



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



ADVANCE RULING NO.HAR/HAAR/R/2018-19/22

(In Application No.:22/2018-19, dated 26.07.2018)

Name & Address of the Applicant	: M/s Maruti Suzuki India Ltd., Palam-Gurgaon Road, Gurgaon, Haryana-122015
GSTIN of the Applicant	: 06AAACM0829Q1Z8
Date of Application	: 26.07.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	: (II) Applicability of Notification issued under the provisions of the Act.
Date of Personal Hearing	: 23.10.2018
Present for the Applicant	: Sh. Laxmi Narsimhan, Advocate Sh. Amar Pratap Singh, Advocate Sh. Ankit Awal, CA

1. The submissions made by M/s Maruti Suzuki India Ltd. (hereinafter referred to the "Applicant"), in their application for advance ruling are reproduced below, verbatim.

"STATEMENT OF RELEVANT FACTS HAVING A BEARING ON THE QUESTION(S) ON WHICH ADVANCE RULING IS REQUIRED"

1. M/s Maruti Suzuki India Ltd. (hereinafter referred to the "Applicant") is engaged in the business of manufacture and supply of cars. The Applicant, inter-alia, supplies cars with compression ignition internal combustion piston engine and electric motor and is currently manufacturing and supplying three models of cars of this category. The three cars of this category are S-Cross, Ertiga and Ciaz (hereinafter collectively referred to as HEVs).

2. The HEVs so supplied by the Applicant consist of a compression-ignition internal combustion piston engine (IC engine), also known as diesel engine, paired with an integrated starter generator (ISG) which supplements the engine's power and enables acceleration. The relevant specifications of the three HEVs are provided in the following table:

Technical Specifications	Models		
	S-Cross	Ertiga	Ciaz
Overall length(mm)	4300	4296	4505
Overall width (mm)	1785	1695	1730
Overall height(mm)	1595	1685	1485
Engine Capacity(cc)	1248	1248	1248
Fuel Tank Capacity(1)	48	45	43

3. It is pertinent to mention that the aforementioned specifications in regard to HEVs supplied by the Applicant are determined as per Rule 93 and 124 of the Motor

Vehicles Rules, 1989, as amended from time to time, which provides the methodology to determine the dimensions, safety standards and fuel efficiency of the vehicle.

4. A copy of the certificate issued by International Centre for Automotive Technology (A Division of NATRIP Implementation Society (NATIS), Govt. of India) (hereinafter referred to as "ICAT") dated 13.05.2015 and 27.02.2017 for Ciaz and Ertiga models supplied by the Applicant are enclosed as Annexure-A and B respectively. Further, a copy of the certificate issued by The Automotive Research Association of India dated 18.08.2017 for S-Cross model supplied by the Applicant is enclosed as Annexure-C. All these certificates provide that these models of HEVs supplied by the Applicant are in compliance with the relevant rules of Motor Vehicles Rules, 1989.

Functioning of HEVs:

5. A motor vehicle is moved when the requisite mechanical force is applied to it. In the conventional motor vehicles with the IC engines, this mechanical force is provided by the combustion of fuel (diesel/petrol) with the air in the IC engine in the motor vehicle. The combustion of fuel with the air converts the potential chemical energy in fuel and oxygen into thermal energy which is transformed into the mechanical energy that accelerates the vehicle (increasing its kinetic energy) by causing the pressure on the pistons.

6. As explained above, in HEVs supplied by the Applicant. Besides IC engine, an electric motor is also present which provides assistance to the IC engine as and when required.

7. Notably, at certain driving conditions such as acceleration, etc. to propel the motor vehicle, the IC engine providing the mechanical force to the motor vehicle is assisted by the electric motor present in HEVs. This electric motor acts as a power booster to the IC engine by utilizing the energy stored in the electric battery (<http://www.circuitstoday.com/working-of-hybrid-cars/>).

8. In view of the above functional analysis of HEVs, it is clear that in HEVs, the IC engine as well as electric motor work in tandem to propel the vehicle.

9. Besides the above, the other distinguishable features of HEVs as against the one of conventional motor vehicles (running solely on IC engines), supplied by the Applicant are as under:

a. During braking/ deceleration condition, the motor acts as a generator and charges the special high capacity battery.

b. The regeneration of energy assists the power function of the car. This helps the engine in providing optimal acceleration and performance.

c. The vehicle has idle start-stop function which helps the vehicle conserve precious fuel in certain idling conditions.

STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS, AS THE CASE MAY BE, IN RESPECT OF THE QUESTION(S) ON WHICH ADVANCE RULING IS REQUIRED.

APPLICANT'S ELIGIBILITY FOR ADVANCE RULING:

10. Section 11(1) of the GST (Compensation to States) Act, 2017 (hereinafter referred to as the 'Compensation Cess Act') provides that all provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act') and the rules made thereunder, shall be applicable in relation to the levy and collection of the cess leviable under Section 8 of the Compensation Cess Act. The relevant portion of Section 11(1) of the Compensation Cess Act is reproduced hereunder:

"(1) The provisions of the Central Goods and Services Tax Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the intra-state supply of goods and services, as they apply in relation to the levy and collection of central tax on such inter-State supplies under the said Act or the rules made thereunder"

.....Emphasis Supplied

11. In view of the above referred provision of the Compensation Cess Act, it can be concluded that all the provisions of the CGST Act, including that of assessment, input tax credit, etc. shall be applicable to the levy and collection of the cess leviable under Section 8 of the Compensation Cess Act.

12. Thus, the provisions pertaining to advance ruling under the CGST Act provided under Chapter XVII of the CGST Act shall be applicable to determine the questions enunciated under Section 97 of CGST Act with respect to Compensation Cess.

13. Section 97 of the CGST Act, entails that advance ruling may be filed by an applicant on following questions: -

- a. Classification of any goods or services or both;
- b. Applicability of a notification issued under the provisions of this Act;
- c. Determination of time and value of supply of goods or services or both;
- d. Admissibility of input tax credit of tax paid or deemed to have been paid;

Determination of the liability to pay tax on any goods or services or both;

Whether applicant is required to be registered;

g. Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

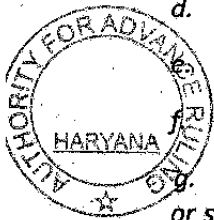
14. The Applicant submits that issue on which advance ruling is sought in the instant matter relates to the applicability of the Notification issued under the provisions of the Compensation Cess Act. The question relating to applicability of Notification is eligible to be posed for advance ruling before the Advance Ruling Authority in terms of Section 97(2)(b) of the CGST Act. Thus, on a conjoint reading of Section 97(2)(b) of the CGST Act with Section 11(1) of the Compensation Cess Act, it is submitted that the question pertaining to determination of applicability of Notification issued under the provisions of the Compensation Cess Act is eligible to be posed for advance ruling under Section 97(2)(b) of the CGST Act.

