

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

4, Vibhuti Khand, Gomti Nagar, Lucknow

**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING U/S. 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 16.11.2018 from M/s Autometers Alliance Pvt. Ltd., Noida, Uttar Pradesh – Order– Reg.

1) M/s Autometers Alliance Pvt. Ltd., C-60,61,62,63, Sector 57, Noida, Gautam Budh Nagar Uttar Pradesh, 201307 (here in after called the applicant) is a registered assessee under GST having GSTN: 09AAACA7870P1Z1.

2) The applicant is engaged *inter alia*, engaged in manufacture and supply of various product specially designed to be used for railway applications according to the designs given by Indian Railways.

3) The Applicant has submitted application for Advance Ruling dated 16.11.2018 enclosing duly filled Form ARA-01(the application form for Advance Ruling) along with annexure and attachment.

4) The Applicant in his application sought clarification and Advance Ruling as follows: –

The issue is in relation to classification of Vigilance Control Device (VCD), Diagnostic Terminal (DT), and Master Controller System (MCS), (hereinafter collectively referred to as “products”) supplied by the Applicant.

5) The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter, which was received vide letter C.No. V(30)Tech./Div-II/06/R-06/18/280 dated 08.01.2019.

6) The applicant was granted a personal hearing on 18.01.2019. Mr. Atul Gupta Advocate, Authorized representative on behalf of applicant appeared for hearing. During the personal hearing he submitted/stated:-

that he has given his written submission vide letter dated 16/11/18 and he would like to reiterate the same. Department was represented by Sri J.K. Saxena, Supdt., Range-VI, Div-II, Noida. Mr. Atul Gupta, Advocate submitted additional written submission in order to clarify certain issues through his email dated 25.01.2019.

DISCUSSION AND FINDING

1) We have gone through the submissions made by the applicant and examined the detailed explanation submitted by them. We observe that the question sought by the applicant is in relation to classification of Vigilance Control Device (VCD), Diagnostic Terminal (DT), and Master Controller System (MCS), (hereinafter collectively referred to as "products") supplied by the Applicant.

2) Brief description about the products supplied by the Applicant is mentioned below:-

i) Vigilance Control Device (VCD):- VCD is installed in the rails to supervise the alertness of the driver crew during the train movement. Absence of normal driving functions or the acknowledgement at specified intervals activates the VCD, which flashes an indication. If there is no acknowledgement even then, the device generates an audio warning. If the audio warning is also not acknowledged, emergency brake is applied.

ii) Diagnostic Terminal (DT):- DT is a robust terminal device which consists of a LCD screen with LED backlight and a switch panel. DT is placed in the engine carriage from where the driver of the rail operates. The screen displays to the driver certain information which is transmitted to the Vehicle Control Unit ("VCU") for informing the driver about the said information. The information which is shown through the screen of the DT is related to the functioning or any

malfunctioning of the part of the rail which is captured and processed by the VCU and communicated to the DT vide wired transmission. For e.g. if there is fire in any of the coach of the rail, VCU detects the same and transmits this information to DT. The driver is informed of the same vide a written message displayed on the DT. The driver thereafter, acknowledges the information shown on the screen through the switch panel. Further, the course of action which can be undertaken by the driver as a reaction to an event is also displayed on the DT. The driver can choose among the displayed available options vide the switch panel. The driver can also control the specifications such as contrast, brightness etc. of the screen.

iii) Master Controller System:- MCS is manually operated equipment that comprises of the control elements required for driving and breaking, as well as for the auxiliary function of traction of rails from driver's desk. Vide the MCS, the driver can undertake traction of the gear to accelerate and slow down the vehicle. Further, there is another pulley vide which the driver can either move the rail in forward or in reverse direction. Once the driver moves the gear or the pulley, signal of the said command is transmitted vide wire to VCU according to which requisite power is supplied to the motor. MCS also comprise of drum which illuminates in case of any fault in MCS. MCS is manually operated by its drive/brake control handle. This handle position has three modes which are Breaking mode (BE), Neutral (0) and Traction mode (TE). The drive direction selector switch also has three handle positions namely Reverse (R), Neutral (0) and Forward (F).

3) In the application as per the understanding of applicant the products supplied by it are designed and manufactured as per the specifications of Indian Railways. The properties and composition of these products are such that they can be used solely in the rails and thus qualifies for classification under heading 8607 of the Customs Tariff Act (hereinafter referred to as the "CTA"). As "Parts of railway or tramway locomotives or rolling- stock for the reasons furnished herein below: -

Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, as amended (hereinafter referred to as "**Notification 1/2017**") provides for the applicable rate of central goods and service tax (hereinafter referred to as "**CGST**") that

shall be levied on intra-state supply of goods, the description of which is specified in the corresponding entry in column (3) of the Schedules under the Notification, falling under the tariff item, subheading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules. Notification no. KA.N1.-2-836/XI-9(47)/ 17- U.P. Act-1-2017-Order- (06) -2017 dated 30.06.2017 is the corresponding notification issued by the Uttar Pradesh Government.

