

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building,

Mazgaon, Mumbai – 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri Rajiv Magoo, Joint Commissioner of Central Tax, (Member)

(2) Shri T. R. Ramnani, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AAACA4336LIZO
Legal Name of Applicant		M/s. Arco Electro Technologies Pvt. Ltd.
Registered Address/Address provided while obtaining user id		1, Nand Deep Industrial Estate, Kondivita Lane, Andheri East, Mumbai-400059
Details of application		GST-ARA, Application No. 61 Dated 24.12.2020
Concerned officer		MUM-VAT-E-103, Nodal-12
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Factory / Manufacturing
B	Description (in brief)	1) Brush Holder Assembly for Locomotives 2) Lead Wires with fittings for Locomotives 3) Insulating Rods for Locomotives
	Issues on which advance ruling required	i) classification of goods ii) determination of the liability to pay tax on any goods
	Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below



PROCEEDINGS

**(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the
Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by **M/s. Arco Electro Technologies Pvt. Ltd.**, the applicant, seeking an advance ruling in respect of the following question.

Railway parts such as Brush Holder Assembly and parts, Lead Wires for locomotives and Insulating Rods Locomotives manufactured as per the specification and drawings of Indian Railways.

These should be classified under HSN Heading 8503, 8544 and 8547 @ 18% or under HSN Heading 8607 @ 12%?

At the outset, we would like to make it clear that the provisions of both, the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

Submissions made by M/s. Arco Electro Technologies Pvt. Ltd., the applicant, are as under:-

- 2.1** Applicant is manufacturing and supplying Brush Holder Assembly and Parts, Lead Wires and Insulating Rods for locomotives. The application is with regard to classification of these items and applicable GST rate thereon. Subject goods are supplied to Indian Railways (IR) and other customers who ultimately supply to Indian Railways after assembly in their products.
- 2.2** The subject goods are manufactured as per specification and drawings of IR. Currently, Brush Holder Assembly (made of non-ferrous castings and are assembled with springs, axles etc) and Lead Wires with fittings (made of specialized Fluonlex Cables designed for Rolling stock and fitted with Terminal Lugs, tubes.) are being classified under HSN Heading 8503 and 8544 respectively and Brush Holder Support Pin / Terminal Support / Brush Holder Arm for Locomotives (Glass Bonded Mica Insulators with steel inserts & machined for fitment in Railway machines) are classified under HSN Heading 8547.
- 2.3** The said goods should be classified under HSN Heading 8607 as they are produced as per IR's drawings/ Specs used only in IR. The exclusion given in Section XVII Note 2 [a] to [l] are not applicable as subject products are not specifically classified in any other Chapter.
- 2.4** As per Note 3 to above section, 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 that heading which corresponds to the Principal use of the part or accessory.

2.5 Further as per Rule 3[a] of the General Rules of Interpretation under Customs Act 1975.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred over headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

2.6 Therefore any other headings give only a General description. Applicant relies on the order of the Advance Ruling Authority, Karnataka (KAR ADRG 40/2020 dated 30 July 2020) in the matter of M/s Pragathi Steel Castings Pvt. Ltd. Karnataka.

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CONTENTION – AS PER THE CONCERNED OFFICER:

Submissions made by jurisdictional officer vide letter dated 16.06.2021, are as under:-

3.1

The applicant, M/s. Arco Electro Technologies Pvt Ltd is engaged in the manufacture and supply of Brush Holder Assembly and Parts, Lead Wires and Insulating Rods.

Name of the commodity/Goods	HSN Code
1.Brush Holder	8503
2.Lead Wire with fittings	8544
3.Brush holder Support pin/Terminal support/Brush Holder Arm	8547

3.2 CHAPTER 85 SAYS

“Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles”.

- 1) 8503- Parts suitable for use solely or principally with the machines of heading 8501 or 8502
- 2) 8501- Electric motors and generator (excluding generating sets)

- 3) 8502- Electric generating sets and rotary converters
- 4) 8544- Insulated (included enamelled or anodised) wire, cable (Including co-axial cables) and other insulated electric conductors whether or not fitted with connectors: optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors
- 5) 8547- Insulating fitting for electrical machines, appliances or equipment's, being fittings wholly of insulation material apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for the purposes of assembly, other than insulators of heading 8546; electrical conduit tubing and joints therefore, of base metal lined with insulating material
- 6) 8546- Electrical insulators of any material.

3.3 CHAPTER 86 SAYS

Railway or Tramway Locomotives, rolling stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signaling equipment of all kinds.