15. Further, the Applicant is registered in Haryana and thus, the present advance ruling application is maintainable before the Hon'ble Authority of Advance Ruling, Haryana.

ISSUE REQUIRING ADVANCE RULING:

16. The Applicant submits the following question for Advance Ruling and its interpretation on the question as under:

- c. Whether HEVs supplied by the Applicant are leviable to Compensation Cess at the rate of 15% as prescribed under Sl. No. 48 of Notification No. 01/2017-Compensation Cess (Rate) dated 28.06.2017 (hereinafter referred to as



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Notification No. 01/2017-CC) as amended by Notification No. 05/2017-Compensation Cess (Rate) dated 11.09.2017 (hereinafter referred to as Notification No. 05/2017-CC)?

Applicant's understanding:

17. In the understanding of the Applicant, HEVs supplied by the Applicant are leviable to concessional rate of Compensation Cess i.e. 15% under Sl. No. 48 of Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC.

Applicable provisions:

GST (Compensation to States) Act, 2017

18. Section 8 of the Compensation Cess Act, is the charging section which provides that a compensation cess shall be leviable on supplies of goods or services or both as specified in column (2) to the Compensation Cess Act, at such rate, as may be notified by the Government on the recommendations of the Goods and Service Tax Council.

19. The relevant portion of Section 8 of the Compensation Cess Act is reproduced hereunder:

"8. (1) There shall be levied a cess on such intra-state supplies of goods or services or both, as provided for in section 9 of the two Central Goods and Services Tax Act, and such inter-state supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act, and collected in such manner as may be prescribed, on the recommendations of the Council.....

(2) The cess shall be levied on such supplies of goods and services as are specified in column (2) of the Schedule, on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the corresponding entry in column

(4) of the Schedule, as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify:

..... Emphasis supplied

Notification No. 1/2017-CC

20. In exercise of powers conferred under sub-section (2) of Section 8 of the Compensation Cess Act, the Central Government issued a Notification No. 01/2017- CC which specifies the rate of compensation cess to be levied on different goods falling under specified Chapter/heading/sub-heading/tariff items. The relevant entries of the Schedule (Sl. No. 48 and 52) are reproduced herein below:

Schedule

S. No.	CHAPTER/HEADING/ SuB-HEADING/ TARIFF ITEM	DESCRIPTION OF GOODS	RATES OF GOODS AND SERVICES TAX COMPENSATION CESS
48	8703 60, 8703 70	Following Vehicles, with both compression-ignition internal combustion piston engine and electric motor as motors for propulsion; a) Motor vehicles cleared as ambulances duly fitted with all the	NIL

		<p>fitments, furniture and accessories necessary for an ambulance from _ the factory manufacturing such motor vehicles</p> <p>b) Three wheeled vehicles</p> <p>c) Motor vehicles of engine capacity—not exceeding 1500cc and of length not exceeding 4000 mm.</p> <p>Explanation- For the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.</p>	
52	8703	All goods other than those mentioned at S. No.s. 43 to 51 above	15%

Notification No. 05/2017-CC

21. The above referred Notification No. 01/2017-CC was amended by Notification No.05/2017-CC which substituted Sl. No. 48 and 52 of Notification No. 01/2017-CC. The amended Sl. No. 48 and 52 are as under:

S. NO.	CHAPTER/HEADING SUB-HEADING TARIFF ITEM	DESCRIPTION OF GOOD	RATES OF GOODS AND SERVICES TAX COMPENSATION CESS
48	8703 50, 8703 70	<p>Following Vehicles, with both compression-ignition internal combustion piston engine [diesel or semi- diesel] and electric motor as motors for propulsion</p> <p>a) Motor vehicles cleared as ambulances duly fitted with all the fitments, furniture and accessories necessary for an ambulance from _ the factory manufacturing such motor vehicles</p> <p>b) Three wheeled vehicles</p> <p>c) Motor vehicles of</p>	<p>NIL</p> <p>Nil</p> <p>Nil</p>

		engine capacity not exceeding 1500cc and of length not exceeding 4000 mm d) Motor vehicles other than those mentioned at (a), (b) and (c) above. Explanation- For — the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.	15%
52	8703	Motor vehicles of engine capacity not exceeding 1500 cc	17%

22. After the issuance of the above referred Notification 05/2017-CC dated 11.09.2017, the Applicant filed a letter dated 19.09.2017 with Sh. R.K. Mahajan, Member-Budget and legal, CBEC seeking clarification on classification of the Ertiga and Ciaz models of the Applicant under sub-heading 8703 50 of the Customs Tariff Act, 1975 (hereinafter referred to as "CTA"). A copy of the letter dated 19.09.2017 is enclosed as **Annexure-D**.

23. In the interim period (since the billing and sales dispatches to the dealers and customers had to start), the Applicant, while waiting for response of concerned officials, out of abundant precaution, started issuing tax invoices at higher of the two tax slabs which was 28% + 17% (i.e. by classifying the subject HEVs as tariff item 8703 3191 of the CTA and applying Sl. No. 52 of the Notification No. 05/2017-CC). The same was informed by the Applicant, vide its letter dated 22.09.2017 to Sh. Upender Gupta Commissioner (GST), CBEC with a request that as and when the Government clarifies that the subject HEVs fall under the 15% Cess slab, excess deposit of 2% Cess shall be refunded to the ultimate retail customers. A copy of the letter dated 22.09.2017 is enclosed as **Annexure-E**.

24. Subsequently, the Applicant also filed a letter dated 30.10.2017 to Sh. Yogendra Garg, Additional Director General of GST, DGGST, New Delhi and letter dated 05.01.2018 to Member-Budget, CBEC seeking guidance and clarification on the classification and applicable rate of compensation cess of the Applicant's HEVs. Copies of letter dated 30.10.2017 and 05.01.2018 are enclosed as **Annexure- F and G** respectively.

25. The Applicant submits that even after repeated reminders, till date no formal communication has been issued by the Government on the Applicant's request.

26. As per the Applicant's understanding, all 3 models of HEVs of the Applicant namely Ciaz, Ertiga and S-Cross fall under the sub-heading 8703 50 of the CTA and are consequently covered under clause (d) of Sl.No.48 of the Notification No. 01/2017-CC as substituted by Notification No. 05/2017-CC and thus, attracting compensation cess at the rate of 15%. The reasons for the same are explained hereunder:-

The HEVs are classifiable under Heading 8703

27. On reading the aforementioned notification, it can be seen Sl. No. 48 as substituted is applicable for sub-heading 8703 50, 8703 70. The relevant extract of Heading 8703 of the CTA is provided below for quick reference:

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TARIFF ITEM	DESCRIPTION OF GOODS
(1)	(2)
8703	Motor Cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars.
8703 40	Other vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power
8703 50	Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power
8703 70	Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power

28. It is pertinent to note that the Harmonised System Review Sub-Committee during its 44th session in 2017, proposed to amend the HSN Explanatory Notes to Heading 8703 to cover the hybrid vehicles i.e. the vehicles which consist of both diesel engine as well as electric motor. Following this decision of the review sub-committee, the explanatory notes were amended. Corresponding amendment was brought in CTA in the year 2017 and new customs tariff entries 8703 40, 8703 50, 8703 60 and 8703 70 were introduced under the heading 8703.

