

**AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH**

**Goods and Service Tax**

**O/o THE COMMISSIONER, COMMERCIAL TAX,**

**MOTI BUNGALOW,**

**MAHATMA GANDHI MARG, INDORE (M.P.) - 452007**

**e-mail :advance.ruling @mptax.mp.gov.in**

**Phone : 0731- 2437315**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING**

**U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017**

**Members Present**

**1. Shri Manoj Kumar Choubey**

**Joint Commissioner**

**Office of the Commissioner of Commercial Tax, Indore Division-1**

**2. Shri Virendra Kumar Jain**

**Additional Commissioner**

**Office of the Commissioner CGST and Central Excise(Audit), Indore**

GSTIN Number, if any / User-id	23AABCD3596Q1Z6
Name and address of the applicant	DAULATRAM ENGINEERING SERVICES PVT LIMITED, 10/2, NH 12, SIMRAI, MANDIDEEP, DISTRICT RAISEN (MP) 464993.
Clause(s) of Section 97(2) of CGST / SGST Act, 2017 under which the question(s) raised	(b) Applicability of a notification issued under the provisions of this Act.
Present on behalf of applicant	SHRI YOGESH CHOURASIA, COST ACCOUNTANT
Case Number	14/2021
Order dated	08/02/2022
Order Number	02/2022

**PROCEEDINGS**

**(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)**

1. The present application has been filed u/s 97 of the Central Goods and Services Tax Act, 2017 (hereinafter also referred to CGST Act and SGST Act respectively) by M/s DAULAT RAM ENGINEERING SERVICES PVT LIMITED, MANDIDEEP (hereinafter referred to as the Applicant), registered under the Goods & Services Tax.
2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act or MP GST Act would be mentioned as being under the GST Act.





3. BRIEF FACTS OF THE CASE AND SUBMISSION OF THE APPLICANT ARE AS UNDER :-

- 3.1 The applicant is registered under the provisions of CGST Act (the Act) and MP GST Act read with section 20(v) of IGST Act, vide GSTIN: 23AABCD3596Q1Z6, having principal place of business, at Mandideep(MP).
- 3.2 The Applicant submits that Roof Mounted AC Package Unit manufactured and supplied as per the RDSO is Squarely covered by Chapter Heading 8607 of GST Tariff.
- 3.3 The applicant submitted that Note 3 of Section XVII of GST Tariff is relevant for classification of goods supplied to Indian Railways by the Applicant.

Section note 3 of Section XVII of GST Tariff Act is reproduced herewith for the sake of brevity.

*"3. 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"*

The applicant submitted that by plain reading of Note 3 it is amply clear that the Parts and accessories which are being used solely and principally with the articles of Chapter 86 to 88 shall be classified under the chapter 86 to 88. A part or accessory shall be classified under the chapter headings which correspond to the principle use of that part or accessory.

- 3.4 The Product Roof Mounted AC Package Unit is so designed that it can be fitted only to Railway Coaches (Rolling Stock) and performs the function of only Servicing Railway Coaches. It has such inbuilt features which renders them usable only with reference to the needs of Railway Coaches. Functionality ,though it may be that the impugned item function as other equipment's of similar nature like the Air Conditioner in House or Motor Vehicles but by the features which are built in them rendered usable only with the Railway Coaches and it can be concluded that this item for that reason can be taken only as adjunct of the





Railway Coaches. In no case this Part manufactured and Supplied by the Company are usable in a matter unconnected with the Railway Coaches. As In terms of Section note -3 of Chapter XVII under which Chapter 86 falls it is clearly stated that Parts or accessories which would fall under Chapter 86 to 88 would only be those which are suited principally with the articles under this heading i.e. 86 to 88.

