

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 40 / 2020

Date : 30-07-2020

Present:

1. **Dr. Ravi Prasad M.P.**
Additional Commissioner of Commercial Taxes Member (State Tax)
2. **Sri. Mashhood ur Rehman Farooqui,**
Joint Commissioner of Central Tax Member (Central Tax)

1.	Name and address of the applicant	M/s Prragathi Steel Castings Pvt. Ltd., # 41 & 42, Shimoga-Bhadravathi Indl. Area, Machenahalli, Nadige Post-577 222, Shimoga, Karnataka
2.	GSTIN or User ID	29AAECS2436D1ZI
3.	Date of filing of Form GST ARA-01	15.10.2019
4.	Represented by	Sri. K C Shantappa, Director & Authorised Representative.
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Tax, Mysore Commissionerate, Mysuru.
6.	Jurisdictional Authority - State	LGSTO - 220, Shivamogga.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act vide CIN SBIN19102900148163 dated 16.10.2019 and Rs.5,000/- under KGST Act vide CIN SBIN19102900450234 dated 29.01.2019.

**ORDER UNDER SECTION 98(4) OF THE CGST TAX ACT, 2017
& UNDER 98(4) OF THE KGST ACT, 2017**

1. M/s Prragathi Steel Castings Pvt. Ltd., (called as the 'Applicant' hereinafter), # 41 & 42, Shimoga-Bhadravathi Indl. Area, Machenahalli, Nadige Post-577 222, Shimoga, Karnataka, having GSTIN number 29AAECS2436D1ZI, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is involved in manufacture and supply of various steel castings, automobile parts, valves etc. The instant application is with regard to the classification of certain parts such as Couplers, Knuckle, Locks, Toggle, Yoke etc., & the applicable GST rate thereon. The applicant, at present, is supplying the aforesaid parts to M/s Sanrok Enterprises, Faridabad, as per the specifications & drawings, who in turn supply the same to the Indian Railways, on classifying the said goods under HSN 8607 & on discharging the GST @5%.



3. The applicant stated that a consultant opined that the impugned goods are liable to be classified under HSN 7325 and the applicable rate of GST is 18%. Hence the applicant filed the instant application, seeking advance ruling on the following question:

Railway parts such as Couplers, Knuckle, Locks, Toggle, Yoke etc., manufactured and supplied by us to our buyer Sanrok Enterprises (who in turn supply to Indian Railways after assembly) be classified under HSN 8607 or to be classified under HSN 7325 as other cast articles of Iron or Steel?

4. Admissibility of the application: The question is about classification of the goods and hence is admissible under Section 97(2)(a) of the CGST Act 2017.

5. Applicant's interpretation of Law:

5.1 The applicant stated that the buyer M/s Sanrok Enterprises, Faridabad, placed the order, for supply of the said goods, on obtaining the orders from Indian Railways. Therefore the said goods are finally used by Indian Railways and no other customer can use the same and hence the goods merit classification under HSN 8607 & attract 5% of GST.

5.2 Further, the rate of GST notified by the Government is applicable at all stages of supply from manufacturing to retail. In the instant case the applicant is a manufacturer, buyer can be considered as dealer and Indian Railways as the final consumer. Hence the aforesaid goods can't be classified under HSN 7325, just for the reason that the applicant is not supplying directly to the Indian Railways.

5.3 The entry under HSN 7325 covers castings of iron and is a general entry. All the specific items such as Automobile parts, Earthmoving parts, Railway parts, Valves, Defence parts etc., used in respective industries are derived from the basic entry i.e. castings of iron. However, when different / specific entries are provided for the individual items on the basis of usage, then the goods need to be taxed as per specific entry. ***Specific Entry in the schedule always overrides the general entry.***

5.4 The buyer has confirmed that the goods supplied by the applicant are in turn supplied only to Indian Railways and an Affidavit to this effect is given by the buyer. The applicant concludes that the impugned goods merit classification under HSN 8607 & attract 5% of GST, but not under HSN 7325, which attract 18% GST.

PERSONAL HEARING / PROCEEDINGS HELD ON 21.11.2019 & 20.02.2020

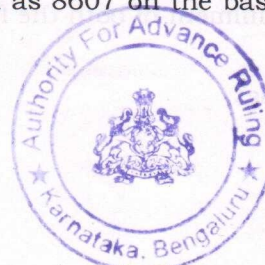
6. Sri. K C Shantappa, Director and duly authorised representative of the applicant appeared for personal hearing proceedings held on 21.11.2019 & reiterated the facts narrated in their application. Further they also requested for additional hearing opportunity, vide their letter dated 16-12-2019, received in this office on 19-12-2019. An additional hearing opportunity was given on 20-02-2020 and Sri. K C Shantappa, Director appeared & submitted additional information, in support of their argument.