29. On perusal of the above referred Heading 8703 of the CTA, it is clear that all motor cars and motor vehicles will be covered under this heading provided these motor cars/motor vehicles are:

- d. principally designed for transport of persons; and
- are not covered under Heading 8702 of the CTA i.e. for transport of ten or more persons.

30. It is submitted that HEVs supplied by the Applicant are principally designed for transportation of persons. Further, these HEVs are not covered under Heading 8702 of the CTA in as much as these HEVs are for transportation of less than ten persons i.e. five persons including driver (S-Cross and Ciaz) and 7 persons including driver (Ertiga). Thus, HEVs manufactured and supplied by the Applicant fulfils twin conditions of Heading 8703 (as provided in Para 29 above) and are therefore, covered under Heading 8703 of the CTA. Further, HEVs of the Applicant do not comprise of reciprocating piston engine (8703 40), rather they comprise of both compression- ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion and thus, are classifiable under sub-heading 8703 50 of the CTA. Discussion in detail in this regard is made in the subsequent paragraphs.

31. Once it is established that HEVs supplied by the Applicant falls under Heading 8703 of the CTA, it is pertinent to determine as to whether or not these HEVs are covered under Sl. No. 48 of the Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC, referred above. This is for the reason that in case these HEVs are covered under Sl. No. 48, compensation cess at the rate mentioned in column (4) corresponding to Sl. No. 48 i.e. 15% would be leviable. However, in case these HEVs are not covered under Sl. No. 48 of the Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC, these HEVs would be covered under Sl. No. 52, which is a residual entry for

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vehicles falling under Heading 8703 of the CTA and thus, would be leviable to the compensation cess at the rate mentioned in column (4) corresponding to Sl. No. 52 which is 17%.

Analysis of Sl. No. 48 of Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC

32. On a careful perusal of amended Sl. No. 48 of Notification No. 01/2017-CC referred above, it is clear that this entry would cover all those vehicles which have both compression-ignition internal combustion piston engine (diesel or semidiesel); and electric motor as motors for propulsion. Further, depending on the specifications of the motor vehicles, as provided in column (3), the appropriate cess provided in column (4) shall be levied.

33. To analyse Sl. No. 48, it is necessary to understand the meaning of the terms 'propulsion' and 'both' used therein.

34. It is a settled principle of law that to understand meaning of any word used in a statute, but not defined therein, reference can be made to the meanings given in any other statute or dictionary. Reliance in this regard can be placed on the decision of Hon'ble Apex Court in the case of **C.C. (General), New Delhi vs. Perstorp Electronics Ltd.**, reported at [2005 (186) ELT 532 (SC)]. The relevant portion of the said decision is as under:

"50. In our opinion, the Counsel is right in submitting that when the expression 'book' is not defined in the Act, natural and ordinary meaning of the said expression must be kept in view.

..... Emphasis Supplied

35. It is submitted that as the words 'both' and 'propulsion' are not defined/explained in the aforementioned notification, reference is made to the dictionaries to understand the meaning of the terms.

36. Meaning of the term 'propel/propulsion': il.

Chamber's dictionary (Deluxe Edition):

'propel: to drive forward'

'propulsion: the act of causing something to move forward; force which causes forward movements".

ii. McGraw-Hill Dictionary of Scientific and Technical Terms (Fifth Edition):

'the process of causing a body to move by exerting a force against it'

iii. New Webster's Dictionary and Thesaurus:

'propel' means 'to push or drive forward or onward'.

iv. Academic Press Dictionary of Science and Technology:

'the process of applying a force, pushing ambient fluid out the propulsor at a velocity higher than the ambient from the rear end of the propulsor on an object, to cause it to move forward'.

v. Random House Compact Unabridged Dictionary, Special 2nd edition:

"to drive or cause to move, forward or onward; to impel or urge onward"

vi. The World Book Encyclopedia, Volume 11:

"Jet Propulsion is the production of motion in one direction by releasing a high-pressure stream of gas in the opposite direction".

vii. *The Compact edition of the Oxford English Dictionary. Volume II:*

"propel: to drive before one, push or urge forward"

"propulsion: The action of driving or pushing forward or onward, the condition of being impelled onward; also, propulsive force or effort."

viii *McGraw-Hill Concise Encyclopedia of Science & Technology, 3rd edition*

"The process of causing a body to move by exerting a force against it"

37. On a careful perusal of the above referred meanings of the term 'propel or propulsion' it is clear that any action or activity which causes or urges to cause movement in a body is called propulsion. Thus, the act of pushing or causing a body to move is propulsion.

38. Meaning of the term 'both':

i. | Major Law Lexicon (4th Edition, 2010):

'the one and the other; the two without the exception of the other'.

39. In view of the above referred meaning of the term 'both', it is clear that the usage of the term 'both' suggests that the two things are indispensable and out of the two, none can be excepted or ignored.

40. Thus, while interpreting the scope of Sl. No. 48 in light of the above referred meanings of the terms 'propulsion' and 'both', it is amply clear that Sl. No. 48 would cover all those vehicles which have IC engine, and an electric motor. Further, the IC engine and electric motor should be the motors for propulsion i.e. these motors should be able to move or push the vehicle in forward direction.

41. As discussed above, it is submitted that the use of the term 'both' in Sl. No. 48 clarifies that to fall within the ambit of Sl. No. 48, a motor vehicle should consist of the IC engine as well as the electric motor. Thus, for the purpose of interpreting scope of Sl. No. 48, the presence of both IC engine and motor is crucial, which is present in HEVs.

The HEVs manufactured by the Applicant has both IC engine as well as electric motor which act as motors for propulsion

42. Now, the next question to be determined is whether such electric motor can be said to be a 'motor for propulsion'.

43. In this regard, reference is drawn to the 44th Session along with 53 Session of the Harmonised System Review Sub-Committee. At these sessions, it was proposed to introduce new tariff entries covering hybrid vehicles. Accordingly, customs tariff sub-headings 8703 40 & 8703 50 were introduced the year 2017. Notably, these entries, when proposed, used the phrase 'as motors for driving' in place of 'as motors for propulsion' used in the tariff entries existent on date. The 53 Session provided the reason for such change as follows :-

"The EU Delegate questioned the use of the expression "for driving" in English and its translation "pour la transmission" into French in the proposed new subheadings and invited the Secretariat to check whether it could be more appropriate to use the expression "for propulsion" in the English texts and "pour la propulsion" in the French, as in certain other texts of the HS. Therefore, the Sub-Committee also agreed to insert the term "propulsion" in square brackets in the relevant texts as alternatives to "driving".