3.5 As regard to the classification under Chapter 86 of the GST Tariff, the Chapter 86 covers "Railway or Tramway Locomotive, 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". Further, as per Chapter Note 2 of Chapter 86;

*"2. Heading 8607 applies, inter alia, to:*

*(a) axles, wheels, wheel set (running gear), metal tyres, hoops and hubs and other parts of wheel;*

*(b) frames, under frames, bogies and bissel-bogies;*

*(c) axle boxes, brake gear;*

*(d) buffers for rolling-stock; hooks and other coupling gear and corridor connections; (e) coachwork."*

12). Further, the exclusion clause under the Chapter 86 of the GST Tariff, is as follows:

*1. This chapter does not Cover:*

*(a) railway or tramway sleepers of wood or of concrete, or concrete guide-track sections for hovertrains (heading 4406 or 6810);*

*(b) railway or tramway track construction material of iron or steel of heading 7302; or*





(c) electrical signaling, safety or traffic control equipment of heading 8503."

The applicant submitted that in view of the foregoing facts and as per the GST Tariff, the Tariff head 8607 9910 refers to "Parts of Coach work of railway running stock. " Roof Mounted AC Package unit " Specially meant for Railways as per the design and layout Provided by them are integral part of the coach and classifiable under Chapter 8607.

3.6 Section Notes and Chapter Notes makes it clear that only parts suitable for use solely or Principally with the articles of those chapters are covered under chapter 86 to 88. These clarificatory notes leave no room for doubt. They are in clear and emphatic terms like 'must', 'solely', 'proper'. Since the item in question are designed exclusively for use in Railway Rolling Stock therefore it satisfies the requirement of being classifiable as being suitable for use solely or Principally with Railway Locomotives/Coach.

3.7 Judicial Prudence:- There are various Judicial Pronouncements in Pre GST era and AAR Rulings in GST era which Supports our view. Few of them with relevant text may be enumerated as below :-

Mak Controls vs Commissioner Of Central Excise on 16 June, 1998

Equivalent citations: 1998 (61) ECC 296, 1998 ECR 375 Tri Chennai

Bench: V Gulati, Vice-, T Nambiar

"19. It is significant to note that under this section note, it is not defined functionally as to what output is given by the equipment but the use to which equipment is to be put would be determinative of the classification. Going by the use of the equipment and the un-disputable position that i.e. the exclusive use of GPU meant for the Aircraft in terms of this section note, it qualifies as an item which will fall under Chapter 88 which covers Aircrafts.



१५



20. The Section note-2 under which the Electrical Machinery of Chapter 85 stands excluded from purview of Section XVII will not come in the way of the classification of the goods under Chapter 88 in view of the fact that the item on market criteria of its exclusive use gets to be classified under Chapter 88.

21. We observe that a meaning has to be given to provisions of Chapter note-3 and what is set out to be included should be given preference to what is set out to be excluded when both the notes deal with the same issue. The interpretation which is favourable to the assessee has to be preferred in view of well settled principle law as laid down by the Hon'ble Supreme Court in a number of cases the latest being 1997 (93) ELT 641 in the case of Sun Export Corporation v. CC Bombay, the Hon'ble Supreme court in para -13 at the end has observed as under :-

Even assuming that there are two views possible, it is well settled, that one favourable to the assessee in matters of taxation has to be preferred.

In that context therefore the preference in any case has to be given to Section note-3 as compared to Section note-2."

Diesel Components Works vs Commissioner Of C. Ex. on 16 June, 2000, 2000 (70) ECC 277, 2000 (120) ELT 648 Tri Del

"3. 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."

In relation to Chapter Note 3, what HSN states is:





"(B) Criterion of sole or principal use.

(1) Parts and accessories classifiable both in Section XVII and in another Section.

Under Section Note 3, parts and accessories which are not suitable for use solely or principally with the articles of Chapters 86 to 88 are excluded from those Chapters.

The effect of Note 3 is therefore that when a part or accessory can fall in one or more other Sections as well as in Section XVII, its final classification is determined by its principal use. Thus the steering gear, braking systems, roadwheels, mudguards, etc. used on many of the mobile machines falling in Chapter 84 are virtually identical with those used on the lorries of Chapter 87, and since their principal use is with lorries, such parts and accessories are classified in this Section."

So, this Section Note of HSN makes it clear that final classification is determined by its principal use. The principal use of the components manufactured by the appellant company is admittedly as parts of locomotive.

