

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 16.08.2019 from M/s Tool & Gage Co., A-6, Talkatora Industrial Estate, Lucknow- 226 011. - Order- Reg.

- 1). M/s Tool & Gage Co., A-6, Talkatora Industrial Estate, Lucknow (here in after called 'the applicant') is a registered assessee under GST having GSTN: 09AAFFT7280E1ZY.
- 2). The applicant is a partnership firm engaged in manufacturing and supply of locomotive and coach (Rolling stock) parts as per railway drawings approved either by RDSO or DLW Varanasi.
- 3). As per the application for advance ruling filed by the applicant, they have taken registration as a regular manufacturer and dealer under the Goods and Services Tax and manufacturing locomotive and coach (Rolling stock) parts as per railway drawings approved either by RDSO or DLW, Varanasi. Now the applicant wants to do coach work such as fabrication of seats and berths as per the Indian Railways/RDSO approved drawings of ICF, MCF, RCF, (Manufacturing of Seats & Berth). As per the applicant, these seats and berths will be manufactured/fabricated as per the drawings and specification of Railways and will be solely used in coaches and nowhere else.
- 4). As per the applicant, this manufactured item should be covered under chapter heading 8607 as parts of Coach Work as other suppliers are doing. In support of their claim the appellant has submitted copies of some purchase orders issued to other suppliers by Indian Railways, wherein Railways has



classified the products as "ONE COACH SET OF SEATS AND BERTH FOR LWSCWAC/EOG COACHES". Further, they submitted that Chapter note 2 of Chapter 86 clearly says heading 8607 applies, inter alia, to (e) Coach work, Tariff heading 8607 says, "Parts of Railway or tramway locomotive or Rolling Stock - such as bogies, bissel-bogies" and Tariff head 86079910 says "Parts of Coach work of railways running stock". The applicant further contended that the Google Search has defined and clarified that seats and berths are the interior fittings inside the Coach hence the best suitable classification for the seats and Berths are as Coach Work of Tariff heading 8607.

5). Accordingly, the following questions have been posted by the applicant, in it's application dated 16.08.2019 (received by the Authority on 19.08.2019), before the Authority: -

- i. The correct Classification of Seats & Berth for the Railways Running Stock - the Coaches be given, in order to avoid any dispute in future.

6). The applicant was granted a personal hearing on 31st October 2019. Shri T.K. Srivastava, Advocate, Authorized representatives of the applicant, appeared for hearing. During the personal hearing the authorized representative reiterated the submission already made vide application dated 19th August 2019 and also confirmed that he has nothing more to add.

7). 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 in this office, vide letter C. No. V (30)61-Advance Ruling/Lko-II/19/1509 dated 26.09.2019, wherein it has been reported that the Chapter Sub Heading 86079910 is the correct classification of Seats and Berths of the Railway Running Stock.

DISCUSSION AND FINDING

8). *At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to*



the CGST Act would also mean a reference to the same provision under the UPGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

9). We have gone through the submissions made by the applicant and have examined the explanation submitted by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2)(a) of the CGST Act 2017 being a matter related to classification of any goods or service or both. We therefore, admit the application for consideration on merits.

10). We observe that the issue on which ruling has been sought by the applicant is-

- i. The correct Classification of Seats & Berth for the Railways Running Stock – the Coaches be given, in order to avoid any dispute in future.

11). As regard to the classification under Chapter 86 of the GST Tariff we observe that the Chapter 86 cover "Railway or Tramway Locomotive, Rolling-Stock and Parts thereof; Railway or Tramway Track Fixtures and Fittings and Parts thereof; Mechanical (Including Electro-Mechanical) Traffic Signalling 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."

As per the GST Tariff, Tariff head 8607 9910 refers to "Parts of Coach work of railway running stock."

13). 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 part of the coach itself, Tariff Heading 86.07 would be more appropriate for assessment of the water tank".

By applying the same analogy in the instant case also, we observe that the seats/berth, 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.

13.1) 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 Tribunal has observed that "Sanitarywares are also designed for fitment



into the coach and they would be classifiable under Heading 86.07”.

13.2) 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 Sub-heading 8607.00 of Central Excise Tariff.”*

13.3) 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.”*

13.4) 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..”*

13.5) 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 86.07 of the Central Excise Tariff Act, 1985 as parts of Railways and not under 7610.10.”*

14) In the instant case, we observe that the seats/berth would be manufactured by the applicant, strictly as per the specification and design



provided by the Indian Railways and specially meant to be solely used in railway coaches and nowhere else. Accordingly, we observe that the ratio of the above referred judgments is squarely applicable in the instant case that the seats and berths are the interior fittings inside the Coach and they are suitably classified under Tariff heading 86079910 i.e. "Parts of Coach work of railways running stock".

15). Accordingly, we are in unison with the applicant and the jurisdictional GST officer that the classification of the seats and berth, manufactured as per the specific design and layout provided by the Railways and supplied to the Railways only and no-where else, falls under Chapter 86.07 of the GST Tariff.

RULING

The advance Ruling on question posed before the Authority is answered as under:

The classification of the seats and berth, manufactured as per the specific design and layout provided by the Railways and supplied to the Railways only and no-where else, falls under Chapter 86.07 of the GST Tariff.

This ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the CGST Act, 2017.


(Ajay Kumar Misra)

Member of Authority for Advance
Ruling


(Dinesh Kumar Verma)

Member of Authority for Advance
Ruling

To,

M/s Tool & Gage Co.,
A-6, Talkatora Industrial Estate,
LUCKNOW- 226 011.



AUTHORITY FOR ADVANCE RULING -UTTAR PRADESH

Order No. 44(v)

Date: 11.11.2019

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 & CX, Noida-I, C-56/42, Sector-62, Noida, Uttar Pradesh.
4. The Assistant Commissioner, CGST & Central Excise, Division-II, Noida, Room No. 402, 4th Floor, C-56/42, Renu Towre, Sector-62, Noida, Uttar Pradesh- 201 307;
5. Through the Additional Commissioner, Commercial Tax, Lucknow, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khnad, Gomti Nagar, Lucknow - 226010, within 30 days from the date of service of this order.