Sr. No. 241 of Schedule 1(2.5%) of Notification 1/2017 covers Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels and parts thereof.

4) As per Explanation (iii) in notification no.1/2017-Central Tax (Rate) dated 28.06.2017- "Tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub- heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975(51 of 1975).

Further, as per explanation (iv)- The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975(51 of 1975), 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.

5) As per submission, technical specifications and characteristics mentioned by the party in respect of Vigilance Control Device (VCD), Diagnostic Terminal (DT) & Master Controller System (MCS), it appears that they are Signaling and Safety or Traffic Control Equipments which are being manufactured and supplied for Railways.

As per Party's understanding, all the above mentioned devices/equipments falls in the appropriate heading 8607 of the Customs Tariff Act.

6) On verification of Chapter 86 of Customs Tariff Act, 1975 it is found that this chapter deals with "VEHICLES, AIRCRAFT, VESSELS AND ASSOCIATED TRANSPORT EQUIPMENT". As per Note 2 of Chapter 86 (Section XVII) of Customs Tariff Act, 1975, heading 8607 applies, inter alia, to-

- a) Axles, wheels, wheel sets (running gear), metal tyres, hoops and hubs and other parts of wheels;
- 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) From the above note, it is clear that Electrical Signaling, Safety or Traffic Control Equipment for Railways cannot be classified in the Sub-heading 8607 as nowhere signaling equipments are included in this Chapter Sub-heading.

8) As per provisions of Note 1 of the Chapter 86, the items of following characteristics do not cover in chapter 86:

- (a) Railway or tramway sleepers of wood or of concrete, or concrete guide-track sections for hover trains (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 8530.

9) Thus, from note 1 of Chapter 86 it is clear that electrical signaling, safety or traffic control equipments or heading No. 8530 have been specifically excluded from purview of chapter 86.

Furthermore, sub-heading 8530 includes the items with following characteristics: Electrical Signaling, Safety or Traffic Control Equipment for Railways Tramways, Roads, Inland Waterways, Parking Facilities, Port Installation or Airfields (Other Than Those of Heading 8608). The Goods are being classified under particular tariff item in accordance with General Rule for the interpretation of the Harmonized System. As per Rule 1- The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require.

10) From the above, it appears that the items in question do not fall in the Chapter sub-heading of 8607, and they will fall in Chapter sub-heading 8530 more appropriately.

It is also submitted that the party has never classified its products in the Chapter 86 as per previous excise returns (ER-1) of the party filed in Central Excise (As per the Jurisdiction).

11) From the characteristic of the Vigilance Control Device (VCD), Diagnostic Terminal (DT) & Master Controller System (MCS), chapter Notes, Classification Rules and above discussion; it appears that they all fall in Code **8530 10 10 of Customs Tariff Act, 1975.**

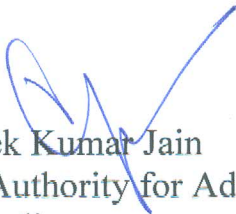
The rate of GST on the items of Sub-heading 8607 is 5% whereas it is 18% of the items of Sub-heading 8530.

12) It is also worth mentioning that the end use of the products by railways cannot be taken as a ground to determine the classification of the goods on question. As per the CBIC circular no. 30/4/2018-GST, dated 25.01.2018, regarding-clarification on supplies made to the Indian Railways classifiable under any chapter, other than chapter 86. It is clarified that- a) only the goods classified under Chapter 86, supplied to the railways attract 5% GST rate with no refund of unutilised input tax credit and b) other goods (falling in any other chapter), would attract the general applicable GST rates to such goods under the aforesaid notifications (1/2017- Central Tax (Rate) dt. 28.06.17, read with notf. No. 5/2017- Central tax (Rate) dt. 28.06.17), even if supplied to the railways.

In view of the above, both the members unanimously rule as under;

RULING

From the characteristic of the Vigilance Control Device (VCD), Diagnostic Terminal (DT) & Master Controller System (MCS), chapter Notes, Classification Rules and above discussion, they all fall in Code **8530 10 10 of Customs Tariff Act, 1975.**


Vivek Kumar Jain
Member of Authority for Advance
Ruling


Hari Ram
Member of Authority for Advance
Ruling

To,

M/s Autometers Alliance Pvt. Ltd.,
C-60,61,62,63 Sector 57, Noida,
Uttar Pradesh, 201307.

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 24(ii)

Date: 11.02.2019

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
- ✓ 2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & CEX, Gautam Budh Nagar, Uttar Pradesh.
4. The Deputy Commissioner, CGST & Central Excise, Division-I, Noida, Uttar Pradesh;
5. Through the Additional Commissioner, Commercial Tax, Noida, Uttar Pradesh to jurisdictional tax assessing officers.