7. As stated earlier, all assessable parts now found dutiable by the Commissioner in the impugned order are essential parts of machine used in the locomotive. Are not those parts to be described as parts of locomotive? A similar issue came up for consideration before this Tribunal in the decision reported in Bajaj Auto Ltd. v. Collector of Central Excise, Pune, 1994 (74) E.L.T. 599 where the question, unspecific parts of IC engines used in motor vehicles are parts of motor vehicles came up for consideration. The Tribunal gave the answer in the affirmative. These parts of IC engines which were the main parts in the locomotive should also be termed as part of the locomotive and not as IC engines coming under the general category. Central Board of Excise and Customs had to consider the issue as to whether a radiator assembly supplied to Indian Railways is to be classified under sub-heading 8607.00 or otherwise. The Board observed that product



49



radiator assembly is designed according to the specifications of the Indian Railways and is for use solely and principally with locomotives of Heading 8601 and 8602. It is clarified that the radiator assembly is not to be classified as parts of IC engines under Heading 8409. This understanding of the Central Board of Excise and Customs is discernible from circular No. 16/90 dated 11-6-1990, which still holds good. If radiator assembly manufactured for Railways for being fitted in locomotives is to be classified under Heading 8607, we do not find any justification in the department taking a view that integral parts of IC engines which form locomotive are outside Chapter Heading 86.

8. In the light of the above discussion, we come to the conclusion that the various components manufactured by the appellant company are classifiable solely under Chapter Heading 86. The contrary view taken by the Commissioner is clearly erroneous. The Notification No. 197/87-CE gives complete exemption to the goods manufactured by the appellant company. So, the Excise Department clearly mistook itself in imposing duty on the goods manufactured. The duty demand and the penalty imposed are quashed."

In case of M/S PragatiSilicons Pvt. Ltd vs Commissioner Of Central Excise, ... on 26 April, 2007 similar verdict has been delivered by the court.

Based on above decision it is imperative that the classification of goods under section XVII of the Central Excise Tariff Act 1985, shall be determined by the principle use of the said goods. The Goods manufactured by the noticee are supplied to Indian Railways for solely and principally used in the Locomotives which is an undisputed fact. These goods are manufactured on the basis of the requirements of Indian Railways and hence cannot be used elsewhere. Chapter headings 8607 and 8608 are as follows:





"8607 PARTS OF RAILWAY OR TRAMWAY LOCOMOTIVES OR ROLLING- STOCK

8608 RAILWAY OR TRAMWAY TRACK FIXTURES AND FITTINGS; MECHANICAL (INCLUDING ELECTRO-MECHANICAL) SIGNALLING, SAFETY OR TRAFFIC CONTROL EQUIPMENT FOR RAILWAY, TRAMWAYS, ROADS, INLAND WATERWAYS, PARKING FACILITIES, PORT INSTALLATION OR AIR- FIELDS; PARTS OF THE FOREGOING"

On the basis of the above judicial pronouncements and relevant Chapter notes and section notes we submit that the Roof Mounted AC Package unit manufactured by the applicant for Indian Railways shall be classified under the chapter heading 8607 and 8608.

Further in Pre GST era Board also issued circular no 16/90 Dated 11.06.90 wherein it is clarified that Radiator Assembly / Radiator core specially designed and solely or principally used in the locomotive for the Indian railways would be classifiable under heading 8607 of the Central excise Tariff act .

Further in GST Era also when Similar Question for classification of Coach Work like Roof Mounted AC Package unit for Passenger Coaches the by M/s Prag Polymers Lucknow the AAR Uttar Pradesh pronounced the ruling that Classification of the "Roof Mounted AC Package unit " manufactured as per the Specific Design and layout Provided by the Railways and Supplied to the Indian Railways only and nowhere else falls under Chapter 8607 of the GST Tariff .

4.

#### QUESTIONS RAISED BEFORE THE AUTHORITY:

Whether Roof Mounted AC Package Unit manufactured as per the specifications and drawings issued by organizations owned and operated by Ministry of Railways of India/Research Design and Standards Organisation (RDSO) working under Ministry of Railways of India is covered under chapter Heading 8607 of GST Tariff ?



