

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow

**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING UNDER
SECTION 98 OF THE GOODS AND SERVICES TAX ACT, 2017**

Sub:- GST ACT, 2017 – Advance Ruling U/s 98 – liability to tax under GST Act in respect to application dated 16.07.2018 received on 20.07.2018 from Shri Sudhanshu Garg– Order– Reg.

Shri Shudhanshu Garg, 323, Madhuvan Vihar Colony, near Ram Gopalji ki Factory, Barola, Ram Nagar Koil, Aligarh-202001(U.P.) (here-in after called the applicant) a unregistered person has applied for advance ruling under sub-Section (1) of Section 97 in From GST ARA-01 with respect to Classification of Goods.

2. Advance Ruling preferred to decide is whether 'Bike Locks' used for motorized Bicycle are classified and taxable under HS-8714 (Parts and Accessories of Bicycle & other cycle).
3. Matter has been taken up for issuance of Advance Ruling by the Authority of Advance Ruling as appointed in terms of Section 96 of the GST Act, 2017 consisting of the Joint Commissioner, CGST and Central Excise, Lucknow and Joint Commissioner (Law), Commercial Tax, Lucknow.

The applicant was granted a personal hearing on 15.10.2018 vide letter C.No.V(30)CCO/Tech/22/Ad. Rul./SG/2018/2209.

Personal Hearing

Shri Sudhanshu Garg, along with his father Sri Hariom Agarwal, and Shri Durga Prasad, Advocate /Authorized representative of the Applicant appeared before us for personal hearing.



The Applicant during personal hearing have submitted their detailed explanation vide their letter dated 15.10.2018 along with the 'paper-book' containing various judgements cited in written submission. They stated that they would like to reiterate the same. They requested that since 'cycle lock' is specifically made for cycles only and they cannot be used for any other purpose. Further, industry, trade and general public (end consumer) also identify the 'cycle lock' as different item that same may be considered while passing the order. Applicant also provided the sample of 'cycle lock'.

DISCUSSION AND FINDING

We have gone through the application for advance ruling; submission made by the applicant during the personal hearing and examined the detailed explanation submitted by them.

We observe that the question sought by the applicant to decide before us is whether Bicycle Locks are classifiable and taxable under HS-8714 (Parts and Accessories of Bicycle & other cycle) or otherwise.

We have gone through the submissions made by the applicant and case laws cited by them. To decide the issue we would like to refer to the Customs Tariff Act, 1975 adopted for classification of goods under Goods and Service Tax Act. We find that 'note 2' of Section-XVII of Customs Tariff stipulates that-

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 (classified according to their constituent material or in heading 8484) or other articles of vulcanized rubber other than hard rubber (heading 4016);
- (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 and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;

Further, the term 'general use' has been defined in note 2 of Section XV of the tariff, which stipulates as under;

Throughout this Schedule, the expression "parts of general use" means:

(a) articles of heading 7307, 7312, 7315, 7317 or 7318 and similar articles of other base metal;

(b) springs and leaves for springs, of base metal, other than clock or watch springs (heading 9114); and

(c) articles of headings 8301, 8302, 8308, 8310 and frames and mirrors, of base metal, of heading 8306.

From the above, it is obvious that locks classified under chapter 8301 are for the purpose of general use whereas, the cycle locks are specific as they are exclusively used for bicycles and cannot be used for any product other than the bicycle.

We also observe that the applicant has cited various case laws in support of their claim and made a reference to the contents available on several websites.

We find that 'accessories' are well defined by the Supreme Court in **Annapurna Carbon Industries Co. Vs State of Andhra Pradesh [1976]37 STC 378**, wherein the Hon'ble Court held that meaning of accessories is accepted as an object or device that is not essential in itself but that adds to the beauty or convenience or effectiveness of something else or is supplementary or secondary to something primary or greater importance.

Similarly in the case of **M/s Indo Italian Amusement Park Limited vs Commissioner of Trade Tax, 2005 N.T.N. (Vol. 28) 107**, Hon'ble Allahabad High Court propounded that 'It is firmly established that classification of goods should be according to their commercial sense and not as per the scientific or technical meaning. The Supreme Court has observed that how the product is



identified by the class or section or people dealing with or using the product, is also a test when the statute itself does not contain any definition and commercial parlance would assume importance when the goods are marketable.’

We find that EXIM data with respect to goods under question makes it explicitly clear that HS code 8714 is being used for cycle locks in import as well as export around the world. This supports the view that bicycle locks appropriately fall under HS-8714.

A report from the field formation was also called for. The jurisdictional Deputy Commissioner, CGST & Central Excise, Aligarh has submitted a detailed report on the issue and opined that bicycle locks may be classified under HSN-8714. He submitted some sample invoices issued by the different parties supplying the goods under question which clearly show that trade practice is to classify the bicycle locks under HSN-8714.

We also find that cycle locks as parts and accessories of vehicles of heading 8712 and 8713 falling under chapter 8714 were exempted vide Entry No. 293 of exemption notification no. 12/2012-Central Excise dated 17.03.2012 as amended. Thus bicycle locks were already being classified under chapter 8714 in pre-GST era.


It is pertinent to mention here again that the applicant provided the sample of cycle lock and insisted for ruling with respect to ‘Cycle Locks’ during personal hearing although they had inadvertently filed application for Advance Ruling with respect to classification and taxability of ‘Bike Locks used for motorized Bicycle’ under HS-8714. Accordingly we confine ourselves up to this extent while passing the order.



In view of the above, we rule as under;

RULING

The product 'cycle locks' is classifiable under Chapter Heading 8714 of the Customs Tariff Act, 1975 and Goods and Services Tax rate applicable to Chapter Heading 8714 is applicable to the said product.


Vivek Kumar Jain
Member AAR
CGST


R K Khandelwal
Member AAR
SGST
16/10/18

To,

Shri Shudhanshu Garg,
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Near Ram Gopalji ki Factory,
Barola, Ram Nagar Koil,
Aligarh-202001(U.P.)

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 15

Date: 16.10.2018

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Advance Ruling Appellate Authority.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Advance Ruling Appellate Authority.
3. The Commissioner, CGST & Central Excise, Commissionerate, Agra, Uttar Pradesh.
4. Through the Additional Commissioner, Commercial Tax, in charge – Distt. Aligarh, Uttar Pradesh to jurisdictional tax assessing officers.