8607- Parts of railway or tramway locomotive or rolling-stock

3.4 The applicant has submitted that, brush holders, lead wires and brush holder support pins should be classified under HSN code 8607 as the said goods are produced as per the Indian Railway drawings/specification used only in Indian Railway.

3.5 Applicant has cited the ARA Order in the case of Karnataka No. KAR/ADRG/40/2020 dated 30/07/2020 in support of their contention. In the said ARA, the parts involved such Couplers, Knuckle, Locks, Troggle, Yoke etc. were manufactured by the applicant and supplied M/s. Sanrok Enterprises (who in turn supply to Indian Railways after assembly) are Classifiable under 8607. It was also stated that the said goods are not useful or anyone other than the Indian Railway and used solely with the railway locomotives. But in this impugned case the goods have been classified under specific HSN Code, also as per the railways purchase order only specific commodity mentioned along with the 18% tax rate. The commodities which are mentioned in purchase order are Brush holder without Carbon brush for Hitachi, Lead wire A-150 mm square for Hitachi.

3.6 These specific goods falls under HSN Code 8503 for Brush holder, 8544 for lead wire and 8547 for Brush holder support pin/terminal support/brush holder arm and cannot be covered under code 8607 which specifies the parts& accessories of railway. Further.

these three commodities are not solely used for railway. Hence above ARA not applied in this impugned case.

3.7 Also herewith attached the following judgement/order pertains to HSN Code,

1. Wendell Submersible Pvt. Ltd. V/S Union of Indian (UOI) High court of Gujarat at Ahmedabad Special Civil Application No.4656 and 4658/86 and 1139/87/07/09/1988 which pertains to The HSN Code 8503.

2. Controller of Central Excise V/S Vie Kay Electrical on 27/02/1995 in the Customs, Excise & Gold Tribunal Delhi This pertains to the HSN Code 8544.

3. Customs, Excise & Gold Tribunal –Delhi Poona Radiators V/S Collector of Central Excise on 15/02/1990, which pertains to the HSN Code 8607.

4. ARA order number GST-ARA-34/2019-20/B-04 dated 15/01/2020 in the case of M/s. Rishabh Industries. Which pertains to the HSN Code 8504.

3.8 In view of above it is clear that the goods manufactured by M/s Arco Electro Technologies Pvt Ltd are specified under HSN Code 8503, 8544, 8547 and not under HSN Code 8607. These products are not solely used for Railway. The tax rate for these goods along with HSN Code

1. Brush holder, HSN Code-8503

2. Led wire with fittings, HSN Code 8544

3. Brush Holder Support Pin/Terminal Support/Brush Holder Arm, HSN-8544. All Attract 18% tax rate.

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Applicant's further submission dated 21.06.2021 in response to submissions made by the jurisdictional officer

4.1.1 Indian Railways [IR] are manufacturing Electric and Diesel Electric Locomotives at various factories. The locomotives consists of electric power collection/ production equipment/ the control systems.

4.1.2 In a diesel–electric locomotive, the diesel engine drives either an electrical DC generator, or an electrical AC alternator-rectifier, the output of which provides power to the traction motors that drive the locomotive. There is no mechanical connection between the diesel engine and the wheels. The important components of diesel–electric propulsion are the diesel engine (also known as the prime mover), the main generator/alternator-rectifier, traction motors (usually with four or six axles), and a control system consisting of the engine governor and electrical or electronic components, including switchgear, rectifiers and other components, which control or

modify the electrical supply to the traction motors. In the most elementary case, the generator may be directly connected to the motors with only very simple switchgear.

4.1.3 An **electric locomotive** is a locomotive powered by electricity from overhead lines, a third rail or on-board energy storage such as a battery or a super capacitor. Electric locomotives have electrical or electronic components, including switchgear, rectifiers and other components, which control or modify the electrical supply to the traction motors. The Locomotives manufactured by IR are: Electric locomotives type WAG-5, WAG-7, WAP-4 and AC/DC locomotives type WCAM-3. Diesel Electric Locomotives WCAM 1&2, WCAG-1, WDAP-5, WDM-1&2, WDM-2G, WDM-3D, WDP, WDG.

4.2 HS-15250A, TAO 659A and 4907 are some of the types of traction motors of IR fitted in the locomotives. All traction motors are hanging on the wheel axle. They cannot be used anywhere else as they are integrated with the wheel axle with suspension mounting and integral Gears of the locomotive.