5. **RECORD OF PERSONAL HEARING**

- 5.1 Shri Yogesh Chourasia, Cost Accountant – Authorized Representative of the applicant appeared for personal hearing on behalf of the applicant and reiterated the submissions made in the application and also submitted Advance Ruling decision given by AAR, Uttar Pradesh in case of M/s Prag Polymers, Lucknow(UP).

6. **COMMENTS OF THE JURISDICTIONAL OFFICER :**

The Deputy Commissioner, State Tax, Circle Mandideep vide his letter No.AC/Vachak/2021 dated 08.12.2021 addressed to Advance Ruling Authority submitted that on the basis of perusal of Application Section XVII of GST, Chapter -86 to 88 and various decisions, it appears that the Roof Mounted AC package Unit is classified under chapter 86079910 "Parts of Coach work of Railway running stock"

7. **DISCUSSIONS AND FINDINGS:**

- 7.1 We have gone through the submissions made by the applicant in his application and at the time of personal hearing and finds that the question raised by the applicant is squarely covered under Section 97(2)(a) of the CGST Act, 2017 being a matter related to classification of any goods. We, therefore admit the application for consideration on merit.

- 7.2 As per the application submitted by the applicant, the question before us is whether the Roof Mounted AC package Unit classified under chapter 86079910 or not.

7.3 The Applicant vide his application submitted that product "Roof Mounted AC Package Unit" is classifiable under Chapter 8607. For examining the classification of Roof Mounted AC package unit, we go through chapter 86 and we observe that chapter 86 covers "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" and Chaptersubheading 8607 covers "PARTS OF RAILWAY OR TRAMWAY LOCOMOTIVES OR ROLLING-STOCK - Bogies, bissel-bogies, axles and wheels, and parts thereof". Ongoing through the Chapter 86, we find that this chapter covers Railway or tramway locomotive, rolling stocks and parts thereof.

- 7.4 Further as per chapter Note 2 of Chapter 86, heading 8607 applies, inter alia, to :-

"(a) axles, wheels, wheel set (running gear), metal tyres, hoops and hubs and other parts of wheel;

(b) frames, under frames, bogies and bissel-bogies;

(c) axle boxes, brake gear;

(d) buffers for rolling-stock; hooks and other coupling gear and corridor connections; (e) coachwork."

- 7.5 Further, as per the exclusion clause of the Chapter 86 of the GST Tariff, the following exclusion under the Chapter 86 of the GST Tariff: -



"1. This chapter does not Cover:

- (a) railway or tramway sleepers of wood or of concrete, or concrete guide-track sections for hovertrains (heading 4406 or 6810);
- (b) railway or tramway track construction material of iron or steel of heading 7302; or
- (c) electrical signaling, safety or traffic control equipment of heading 8503."

Ongoing through the exclusion clause, we find that the product "Roof mounted AC package unit" is not covers in the exclusion clause of Chapter 86 and parts of Railway and tramway is covers under chapter 86.

7.6 Here, we observe that in the case of Commissioner of Central Excise, Bangalore Vs. Sri Ram Metal Works {1998 (99)E.L.T. 616 (Tribunal)}, the Hon'ble Tribunal has observed that:

*"It is seen that the containers as fabricated, to specific design and drawing of the railways for fitment into coach and it becomes a part of the coach. In that view of the matter, assessment under 8312.90 is not sustainable. The Chapter Note 2 to the Chapter 86 clearly sets out that the coach work falls under this chapter. The term coach work; as such, has not been defined. Coach work, as such, has to be, therefore, treated in the broad sense of the Work which goes to make the coach functionally complete. In the case of railways, it goes without saying that the provision of water in the coach is a necessity and the coach can be taken to be complete with the fitment of the water tank. More so, when the water tank becomes parts of the coach itself Tariff Heading 8607 for assessment of the water tank".*

By applying the same analogy in the instant case also, we observe that the "Roof Mounted AC Package Unit", specially meant for the Railways, as per the design and layout provided by them, are integral part of the coach and rightly classifiable under chapter 86.07.

7.7 Further, applying the same analogy, in the case of Commissioner of C. Ex., Bangalore Vs. Ramsons Udyog {P} Ltd {2000 (115) E.L.T. 171 (Tribunal)} the Hon'ble has observed that the Sanitaryware are also design for fitment into the Coach they would be classifiable under Heading 86.07".