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in English and "transmission" in French, for final decision by the HS Committee in March 2014."

44. From the above Committee Meetings, it can be understood that the coverage of the said amended entries is extended to capture any vehicle with a motor which in any manner is used for driving such vehicle.

45. It has already been detailed in the facts above that HEVs supplied by the Applicant has an IC engine as well as ISG (motor). In view of the dictionary meaning of the term propulsion, as explained above, any activity which provides forward or onward movement to the vehicle is called propulsion. Moreover, even the tendency or urge to push or accelerate the vehicle is also called propulsion.

46. It has already been defined in the facts above that HEVs manufactured and supplied by the Applicant are driven by the IC engine and thus, the IC engine is acting as a motor for propulsion in as much as it is providing the necessary push to move the vehicle.

47. Further, at certain points viz. at the time of starting the HEVs, the electric motor starts the engine and thereafter, the IC engine takes over for further movement of HEVs. It is pertinent to note that the activity of starting the engine is to put HEVs in moving condition and therefore, the electric motor is acting as motor for propulsion. Also, at certain instances the electric motor provides additional push to the IC engine to accelerate HEVs and thus, acting as a motor for propulsion.

48. Further, on the basis of the functions performed by such electric motor, it can be said that the electric motor is used in the HEVs towards the driving of such vehicle. Therefore, in view of the reasons put forth by the Committee, it can be said that the electric motor is, though not independently, contributing towards the driving of the vehicle, can be said to be acting as a 'motor for driving' or 'motor for propulsion'. Therefore, the same would be covered within the ambit of customs tariff sub-headings 8703 40 or 8703 50, as the case may be.

49. In view of the above, it is submitted that HEVs manufactured by the Applicant has IC engine as well as electric motors and both these motors are used as motors for propulsion/driving. Therefore, HEVs manufactured by the Applicant clearly fall within the ambit of Sl. No. 48 referred above.

 IC Engine and electric motor work together to move HEVs forward

50. It has been explained in the facts stated earlier that pre-dominantly, the IC engine provides the force required for propulsion of HEVs and the IC engine is assisted by the electric motor at certain instances whenever the power demand from the vehicle is higher like acceleration. Thus, in certain instances like extra acceleration, if the vehicle requires additional force, the same is provided by the electric motor. Similarly, at the time of starting the vehicle, the electric motor provides the initial force which urges the propulsion in the vehicle. Once the vehicle is started, the IC engine takes over for running the vehicle.

51. Therefore, in HEVs manufactured and supplied by the Applicant, the IC engine and electric motor act in tandem to propel the vehicle. Thus, the Applicant is of the view that HEVs manufactured and supplied by the Applicant are covered within the ambit of Sl. No. 48.

✓ HEVs fulfils the definition of 'Hybrid Cars' in view of the HSN Explanatory Notes and are known as Hybrid Vehicles in common parlance

52. It is submitted that HEVs fulfill the definition of Hybrid Cars and in common parlance are referred to as Hybrid Vehicles and thus, fall under Sl. No. 48 of Notification No. 1/2017-CC as amended.

53. In this regard, reference is made to Explanation (1) to Notification No. 1/2017-CC which provides that "Tariff item", "sub-heading", "heading" and "Chapter" shall respectively mean a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the CTA. Further, Explanation (2) to Notification No. 1/2017-CC provides that the rules for the interpretation of the First Schedule to the CTA, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this Notification.

54. Thus, reference is made to sub-heading 8703 50 of the CTA, which is reproduced hereunder:

Tariff Item	Description of goods
(1)	(2)
8703 50	Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi diesel) and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power

55. It is pertinent to note that the above referred sub-heading 8703 50 of the CTA is pari- materia to Sl. No. 48 and thus, the interpretation and scope of this sub-heading would be equally applicable to the scope of Sl. No. 48.

56. At this juncture, it is submitted that the HSN Explanatory Notes constitutes the official interpretation of the nomenclature at the international level. While not legally binding, they do represent the considered views of classification experts of the Harmonized System Committee. It is well settled that the explanatory notes have persuasive value and in the event of disputes, the Indian Courts have upheld seeking recourse to the explanatory notes while determining classification of products.

57. Reliance in this regard is placed on the decision of Hon'ble Supreme Court in **L.M.L. Limited vs. Commissioner of Customs**, reported at, [2010 (258) ELT 321 (SC)], in which it was held that in order to resolve a dispute on tariff classification, internationally accepted nomenclature emerging from HSN explanatory notes, is a safe guide for classification.

58. The Hon'ble Tribunal in Mumbai the case of **Nestle India Ltd vs. Commissioner of Central Excise**, reported at, [2008 (227) ELT 631 (Tri. -Mum)] following the ratio laid down by the Supreme Court held as under:

"25. Moreover, it is now well settled by various decisions of the Hon'ble Apex Court that HSN Explanatory notes are not only of persuasive value, but are entitled to far greater consideration in classifying goods under the Central Excise and the Customs Tariff as held by the Hon'ble Supreme Court in the case of **Collector of Customs, Bombay v. Business Forms Ltd** - 2002 (142) E.L.T. 18 (S.C.) following its earlier decision in the case of **CCE, Shillong v. Wood Craft Products Ltd.** - 1995 (77) E.L.T. 23 (S.C)."

..... Emphasis Supplied

The Tribunal decision in **Nestle India Ltd. (supra)** was also approved by the Supreme Court, [2009 (237) ELT A102 (SO)].

59. Thus, on the basis of the above referred decisions it can be said the HSN explanatory notes are important guide with respect to classification and are relied upon by the courts while determining the classification.

60. In view of the above discussion and judicial precedents, it is clear that while interpreting a heading/sub-heading reliance can be placed on the HSN Explanatory Notes.

61. At this juncture, attention is invited to the 44th Session of the Harmonised System Review Sub-Committee, wherein, it was proposed to amend the nomenclature of Chapter 87, specifically headings 87.02, 87.03, 87.04 and 87.11 in order to up-to-date the HSN in the light of recent technical innovations in the field of automobile technology.

62. It was pointed out at the meeting that the motor vehicles manufactured with the advanced technology are equipped with a hybrid power system that use two or more power sources to move. This technological advancement improves fuel economy, increase power or provide additional auxiliary power to the vehicles. Besides this, such vehicles are environment friendly with regard to emission of tailpipe pollutants.