4.3.1 The Locomotive require several parts like Brush Holders, Lead Wires etc. to convey the power to the prime moving parts.

4.3.2 In Brush Holder without carbon brush, the dominant material is non-ferrous castings, springs, spacers etc. They do not have any electrical properties. Copper based items can be classified under HSN 7403 or 7419.

4.4 The main constituents in Glass bonded mica components are made of Mica and Glass. They can be classified as Items of Mica Compound under HSN 6814.

4.5 Further Section XVII Note 3 says: A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory. **As our parts are for use exclusively for Railway Locomotives they should be classified under 8607.** The HSN codes that we were classifying our products under is irrelevant to the determination of the legal position under this Advance Ruling.

4.6 Goods are purchased by IR through Tenders. [Sample tender offer enclosed Ann.2]. The Tenders have full details of drawings and specifications of the items to be quoted. Vendors are supposed to quote the Basic rate, unconditional discount, packaging charges, GST, freight, etc. IR calculates the 'Total cost to them' and tenders are awarded to the technically eligible vendors based on L1 system of the Total cost as above.

4.7 The jurisdictional officer, in his report has mentioned that *"But in this impugned case the goods have classified under specific HSN Code, also as per the railways purchase order only specific commodity mentioned along with the 18% tax rate. The commodities*

which are mentioned in purchase order are Brush holder without Carbon brush for Hitachi, Lead wire A-150 mm square for Hitachi."

This is because we have quoted 18% GST which is irrelevant to the determination of the legal position.

- 4.8 We do not agree with the contention of the jurisdictional officer that *These specific mentioned goods falls under HSN Code 8503 for Brush holder, 8544 for lead wire and 8547 for Brush holder support pin/terminal support/brush holder arm.*
- 4.9 The subject goods are designed and produced specially for use in locomotives and cannot be used anywhere else. If we are not able to sell them to IR, these items will have to be scrapped. HS-15250A, TAO 659A and 4907 are designed for use only in locomotives. All traction motors are hanging on the wheel axle. Therefore they cannot be used anywhere else as they are integrated with the wheel axle with suspension mounting and integral Gears of the locomotive. All the specifications like metallic/ non-metallic materials, the dimensions, physical parameters, functional parameters are specific to Railways. The attachment type to the wheel shaft axle is also specific to IR.
- 4.10 8607-Includes Parts of railway or locomotives or rolling-stock Bogies, bissel-bogies, Axles and wheels, and parts thereof. We state that the parts brush holder, lead wire and brush holder support pin should be classified under HSN code 8607 as the said goods are produced as per the IR drawings/specification used only in Indian Railway.
- 4.11 The order pertaining to : *1. Wendell Submersible Pvt. Ltd. V/S Union of Indian (UOI) High court of Gujarat at Ahmedabad Special Civil Application No.4656 and 4658/86 and 1139/87/07/09/1988. Which pertains to The HSN Code 8503 is irrelevant. It does not cover parts of Locomotives. The judgment is regarding some other product all together.*
- 4.13 The order pertaining to *Controller of Central Excise V/S Vie Kay Electrical on 27/02/1995 in the Customs, Excise & Gold Tribunal Delhi, Customs, Excise & Gold Tribunal –Delhi Poona Radiators V/S Collector of Central Excise on 15/02/1990, and the ARA order number GST-ARA-34/2019-20/B-04 dated 15/01/2020 in the case of M/s. Rishabh Industries are irrelevant to the subject case.*

04. HEARING

- 4.1 Preliminary online e-hearing held on 20.04.2021. From the applicant side, Shri. Rajendra Ruia, Director was present and made oral submissions. Jurisdictional officer

Shri. Ravindrakumar Deore, Deputy Commissioner, MUM-VAT-E-103 was also present.

- 4.2 The application was admitted and called for final online e-hearing on 22.06.2021. The applicant was represented by Authorized Representative Shri. Rajendra Ruia, who made oral and written submissions. Jurisdictional officer Shri. Ravikumar Deore, Deputy Commissioner, MUM-VAT-E-103, Nodal-12, Mumbai was present. We heard both the sides.

05. OBSERVATIONS AND FINDINGS:

- 5.1 We have gone through the documents on records, facts of the case and submissions made by both, the applicant as well as the jurisdictional officer.

- 5.2 The issue before us is one of classification of the products manufactured and supplied by the applicant to the Indian Railways as well as to other clients who, according to the applicant make further supplies to the Indian Railways.