7.8 Similarly, in the case of Sunflex Auto Parts Vs. Commissioner of C.Ex. (Appeals) Mumbai-II (2004{171} E.L.T. 188 (Tri- Mumbai), it was observed by the Hon'ble Tribunal that «Parts made out of rubber and metal bonded together as per specification of Indian Railway and meant for use solely and exclusively for them, classification under Subheading 8607.00 of Central Excise Tariff."

7.9 In the case of Mechanico Enterprises Vs. Commissioner of C.Ex, Calcutta-II, {1998(104) E.L.T 345 (Tribunal}}, the Hon'ble Tribunal has observed that "Aluminum water tanks, principally and solely designed for use in railway coaches- classifiable under 86.07 and not under 76.11".

7.10 We also observe that, the Hon'ble Tribunal, in the case of Diesel Components Works Vs. Commissioner of C.Ex. Chandigarh {2000 (120) E.L.T. 648 (Tribunal)} has observed that "Parts of internal combustion engine used exclusively for Railway locomotive classifiable by virtue of Section Note 3 of Section XVII of Schedule to the Central Excise Tariff Act; classifiable under Chapter 86 as parts of Railway locomotive and not under chapter 84 of the Central Excise Tariff Act, 1985."

7.11 Similar views has been observed by the Hon'ble Tribunal, in the case of Rail Tech Vs Commissioner of Central Excise, Chandigarh {2000(120) E.L.T. 393 {Tribunal} that "Aluminum Windows, doors and their frames manufactured by the assessee have no use or relevance in structure but manufactured on the drawings and specifications provided by the Railways for the sole use in railway coaches Such Aluminum windows and doors are neither marketable nor can be used for any structure classifiable under Heading 86.0.7 of the Central Excise Tariff Act, 1985 as parts of Railways and not under 7610.10".

7.12 We observe that in case of applicant, on the same issue, the Hon'ble Commissioner, CGST & Central Excise, Bhopal vide Order in Original No.17/Pr.Commr/CEX/BPL-III/2019 dated 26.08.2019 decided the case in favour of applicant and hold that the Roof mounted AC package unit is appropriately classified under chapter 86 of the Central Excise Tariff Act and leviable excise duty @6% vide Notification No.12/2016-CE dated 01.03.2016. We further observe that Authority for Advance Ruling Uttar Pradesh, Lucknow vide their order No.56 dated 14.02.2020 in case of M/s Prag Polymers, Lucknow ruled that Roof mounted AC package unit is falls under chapter 86.07 of the GST Tariff.

7.13 We observe that the Roof Mounted AC package Unit would be manufactured by the applicant, strictly as per the specification and design provided by the Indian Railways (RDSO) and specially meant to be solely used in Railway coaches and nowhere else. We further observe that as per Section Notes and Chapter Notes, parts suitable for use solely or Principally with the articles of those chapters are covered under chapter 86 to 88. We further observe that the



ratio of the above referred judgement is squarely applicable in the instant case that the Roof mounted AC package unit are the interior fittings inside the coach and they are suitably classifiable under tariff heading 86079910 i.e. "Parts of Coach work of railways running stock".

7.14 Accordingly we are in unison with the applicant and the jurisdictional GST officer that the classification of the Roof mounted AC package Unit manufactured as per the specific design and layout provided by the railways (RDSO) and supplied to the Indian Railways only and no where else, falls under chapter 86.07 of the GST Tariff.

8.

#### RULING

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

- 8.1 The Authority hereby is of the opinion that the classification of the "Roof Mounted AC Package Unit", manufactured as per the specific design and layout provided by the Railways and supplied to the Indian Railway only no-where else, falls under chapter 86.07 of the GST Tariff.
- 8.2 The ruling is valid subject to the provisions under section 103(2) until and unless declared void under section 104(1) of the GST Act.



*SK*  
(Manoj Kumar Choubey)  
(Member)

*SP*  
(Virendra Kumar Jain)  
(Member)

Copy to:- NO. 14/2021/A.A.R./R-28/04

INDORE dated 08/02/2022

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore/Bhopal
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

सत्यप्रतिलिपि

*Choudhary*