9401 covers Seats (other than those of heading 9402), whether or not convertible into beds, and **parts thereof**. But the item ‘Seat adjuster’ is not an essential component or part of a seat, hence do not merit classification under HSN 9401.

- 4.5 It was also found that Hon’ble Supreme Court of India vetted on the contentions of the counsel of the assessee tendered in the Tribunal as stated in para 5 at page 2 as under:

“..... counsel appearing for the assessee contends that the products manufactured by the assessee are not seats or parts of the seats as contemplated under chapter heading 9401.00. The seat is complete without the said products as rightly concluded by the Tribunal. With regard to rail assembly front seat adjuster/assembly slider seat manufactured by the assessee, it is stated that the item is essentially in the nature of rails made out of iron and steel. These are to be affixed on the floor of motor vehicles. When seats are affixed on these rails, seats can slide back and forth with the operation of a lever forming part of other rail assembly front seat adjuster. This enables the driver or the passenger, to adjust the position of the seat to suit his comfort and convenience. It is stated that such adjustment of seat is merely to improve the efficiency and convenience of the seat and does not form part of the seat. That the seat is complete and fully functional without this rail arrangement.....”

- 4.6 In the concluding remarks of the aforesaid Judgement, Hon’ble Supreme Court of India in second last Para at page 4 agreed with the view taken by the tribunal and made it clear that Chapter Heading 8708.00 covers parts and accessories of motor vehicles and this chapter heading is wide enough in its scope so as to cover all accessories of motor vehicles whereas Chapter heading 9401.00 covers all type of seats and parts thereof. The Concluding words of the Judgement are reproduced here as under:



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'We agree with the view taken by the Tribunal that the products manufactured by the assessee cannot be the 'parts' of seats, as claimed by the revenue. Chapter heading 8708 covers both the 'parts' as well as 'accessories'. The items manufactured by the assessee are only adjuncts. These are to be affixed on the floor of motor vehicles. When seats are affixed on these rails, seats can slide back and forth with the operation of a lever forming part of other rail assembly front seat adjuster. This enables the driver or the passenger, to adjust the position of the seat to suit his comfort and convenience. These are merely to improve the efficiency and convenience of the seat and does not form part of the seat. The seats are complete in themselves without these mechanisms and therefore it cannot be held that the parts manufactured by the assessee merit classification under chapter 9401. Rather the same would be accessories to the motor vehicle as claimed by the assessee and would merit classification under chapter heading 8708, because they are fitted in the motor car for adjustment of the seats for the convenience and comfort of the passengers. The Rail Assembly front seat (Omni), Adjuster/assembly slider seat, YE-2 rear back lock assembly and 1000cc rear back lock assembly being manufactured by the assessee can at best be termed as accessories to the motor vehicle for better convenience of the passengers/drivers travelling in the car.'

It is clear from the above that the seat adjuster would be accessories to the motor vehicle and would merit classification under chapter heading 8708, because they are fitted in the motor car for adjustment of the seats for the convenience and comfort of the passengers. Chapter heading 8708 covers parts and accessories of the motor vehicles of headings 8701 to 8705.

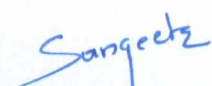
5. Ruling:

So, in light of the above discussion and findings, the Ruling of the Authority on the question raised in the application is as under:

- 5.1 the 'seat adjuster' merits classification under Chapter 8708 at Serial No. 170 of Schedule IV of Notification No. 1/2017- Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 41/2017- Central Tax (Rate) dated 14.11.2017. Therefore, the said product is taxable at 14% CGST and 14% HGST.

Ordered accordingly.
To be communicated.

26.07.2019
Panchkula.


(Sangeeta Karmakar)
Member CGST



(Madhubala)
Member SGST

Regd. AD/Speed Post

**M/s Shiroki Technico India Private Limited,
Phase-II, Plot 192C, Sector 4, HSIIDC,
IMT Bawal, Rewari-123501, Haryana.**

Copy to:

- ✓ 1. The Commissioner of Central Goods & Services Tax, Faridabad, GST Bhawan, Block 'C' & 'D', New C.G.O. Complex, NH-IV, Faridabad-121001, Haryana
2. Deputy Excise and Taxation Commissioner, Rewari (ST).