7. Applicant further states that they filed the instant application consequent to opinion of some tax consultants that the impugned castings are classifiable under chapter heading 7325 & attract GST @ 18%. However, the applicant contends that the impugned castings are classifiable under chapter heading 8607 & attract GST @ 5%, on the following grounds.

- a) The ultimate consumer of the impugned castings is Indian Railways, though the buyer is M/s Sanrok Enterprises, Faridabad & also the said castings can't be used by anyone other than Indian Railways.
- b) The classification of any goods can't be changed during the different stages of supply chain & hence the impugned castings can't be classified under chapter heading 7325 for the transaction between Applicant & Buyer and be classified under chapter heading 8607 for the transaction between M/s Sanrok Enterprises (Buyer) and the Indian Railways.
- c) Classification of Iron castings under chapter heading 7325 is a general entry. However when specific entry is provided on the basis of usage, specific entry overrides the general entry. In this regard the applicant quoted Rule 3(a) & 2(a) of General Rules of Interpretation of Import Tariff under Customs Tariff Act 1975.
- d) The buyer has given affidavit to the effect that the impugned castings are meant for supply to only Indian Railways.
- e) The applicant, with regard to the issue that the castings are further processed by the buyer (M/s Sanrok Enterprises), contends as under:

"Some small castings are directly used by buyer without machining while assembling the coupler and some parts are machined to achieve accurate dimensions. However the physical appearance, mechanical properties & chemical composition of the said castings/parts will not be changed even after the machining process. Hence the unfinished/finished parts are one & the same and can't be classified under chapter heading 7325. Even Rule 2(a) of General Rules of Interpretation also support our contention".

- f) The applicant relied upon the Hon'ble Supreme Court Judgment in the case of OK play India Vs CCE (2005) 180 ELT 300 (SC) wherein the parameters for classification of goods under Central Excise Tariff Act 1975 have been laid down.
- g) The applicant furnished the copies of purchase order issued by the buyer, invoice raised by them towards supply of impugned castings, material test certificate (MTC) for impugned castings under chapter heading 8607 and MTC for general items under chapter heading 7325 to show the difference between the impugned castings and general items.
- h) Entry No.241 of Schedule I to the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 specifies that goods falling under chapter 86, intended to be used in Railway/Tramway locomotives attract 5% GST with no refund of accumulated ITC subject to the condition that the said goods are not specified elsewhere. In our case, the impugned castings are neither specified under chapter heading 7325 or elsewhere but specified only under chapter heading 8607. It is immaterial whether the impugned castings are directly supplied to Railways or through the dealer, but only fact that matters is whether goods are covered under chapter heading 8607 or not. Copies of documents such as purchase order issued by the buyer, invoices raised by us, specifications & quality requirements furnished by the Indian Railways are furnished for examination, in support of our contention. The chapter heading in the purchase order & invoices are mentioned as 8607 on the basis of specifications prescribed by the Indian Railways.



i) The coupling device consists of 6 parts such as coupler head, knuckle, lock, rotary lock etc., is specified under chapter heading 8607, as per specifications prescribed by Indian Railways. Coupler parts are required to be manufactured by using special grade of material called M-201, as specified by Indian Railways. Also the said coupler parts are mandatorily need to be procured only from 'class A foundry' & the applicant is one such approved class A Foundry, approved by RDSO, Lucknow. All these facts prove that the coupler parts being manufactured and supplied by us are Railway Parts classified under chapter heading 8607.

j) The applicant also intend to rely on the Tribunal Judgment in the case of Poona Radiators Vs Collector of Central Excise (15.02.1990) wherein it is held that Radiators supplied to Railways are classifiable under chapter heading 8607. They also quoted ruling of this authority in the case of VST Tillers Tractors Ltd., Bangalore and also the decision of GST council's 37th meeting to stress upon the usage of the manufactured product & contends that the rate of GST is purely depends on the usage. They conclude that the impugned castings are rightly classifiable under chapter heading 8607 & attract 5% GST.

8. DISCUSSION & FINDINGS:

8.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. K C Shantappa, Director & duly authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

8.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

8.3 The Applicant manufacture & supply various castings, as per pre-determined drawings to M/s Sanrok Enterprises, Faridabad, who in turn supply the said castings to Indian Railways on subjecting the same to further process of machining and contends that the impugned castings are classifiable under chapter heading 8607 & thereby attract GST @ 5%.

8.4 In view of the above, the issues before us to decide are (i) the classification of impugned goods and (ii) the applicable GST rate thereon. We proceed to consider the issues one at a time.