63. It was also pointed out in the meeting that the current nomenclature in the HSN is stipulated on the basis of types of internal combustion piston engines and such a simple nomenclature is not enough to reflect the world trade of motor vehicles, taking into account the remarkable changes in technology.

64. In accordance with the proposals, the committee amended the HSN Explanatory Notes to Heading 8703 to cover the hybrid vehicles. Subsequently, in India, the CTA was amended in the year 2017 and new customs tariff entries 8703 40, 8703 50, 8703 60 and 8703 70 were introduced under the heading 8703.

65. Further, to understand the scope and ambit of this customs tariff sub-heading, reference is to be made to the HSN Explanatory Notes to customs tariff heading 8703 which reads as under:

"Vehicles, which have the combination of an internal combustion engine and one or more electric motors, are known as "Hybrid Electric Vehicles (HEVs). For the purpose of mechanical propulsion, these vehicles draw energy from both a consumable fuel and an electrical energy/power storage device (e.g., electric accumulator, capacitor, flywheel/generator). There are various types of Hybrid Electric Vehicles (HEVs), which can be differentiated by their powertrain configuration (such as, parallel hybrids, series hybrids, power-split or series-parallel hybrids) and degree of hybridization (i.e., full hybrids, mild hybrids and plug-in hybrids)"

..... Emphasis Supplied

66. It is pertinent to note that the HSN Explanatory Notes, extracted above, should be understood keeping in mind the intention of the sedan committee. Further, the HSN Explanatory Notes for heading 8703 expressly provides that this heading covers Hybrid Vehicles. It also provides that these hybrid vehicles draw energy from both consumable fuel and electrical energy for the purpose of mechanical propulsion. It also clarifies that this heading will include Hybrid Vehicles of all types and degrees of hybridization including mild hybrid vehicles. Thus, in terms of the HSN Explanatory Notes, the vehicles which draw energy for mechanical propulsion, from the sources viz. consumable fuel and electrical energy would be covered under the category of Hybrid Vehicle.

67. Further, as provided in the HSN Explanatory Notes, referred above, the customs tariff heading 8703 covers 'Hybrid Vehicles' of all types and degrees of hybridization i.e. full hybrids, mild-hybrids and plug-in hybrids.

68. It is submitted that even though, the HSN Explanatory Notes referred above, specifically covers the Hybrid Vehicles, the term 'Hybrid Vehicles' is not defined under the GST Law or CTA or the Central Motor Vehicles Act.

69. It is a settled principle of law that in the absence of any statutory definition, the words used in a taxing statute have to be understood in the common parlance or commercial parlance. Reliance in this regard can be placed on the decision of Hon'ble Apex Court in the case of *Porritts and Spenser (Asia) Ltd. vs. State of Haryana*, reported at, [1983 ELT 1607 (SC)]. The relevant portion of the said decision is as under:

"4. Now, the word 'textiles' is not defined in the Act, but it is well settled as a result of several decisions of this Court, of which we may mention only a few, namely, *Ramavatar Budhaiprasad v. Assistant Sales Tax Officer, Akola* AIR 1961 S.C. 1325 and *M/s Motipur Jamindary Co. Ltd. v. State of Bihar*, AIR 1962 S.C. 660 and the *State of West Bengal v. Washi Ahmed*, (1977)3 SCR 199 that in a taxing statute words of everyday use must be construed not in their scientific or technical sense but as understood in COMMON PATIANCE.....

..... Emphasis Supplied

70. In view of the above referred decision, it becomes clear that in case a word is not defined in statute, the same shall be given the meaning in accordance with the common or commercial parlance.

71. As discussed above, the words 'Hybrid Vehicles' are not defined in any statute and therefore, by applying the principle enunciated in the above referred decision it becomes pertinent to understand 'Hybrid Vehicles' as understood in the common parlance. The Oxford Advanced Learner's Dictionary defines 'hybrid' as 'something that is the product of mixing two or more different things (adj.) hybrid flowers, a hybrid language system.' :

72. At this juncture, attention is invited to the definition of the term 'Hybrid Electric Vehicles' provided by US Department of Energy-Energy Efficiency and Renewable Energy, Alternative Fuels Data Centre, which is reproduced as under

(<https://www.afdc.energy.gov/vehicles/electric/basics/hev.html/>) :

"Hybrid Electric Vehicles (HEVs) are powered by an internal combustion engine or other propulsion source that can run on conventional or alternative fuel in combination with an electric motor that uses energy stored in a battery. HEVs combine the benefits of high fuel economy and low tail pipe emissions with the power and range of conventional vehicles".

73. The International Energy Agency defines a 'Hybrid Electric Vehicle' as under (<http://www.ieahev.org/assets/1/7/IA-HEVAnnualReportMay20133MB.pdf/>):

"Hybrid Electric Vehicle (HEV)

The 1990s definition of IA-HEV Annex I was "a hybrid electric vehicle (HEV) is a hybrid road vehicle in which at least one of the energy stores, sources or converters delivers electric energy". The International Society of Automotive Engineers (SAE) defines a hybrid as "a vehicle with two or more energy storage systems, both of which provide propulsion power, either together or independently....."

One final definition is from UN, which defines an HEV as "a vehicle that, for the purpose of mechanical propulsion, draws energy from both of the following on-vehicle sources of stored energy/power: a consumable fuel and an electrical energy/power storage device (e.g. battery, capacitor, flywheel/generator etc)"

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74. In view of the above, it is submitted that in common or commercial parlance all those vehicles which have both IC engine and electric motor are known as Hybrid Vehicle.

75. As explained in the facts above, HEVs manufactured and supplied by the Applicant consist of an IC engine along with an electric motor. Further, for the purpose of mechanical propulsion, these HEVs draw energy from the conventional IC engine as well as the electric motor. Therefore, in view of the above referred definitions/meanings of Hybrid Electric Vehicles, it can be safely concluded that HEVs manufactured and supplied by the Applicant are Hybrid Electric Vehicles.

76. It is to be noted that Hybrid Electric Vehicles are of different types and can be classified in the following categories:

- a. On the basis of power train configuration: Parallel Hybrids, Series Hybrids, Power Split or Series-Parallel Hybrids.
- b. On the basis of degree of hybridisation: Full Hybrids, Mild Hybrids or Plug-in Hybrids.

77. For the purpose of instant application, the Applicant is only considering the different types of hybrid electric vehicles on the basis of degree of hybridisation.

78. It is to be noted that the term "Mild Hybrid Electric Vehicle" has not been defined in the HSN Notes or the CTA. However, the said 44th Session describes "mild parallel hybrid vehicles" as the ones which generally use a compact electric motor (usually <20 kW) to provide auto-stop/start features and to provide extra power assist during the acceleration, and to generate on the deceleration phase (regenerative braking).