- 5.3 The goods in question are Brush Holder Assembly and parts, Lead Wires and Insulating Rods which as per the applicant's submissions are manufactured as per the specification and drawings of Indian Railways. Further, the applicant has submitted that if the said items are not sold to Indian Railways, then the said goods will be scrapped.

- 5.4 The applicant has submitted that, the impugned goods i.e. Brush Holder Assembly and parts, Lead Wires and Insulating Rods are parts of traction motors and are used in traction motors which are further required by the Indian Railways for use in the manufacture of Locomotives and since the said products are finally used in locomotives of the Indian Railways, they are therefore required to be classified under heading 8607 of the GST Tariff.

- 5.5.1 Chapter heading 86.07 covers parts of railway or tramway locomotives or rolling stock. This heading covers parts of railway or tramway locomotives or rolling stock, provided the parts fulfil both the following conditions as under:

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

- 5.5.2 We find that out of all the section notes of Section XVII, only Note 2 and Note can be considered to be relevant in the subject matter. Thus it is to be seen whether or not, the said Notes 2 and/or 3 excludes/includes the subject goods.

5.5.3 As per Note 2 to Section XVII, The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:

- (a) joints, washers or the like of any material
- (b) parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);
- (c) articles of Chapter 82 (tools);
- (d) articles of heading 8306;
- (e) machines or apparatus of headings 8401 to 8479, or parts thereof; articles of heading 8481 or 8482 or, provided they constitute integral parts of engines or motors, articles of heading 8483;
- (f) electrical machinery or equipment (Chapter 85);
- (g) articles of Chapter 90;
- (h) articles of Chapter 91;
- (i) arms (Chapter 93);
- (k) lamps or lighting fittings of heading 9405; or
- (l) brushes of a kind used as parts of vehicles (heading 9603).

5.5.4 As per Note 3 to Section XVII, 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 that heading which corresponds to the principal use of that part or accessory.

5.5.5 The applicant has submitted that the subject goods are manufactured by them only as per the specifications and drawings given to them by the Indian Railways. They have further submitted that the subject goods, designed and produced specially for use in locomotives, cannot be used anywhere else and therefore if they are not able to sell them to the Indian Railways, then these items will have to be scrapped. Thus, the first condition of Chapter 86.07 is satisfied in the subject case, as per the applicant's submissions, in as much as the impugned goods are identifiable as being suitable for use solely or principally with Locomotives manufactured by the Indian Railways.

5.5.6 Further, as per Note 2 to Section XVII, the expressions “parts” and “parts and accessories” do not apply to articles mentioned in (a) to (l) therein, whether or not they are identifiable as for the goods of this Section. It is seen that the subject goods do not find mention in the list of articles mentioned in the said Note 2 and therefore it can be

concluded that the subject goods are excluded by the provisions of Note 2 to Section XVII, thus satisfying the second condition of Chapter 86.07 mentioned in para 5.5.1.

5.5.7 Note 3 to Section XVII mentions that 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 that heading which corresponds to the principal use of that part of accessory.

5.5.8 In the instant case, as per the applicant's submissions, we find that the impugned goods are suitable for use solely or principally with Railway Locomotives falling under Chapter 86 and therefore Note 3 does not exclude the subject products, rather the said Note 3 includes the impugned products.

5.5.9 Thus the second condition of Chapter 86.07 is also fulfilled in the subject case.

5.5.10 In view of the discussions made in paras 5.5.1 to 5.5.9 above, we hold that the impugned goods i.e. Brush Holder Assembly and parts, Lead Wires for locomotives and Insulating Rods Locomotives manufactured by the applicant as per the specification and drawings of Indian Railways are classifiable under heading 86.07.

06. In view of the discussions made above, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 61/2020-21/B- 31

Mumbai, dt. 13-07-2021

For reasons as discussed in the body of the order, the question is answered thus –

Question: *Railway parts such as Brush Holder Assembly and parts, Lead Wires for locomotives and Insulating Rods Locomotives manufactured as per the specification and drawings of Indian Railways.*

These should be classified under HSN Heading 8503, 8544 and 8547 @18% or under HSN Heading 8607 @ 12%?

Answer: *The products Brush Holder Assembly and parts, Lead Wires and Insulating Rods are to be classified under heading 86.07 only when they are manufactured as per*

the drawings and specifications given to the applicant by the Indian Railways and only when the said goods are used in traction motors meant for Railway Locomotives




RAJIV MAGOO
(MEMBER)


T. R. RAMNANI
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint Commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.