8.5 The applicant submitted that the impugned goods whose classification is to be decided are nothing but castings of coupler parts such as coupler head, knuckle, lock, rotary lock etc., which are parts of coupling devices and furnished the photographs of the same. Further they also submitted that all these impugned goods are required for coupling device used for attaching the railway bogies/wagons.

8.6 Chapter heading 86 07 covers parts of railway or tramway locomotives or rolling-stock and heading 8607.30 covers hooks and other coupling devices, buffers, and parts thereof. Further the heading 8607 covers parts of railway, tramway locomotives or rolling-stock subject to fulfillment of both the following conditions.

- i. They must be identifiable as being suitable for use solely or principally with the above mentioned vehicles.
- ii. They must not be excluded by the provisions of the Notes to Section XVII.

8.7 The applicant, in support of fulfillment of the first condition, submitted that the impugned goods are manufactured as per the pre-determined drawings of Indian Railways, on placement of order by M/s Sanrok Enterprices (buyer), Faridabad, who are the main contractors for supply of the impugned goods. Further they also submitted that the buyer of the impugned goods have given an affidavit that the said goods supplied by the applicant are in turn supplied only to Indian Railways & the said goods are not useful for anyone other than the Indian Railways and thus the impugned goods are suitable for use solely with the Railway Locomotives. It is observed from the photographs submitted by the applicant that the goods are suitable only for coupling the railway bogies/wagons and hence the first conditions is fulfilled.

8.8 Now we proceed to examine the fulfillment of the second condition as to whether the impugned goods have been excluded by the provisions of the Notes to Section XVII or not. Section Notes 2 & 3 of Section XVII are relevant, among the five Notes, to the issue of parts or parts & accessories. Note 2 specifies that the expressions 'parts' and 'parts & accessories' do not apply to certain listed articles, whether or not they are identifiable as for the goods of Section XVII and the impugned goods are not covered under the list of articles specified in Note 2. Thus the impugned goods have not been excluded by the provisions of the Note 2 to Section XVII. Further Note 3 of the said section specifies as under:

References in Chapters 86 to 88 to 'parts' or 'accessories' do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under the heading which corresponds to the principal use of that part or accessory:

8.9 It is observed that in the instant case the impugned goods (parts of coupling device) are suitable for use solely with the Railway Locomotives and also classified specifically under heading 8607.30. Thus the second condition also is fulfilled. Hence we conclude that the impugned goods (parts of coupling device) are classifiable under heading 8607.30.

8.10. The other issue to be decided is the rate of GST applicable to the impugned goods. The applicant claims that the impugned goods are taxable at the rate of @5% GST, in terms of Entry No.241 of Schedule I to the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017, which is appended below:

Sl.No.	Chapter Heading/ Sub Heading/ Tariff Item	Description of good
241	8607	Parts of railway or tramway locomotives or rolling-stock; such as bogies, bissel-bogies, axles and wheels and parts thereof.

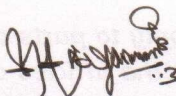
It is observed from the relevant Notification supra that the aforesaid entry bearing number 241, which attracts 5% GST, has been removed from Schedule I of the said Notification and a new entry has been included at Sl.No.205 G of Schedule II, with the same

details except the serial number, which attracts 12% GST, under Notification No.14/2019-Central Tax (Rate) dated 30.09.2019. The impugned goods are not covered under any other Schedules of the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017. Further No refund of unutilized input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supply of the impugned goods, in terms of Sl.No.14 of Notification No.5/2017-Central Tax (Rate) dated 28.06.2017.

9. In view of the foregoing, we pass the following

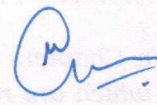
RULING

Railway parts such as Couplers, Knuckle, Locks, Toggle, Yoke etc., manufactured and supplied by the applicant to M/s Sanrok Enterprises (who in turn supply to Indian Railways after assembly) are classifiable under HSN 8607. The applicable rate of GST on the impugned goods is 5% in terms of entry number 241 of Schedule I to the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017, till 29.09.2019 and effective from 30.09.2019, the rate of GST is 12%, in terms of entry number 205 G of Schedule II to the Notification No.1/2017-Central Tax (Rate) dated 28.06.2017, as amended by Notification No.14/2019 - Central Tax(Rate) dated 30.09.2019, with no refund of unutilized input tax credit, in terms of Sl.No.14 of Notification No.5/2017-Central Tax (Rate) dated 28.06.2017.


(Dr. Ravi Prasad M.P.)

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009


(Mashhood ur Rehman Farooqui)

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Date : 30-07-2020

To,

The Applicant

Copy to :

The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Principal Commissioner of Central Tax, Mysore Commissionerate, Mysuru.

The Asst. Commissioner, LGSTO-40, Shivamogga

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