79. Besides the above, to understand the different types of Hybrid Electric Vehicles, reference is made to the definitions provided by the US Department of Energy-Energy.

Efficiency and Renewable Energy, Alternative Fuels Data Centre, as under (https://www.afdc.energy.gov/vehicles/electric_basics_hev.html/):

"HEVs can be either mild or full hybrids, and full hybrids can be designed in series or parallel configurations.

* Mild hybrids — also called micro hybrids-use a battery and electric motor to help power the vehicle and can allow the engine to shut off when the vehicle stops (such as at traffic lights or in stop-and-go traffic), further improving fuel economy. Mild hybrid systems cannot power the vehicle using electricity alone. These vehicles generally cost less than full hybrids but provide less substantial fuel economy benefits than full hybrids.

* Full hybrids have larger batteries and more powerful electric motors and larger batteries, which can drive the vehicle on only electric power for shorter distances and at low speeds. These systems cost more than mild hybrids but provide better fuel economy benefits".

80. Further, reference is also made to the definitions provided by The International Energy

Agency which is reproduced hereunder (<http://www.ieahev.org/assets/1/7/IA-HEVAnnualReportMay20133MB.pdf/>):

"Full HEV:

A full HEV has the ability to operate all-electrically, generally at low average speeds. At high steady speeds such a HEV uses only the engine and mechanical drivetrain,

with no electric assist. At intermediate average speeds with intermittent loads, both electric and mechanical drives frequently operate together.

Mild HEV:

A HEV that has a less powerful electric machine and battery pack than a full hybrid. According to the Netherlands Organisation for Applied Scientific Research (TNO), a mild HEV cannot operate all-electrically. Electric assist always work together with the internal combustion engine".

81. On a careful perusal of the above meanings, it can be understood that all those Hybrid Electric Vehicles which can operate solely by the electric motor, are Full Hybrid Vehicles, whereas, the Hybrid Vehicles, wherein, the electric motor of the certain specification (usually <20 kW) is merely assistive i.e. works together with the IC engine, are Mild Hybrid Vehicles. Thus, the correct nature of the Hybrid Vehicles i.e. _ mild or full is determined by the functions performed by the electric motor.

82. In the instant case, HEVs manufactured and supplied by the Applicant have a compact electric motor (Ciaz, Ertiga and S-Cross have electric motor of 1.779 kW, 1.779 kW and 1.772 kW capacity, respectively). Further, this compact motor in such HEVs provides assistance to the IC engine for propelling the vehicle and in other instances such as start-stop etc. These HEVs supplied by the Applicant draws energy from the consumable fuel as well as electrical energy. Further, in such HEV's the degree of hybridization is to the extent that electric motor provides assistance to the IC engine. The electric motor assists the IC engine mainly when driver demands acceleration (press accelerator pedal above certain threshold). This function is enabled subject to battery charging condition up to a certain level. Therefore, such HEVs are mild hybrid vehicles. However, it is pertinent to mention that the Sl. No. 48 of Notification No. (1/2017-CC does not make a distinction between the types of hybrid vehicles while providing reduced rate of compensation cess.

83. It is further submitted that as per the commercial parlance, HEVs supplied by the Applicant are Hybrid Vehicles and these vehicles are also marketed as Hybrid Vehicles only. A copy of the brochure and advertisement issued by the Applicant describing its vehicles as HEVs are enclosed as Annexure H (for Ciaz), I (for Ertiga) and J (for S-Cross). Moreover, the certificate issued by ICAT, dated 13.05.2015 for the Ciaz model of HEVs produced by the Applicant mentions these models as Hybrid Engine Model. A copy of the certificate issued by International Centre for Automotive Technology dated 13.05.2015 (for Ciaz) in this regard is already enclosed as Annexure-A. Similarly, the certificate issued by ICAT dated 27.02.2017 for Ertiga model of HEVs produced by the Applicant mentions this model as Hybrid Engine Model. A copy of the certificate issued by ICAT dated 27.02.2017 is already enclosed as Annexure-B. Further, the certificate issued by the Automotive Research Association of India dated 18.08.2017 for S-Cross model of HEVs produced by the Applicant also mentions this model as a HEV. A copy of the certificate dated 18.08.2017 issued by Automotive Research Association of India is already enclosed as Annexure-C.

84. It is submitted that the brochures of the vehicles on basis of which the product is marketed to the customers specifically mentions these Vehicles as HEV. The full brochures and advertisement issued by the Applicant describing its vehicles as HEVs are already enclosed as Annexure H (for Ciaz), I (for Ertiga) and J (for S-Cross).

85. Once it is established that HEVs supplied by the Applicant are supplied in the market as 'Hybrid Vehicles' and even the market/consumers perceive these HEVs as 'Hybrid Vehicles' in the commercial parlance, these vehicles shall be classified in accordance with the common or commercial parlance and accordingly, compensation cess applicable on HEVs should be leviable.

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86. Reliance in this regard is placed on the decision of Hon'ble Apex Court in the case of CCE vs. Wockhardt Life Sciences Ltd., reported at, [2012 (277) ELT 299 (SQ)]. In this case, while deciding the classification of the disputed product, the Hon'ble Apex relied upon a number of cases wherein, the classification has been determined in accordance with the trade parlance. The relevant portion of this decision is reproduced hereunder:

30. There is no fixed test for classification of a taxable commodity. This is probably the reason why the 'common parlance test' or the commercial usage test' are the most common [see A. Nagaraju Bors. v. State of A.P., 1994 Supp (3) SCC 122 = 1994

(72) ELT. 801 (S.C.)]. **Whether a particular article will fall within a particular Tariff heading or not has to be decided on the bases of the tangible material or evidence to determine how such as article is understood in 'common parlance' or in 'commercial world' or in 'trade circle' or in its popular sense meaning. It is they who are concerned with it and it is the sense in which they understand it that constitutes the definitive index of the legislative intension, when the statute was enacted** [see D.C.M. vy. State of Rajasthan, 1980 (4) SCC 71 = 1980 (6) E.L.T. 383 (S.C.)]. One of the essential factors for determining whether a product falls Chapter 30 or not is whether the product is understood as a pharmaceutical product in common parlance [see C.C.E. v. Shree Baidyanath Ayurved, 2009 (12) SCC 413 = 2009 (237) E.L.T. 225 (S.C.)]; Commissioner of Central Excise, Delhi v. Ishaan Research Lab (P) Ltd. - 2008 (13) SCC 349 = 2008 (230) E.L.T. 7 (S.C.)]. Further, the quantity of medicament used in a particular product will also not be a relevant factor for, normally, the extent of use of medicinal ingredients is very low because a larger use may be harmful for the human body. [Puma Ayurvedic Herbal (P) Ltd. v. C.C.E., Nagpur - 2006 (3) SCC 266 = 2006 (196) E.L.T. 3 (S.C.)]; State of Goa v. Colfoax Laboratories - 2004 (9) SCC 83 = 2003 E.L.T. 18 (S.C.)]; B.P.L. Pharmaceuticals v. C.C.E. - 1995 Supp (3) SCC 1 = 1995 (77) E.L.T. 485 (S.C.)].

