

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 03.04.2019 from M/s G S Products, Lucknow, Uttar Pradesh – Order– Reg.

1) M/s G S Products, F-1 (A), 1st & 2nd Floor, Talkatora Industrial Estate, Lucknow, Uttar Pradesh - 226011 (here in after called the applicant) is a registered assessee under GST having GSTN: 09AAIFG1234C1ZU.

2) The applicant is manufacturer and suppliers of Railway parts used by Indian railways Locomotives & manufacture them as per RDSO specifications and design.

3) The Applicant has submitted application for Advance Ruling dated 03.04.2019 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 : –

a) Whether they are correct in their classification of the Filter Elements & Air Filter Assembly mentioned above as parts for Diesel Electric Locomotives for Indian Railways under Tariff Heading - 8607 in GST regime or not?

b) What will be applicable Tax Rate under the GST Tariff/Act?

5) The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter, which were received in the office vide letter C. No. V(30)61 - Advance Ruling/LKO-II/2019/1043 dated 10/05/19.

6) The applicant was granted a personal hearing on 22.05.2019. Shri T. K. Srivastava, Advocate Authorized representatives on behalf of applicant appeared for hearing.

During the personal hearing they stated that they have already submitted all the relevant and supporting documents along with their application and requested to take them into consideration while deciding the case.

DISCUSSION AND FINDING

7) We have gone through the submission made by the applicant and examined the detailed explanation submitted by them. We observe that the question sought by the applicant is-

a) Whether they are correct in their classification of the Filter Elements & Air Filter Assembly mentioned above as parts for Diesel Electric Locomotives for Indian Railways under Tariff Heading - 8607 in GST regime or not?

b) What will be applicable Tax rule under the GST Tariff/Act?

8) The Applicant is licensed and approved by Indian Railways for manufacturing of Parts of Locomotives to the designs and drawings developed by them.

The details of products being sold are exclusively used as parts for locomotives manufactured by Diesel Locomotive Works, Varanasi (Indian Railways) as follows:

i) Low Mean Pore Size Primary & Secondary Filter Elements for Diesel Electric Locomotives to RDSO specification No. MP.0.2600-25 of December- 2008 covering Filter Elements to DLW Locomotive Part Nos. 10052320, 10052331, 10051557, 10051521 applicable for use on ALCO Model of Locomotives.

ii) Air Filter Assembly for Main Reservoir of Air Brake System of Diesel, Electric Locomotive to Locomotive Part No. 11664253 applicable for use on Locomotives Models WDG-3A & wDM-3D.

9) The Applicant in its application submitted the relevant facts of the case are as under:-

i) The applicant is an approved vendor as manufacturer with RDSO.

ii) The applicant has been supplying the aforesaid items under the HSN code 8607 under GST regime. The Relevant section heading 8607 read as "*8607 - Parts of Railway or Tramway Locomotives or Rolling- Stock*"

iii) The applicant before enforcement of GST has been Clearing the same under the same HSN 8607 i.e. "*Parts of Railway or tramway locomotives or rolling-stock*" in Central Excise and under UP Vat Act the Commodity code as "*2A105001*" i.e. "*Rail Coaches, engines & Wagons and parts thereof*" under UP Vat Act.

iv) The aforesaid items supplied by the applicant are:-

- a) Products manufactured against Railway proprietary drawings and specification and are restricted from any un-authorized use, a stipulation duly endorsed on their drawings.
- b) The products are manufactured as per QAP (Quality assurance programme) including manufacturing, material & process approved by Indian Railways.
- c) These products are not commercially viable for sales elsewhere as they are specially designed by Indian Railways and can be used only as specific parts of locomotives as provided in the scope of use in the product specification / drawings.

10) We have considered the submissions made by the applicant as well as views of the Jurisdictional office on the issues involved. The first issue to be decided in this case is whether they are correct in their classification of the Filter Elements & Air Filter Assembly mentioned above as parts for Diesel Electric Locomotives for Indian Railways under Tariff Heading - 8607 in GST regime or

not?

i) Applicant has been supplying aforesaid items under HSN Code 8607 under GST regime. The matter is examined and it is found that the Indian Railways had placed Purchase Orders for the manufacturing of "Low mean pore size Primary & Secondary Filter Elements", "Air Filter 975" & "MR Filter Element" by the party which they subsequently supplied to Indian Railways under the cover of invoices. Sample copies of such purchase orders & invoices are also reviewed.

ii) After going through the Quality Assurance Plans (QAP) for low Mean Pore Size Primary & Secondary Fuel Oil Filter Elements for Diesel Electric Locomotives' and for 'Filter Air Dryer & MR for ALCO (American Locomotive Company) Locomotives & EMD (Electro-motive diesel) Locomotives' as submitted by the party along with their said Advance Ruling Application, it is noticed that the said 'Quality Assurance Plans' were duly approved by the competent Railway Authorities. It, therefore, appears that the party had manufactured the said goods as per the specifications of Railways, which they subsequently supplied to Railways as discussed hereinabove.

iii) Now, coming to first issue, for the proper classification of products the correct interpretation of Customs tariff explanation (iii) & (iv) in Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 needs to be taken into consideration which read as:-

"Explanation (iii)- '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).

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".

iv) Now, on going through the Customs Tariff Heading No. 8607, it is noticed that the same covers 'Parts of railway or tramway locomotives or rolling-stock' categorically. Further, Note 3 of Section XVII of the Customs Tariff Act, 1975 also provides that-

'References in Chapter 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.'

v) The above Note indicates that the term "parts" or "accessories" mentioned in Chapter 86 to 88 is applicable to those "parts" or "accessories" which are solely or principally being used with the articles of those chapters. Since, the aforesaid items manufactured by the party are being principally used for railway locomotives as per aforesaid 'Quality Assurance Plans' duly approved by the competent Railway Authority, the same appears to be appropriately covered under Customs Tariff Heading No. 8607 as '*Parts of railway locomotives*'.

vi) It is also pertinent to mention that in pre-GST regime, the party in their ER-1 return for the month of March'2017, as provided by them, had mentioned the clearances of goods as 'Parts of Railway or Tramway or Rolling Stock' under CSH No. 86079920.

11) Now, coming to the second question raised by the applicant, regarding, the applicability of tax rule under the GST Tariff/Act?

On the basis of the classification of the said product, it will be leviable to appropriate rate of Goods and Services Tax under the Heading No. 8607 prescribed under Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 issued under the Central Goods and Services Tax Act, 2017.

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

RULING

Question 1:- Yes, The correct classification of the Filter Elements & Air Filter Assembly mentioned in application as parts for Diesel Electric Locomotives for Indian Railways, manufactured as per RDSO specifications and design will be under Tariff Heading 8607.

Question 2:- GST rate as applicable to Customs Tariff Heading No. 8607 prescribed under Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 issued under the CGST Act, 2017 is to be leviable on the aforesaid items, i.e., 5% (2.5% SGST +2.5% CGST).


Vivek Kumar Jain
Member of Authority for Advance
Ruling


Sanjay Kumar Pathak
Member of Authority for Advance
Ruling

To,

M/s G S Products,
F-1 (A), 1st & 2nd Floor, Talkatora Industrial Estate,
Lucknow, Uttar Pradesh – 226011

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 21

Date: 03/06/19

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 & CX, Lucknow, Uttar Pradesh.
4. The Deputy Commissioner, CGST & Central Excise, Division-II, Lucknow, Uttar Pradesh;
5. Through the Additional Commissioner, Commercial Tax, Lucknow, Uttar Pradesh to jurisdictional tax assessing officers.