.....Emphasis Supplied

87. Reliance is also placed on the decision of Hon'ble Delhi Tribunal in the case of CCE vs. Kohinoor Rubber Mills, reported at, [1993 (67) ELT 816 (Tri. -Del)]. In this case, the Hon'ble Delhi Tribunal, by applying the common parlance test held that the goods in dispute i.e. rubber rolls were classifiable under Heading 4016 and not as tubes, pipes, etc. under Heading 4009 as the rubber rolls are not known as tubes, pipes in common or commercial parlance. This decision of the Hon'ble Tribunal has been upheld by Hon'ble Apex Court in Kohinoor Rubber Mills vs. CCE, Chandigarh, reported at, [1997 (92) ELT 36 (SC)].

88. Further, reliance is also placed on the decision of CCE, Delhi vs. Carrier Aircon Ltd., reported at, (2006 (199) ELT 577 (SC)). In this case, while determining the classification of chillers, the Hon'ble Apex Court placed reliance on the trade parlance. As the chillers were known as 'refrigerating equipment' in national and international trade parlance, the same was classified as freezing equipment under Heading 84.18.

89. In view of the above discussion, it is submitted that HEVs supplied by the Applicant are known as Hybrid Vehicles in the commercial parlance and therefore, these HEVs supplied by the Applicant shall be covered as "Hybrid Vehicles" within the scope and ambit of the HSN Explanatory Notes of sub-heading 8703 50 of the CTA and Sl. No. 48 of the Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC. It is also submitted that HEVs are supplied by the Applicant as Hybrid Vehicles in India. Sample copies of the invoices are enclosed as Annexure-K.

90. It is also submitted while interpreting a statute, notification, rule, etc. reference can be made to the interpretation or scope of any other statute whose language is pari-materia to the statute under consideration. In this regard, reliance is placed on the decision of Hon'ble Apex Court in the decision of CC, Bangalore vs. Maestro Motors Ltd. reported at, [2004 (174) ELT 289 (SQ)]. In this case, it was held that when in a notification, exemption is with reference to an item in the schedule to CTA then the interpretative rules applicable to such tariff is equally applicable to interpret such notification.

91. It is submitted that as Sl. No. 48 is pari-materia to sub-heading 8703.50 of the CTA and therefore, the scope and ambit of the sub-heading 8703.50 of the CTA, as provided in the HSN Explanatory Notes, shall be equally applicable to determine the scope and ambit of Sl. No. 48. Thus, the vehicles which are covered under the scope of sub-heading 8703.50 of the CTA are also covered within the scope of Sl. No. 48 of Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC.

92. In view of the above discussion, it can be safely concluded that HEVs supplied by the Applicant are Hybrid Vehicles and therefore, would be covered within the scope of Sl. No. 48 of Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC.

93. Once it is established that the vehicles supplied by it are covered under Sl. No. 48, it is necessary to determine the clause of column (3) within which these HEVs will fall. Evidently, HEVs supplied by the Applicant is neither an ambulance nor a three-wheeled vehicle. Further, HEVs supplied by the Applicant are of engine capacity not exceeding 1500cc but the length of these HEVs exceed 4000 mm. It is already provided in the facts above that these specifications in regard to HEVs supplied by the Applicant are determined as per the Motor Vehicles Act, 1988 and the rules made thereunder.

94. Thus, HEVs supplied by the Applicant is not of the specifications provided under clause (a), (b) and (c). Therefore, these HEVs would be covered under clause (d) of column (3) and are leviable to compensation cess at the rate of 15% as provided in column (4) of Sl. No. 48 of Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC.

ISSUE REQUIRING ADVANCE RULING AND APPLICANT'S UNDERSTANDING:

In the light of aforementioned, the Applicant seeks to enter the following question for Advance Ruling and its interpretation of the question will be as under:

Question:

Whether HEVs supplied by the Applicant are leviable to compensation cess at the rate of 15% as prescribed under Sl. No. 48 of Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC?

Applicant's Understanding:

HEVs supplied by the Applicant are covered under clause (d) of column (3) of Sl. No. 48 of Notification No. 01/2017-CC as amended by Notification No. 05/2017-CC.

Therefore, in the understanding of Applicant, HEVs supplied by it are leviable to compensation cess at the rate of 15%."

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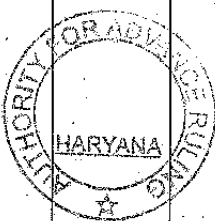
RECORDS OF PERSONAL HEARING – 2ND PROVISO TO SECTION 98(2) OF CGST/HGST ACT, 2017

2. Personal hearing in the instant case was conducted on dt.23.10.2018 which was attended by Sh. Laxmi Narsimhan, Advocate, Sh. Amar Pratap Singh, Advocate, Sh. Ankit Ansal, CA. They reiterated the submissions made in their application for advance ruling.

DISCUSSIONS AND FINDINGS OF THE AUTHORITY

3. We have carefully gone through the facts and records of the case. The question raised by the applicant seeking advance ruling is regarding applicability of S.No.48 of Notification No.1/2017-Compensation Cess (Rate) dt.28.06.17, as amended vide Notification No.05/2017-Compensation (Cess) Rate dt.11.09.17 to the motor vehicles being manufactured/supplied by the applicant.

S. NO.	CHAPTER/HEADING SUB-HEADING TARIFF ITEM	DESCRIPTION OF GOOD	RATES OF GOODS AND SERVICES TAX COMPENSATION CESS
48	8703 50, 8703 70	<p><i>Following Vehicles, with both compression-ignition internal combustion piston engine [diesel or semi-diesel] and electric motor as motors for propulsion</i></p> <p><i>a) Motor vehicles cleared as ambulances duly fitted with all the fitments, furniture and accessories necessary for an ambulance from _ the factory manufacturing such motor vehicles</i></p> <p><i>b) Three wheeled vehicles</i></p> <p><i>c) Motor vehicles of engine capacity not exceeding 1500cc and of length not exceeding 4000 mm</i></p> <p><i>d) Motor vehicles other than those mentioned at (a), (b) and (c) above.</i></p> <p><i>Explanation- For — the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.</i></p>	<p>NIL</p> <p>Nil</p> <p>Nil</p> <p>15%</p>
52	8703	Motor vehicles of engine capacity not exceeding 1500 cc	17%



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From the above, it is evident that for being eligible to be covered under serial number 48(d) of Notification No.1/2017-Compensation Cess (Rate) dt.28.06.17, as amended, the Motor Vehicle should:

- (i) be covered by chapter sub-heading 8703 50 or 8703 70
- (ii) have both compression-ignition internal combustion piston engine [diesel or semi- diesel] and electric motor as motors for propulsion
- (iii) other than Motor vehicles cleared as ambulances duly fitted with all the fitments, furniture and accessories necessary for an ambulance from the factory manufacturing such motor vehicles
- (iv) other than three wheeled vehicles
- (v) other than motor vehicles of engine capacity not exceeding 1500cc and of length not exceeding 4000 mm.

4. The applicant seeks advance ruling for three cars with model names "S-Cross", "Ertiga" and "Ciaz". As per the submissions made by the applicant, cars of these three models fulfill conditions (iii), (iv) and (v) above. We are also of the opinion that these conditions mentioned at S.No. (iii), (iv) and (v) mentioned the preceding para, have indeed been fulfilled. Hence, the matter which requires examination is as to whether the conditions mentioned at serial number (i) and (ii) in the preceding para is fulfilled by the models "S-Cross", "Ertiga" and "Ciaz". Further, as per the application filed by the applicant, these models are classifiable under chapter heading 8703 50.

5. Chapter heading 8703 covers ***"Motors cars and other motor vehicles principally designed for transport of persons (other than those of heading 8702), including station wagons and racing cars"***.

Further, chapter sub-heading 8703 05 provides as under:

- *Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power:*

Serial number 48(d) of Notification No.1/2017-Compensation Cess (Rate) dt.28.06.17, as amended, also provides the same wordings, as mentioned in chapter sub-heading 8703 50, and vehicles with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, are covered under this serial number.

6. Therefore, the only points which needs to be examined is whether the car models for which advance ruling has been sought by the applicant are ***"with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion"***. This phrase also makes clear that there has to be one compression-ignition internal combustion piston engine for propulsion. As per the instant application, this requirement stands fulfilled in all the models of the cars in respect of which the instant advance has been sought. The other requirement is that of electric motor and the phrase "motors for propulsion" clearly means that both motors should be capable of propulsion. Thus, in unambiguous terms the words used "motors for propulsion" makes it mandatory for the electric motor also to be capable or propelling the vehicle on its own. ***"Motors for propulsion"*** means that both motors should be capable of propelling the vehicle.

7. The advance ruling application itself says that:
- Besides IC engine, an electric motor is also present which provides assistance to the IC engine as and when required
 - Notably, at certain driving conditions such as acceleration, etc. to propel the motor vehicle, the IC engine providing the mechanical force to the motor vehicle is assisted by the electric motor present in HEVs. This electric motor acts as a power booster to the IC engine by utilizing the energy stored in the electric battery.
 - IC engine as well as electric motor work in tandem to propel the vehicle.
 - During braking/ deceleration condition, the motor acts as a generator and charges the special high capacity battery.
 - The regeneration of energy assists the power function of the car. This helps the engine in providing optimal acceleration and performance.
 - The vehicle has idle start-stop function which helps the vehicle conserve precious fuel in certain idling conditions.

8. As per advance ruling application, this is a case of "Mild hybrids", — also called micro hybrids—use a battery and electric motor to help power the vehicle and can allow the engine to shut off when the vehicle stops (such as at traffic lights or in stop-and-go traffic), further improving fuel economy, Mild hybrid systems cannot power the vehicle using electricity alone.

Further, the application also says that HEVs manufactured and supplied by the Applicant have a compact electric motor (Ciaz, Ertiga and S-Cross have electric motor of 1.779 kW, 1.779 kW and 1.772 kW capacity, respectively); that this compact motor in such HEVs provides assistance to the IC engine for propelling the vehicle and in other instances such as start-stop etc. These HEVs supplied by the Applicant draws energy from the consumable fuel as well as electrical energy; that in such HEV's the degree of hybridization is to the extent that electric motor provides assistance to the IC engine; that the electric motor assists the IC engine mainly when driver demands acceleration (press accelerator pedal above certain threshold); that therefore, such HEVs are mild hybrid vehicles.

9. The applicant has placed reliance on the certificate issued by International Centre for Automotive Technology (A Division of NATRIP Implementation Society (NATIS), Govt. of India), for the cars for which advance ruling has been sought. We have carefully gone through these certificates which certify the vehicles complying with the requirements of the Central Motor Vehicle Rules, 1989. However, from none of the contents of these certificates it is clear that the electric motor present in the vehicle is capable of "motor for propulsion". Propulsion means to push forward or drive an object forward. A **propulsion system** consists of a source of mechanical power, and a **propulsor** (means of converting this power into propulsive force). The certificates relied upon by the applicant do not make it clear whether the electric motor present in these vehicles is capable of propelling the vehicle and under these circumstances, they cannot be relied upon to decide the eligibility of impugned vehicles for the purpose of any notification issued under GST law.

10. From the above, it is clear that electric motor in the cars for which advance ruling is being sought in the instant case, is not capable of propelling the vehicle. Accordingly, the impugned vehicles failed to fulfill the main condition enshrined in the Serial number 48(d) of Notification No.1/2017-Compensation Cess (Rate) dt.28.06.17, as amended, that vehicles should have both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as **motors for propulsion**.

11. In view of the above, HEVs supplied by the Applicant are not covered by Sl. No. 48 of Notification No. 01/2017-Compensation Cess (Rate) dated 28.06.2017(as amended).

ADVANCE RULING UNDER SECTION 98 OF THE CGST/HGST ACT, 2017

12. In the light of discussion above, the advance ruling is pronounced as under:

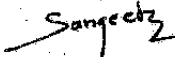
Question:-Whether HEVs supplied by the Applicant are leviable to compensation cess at the rate of 15% as prescribed under S.No.48 of Notification No.1/2017-Compensation Cess (Rate) dt.28.06.17, as amended vide Notification No.05/2017-Compensation (Cess) Rate dt.11.09.17?

Answer – the HEVs supplied by the applicant are not covered under S.No.48 of Notification No.1/2017-Compensation Cess (Rate) dt.28.06.17, as amended vide Notification No.05/2017-Compensation (Cess) Rate dt.11.09.17

Ordered accordingly.

To be communicated.

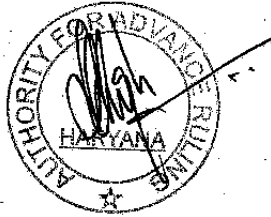
Dated: 25.10.2018
Panchkula.


(Sangeeta Karmakar)
Member CGST

certified true copy


(Vijay Kumar Singh)
Member SGST

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- 2) The Deputy Excise and Taxation Commissioner (ST), Gurugram (North)
- 3) The Assistant Commissioner, Central Tax Division, Gurugram, CGST, GST Bhawan, Plot No. 36-37, Sector-32, Gurugram-122001