

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 27.06.2019 of M/s Sunchirin Auto Parts India Private Limited, Plot No. 347G, Sector Udyog Kendra Extension-II, Ecotech-3, Greater Noida Industrial Area, Gautam Budh Nagar, Uttar Pradesh- 201 306- Order– Reg.

1) M/s Sunchirin Auto Parts India Private Limited, Plot No. 347G, Sector Udyog Kendra Extension-II, Ecotech-3, Greater Noida Industrial Area, Gautam Budh Nagar, Uttar Pradesh (here in after called the applicant) is a registered assessee under GST having GSTIN: 09AAICS8959D1ZS.

2) The applicant is a limited company engaged in manufacturing of Air Conditioner Hose Assembly used for transfer of gas from the air conditioner evaporator core to the air conditioner compressor and then transfer of gas from the air conditioner compressor to the air conditioner condenser. The product is used as a part of gas compressor in Heat Ventilation and Air Conditioning System (HVAC). It can neither change the temperature and humidity nor can regulate the same on its own.

3). As per applicant, the major inputs/raw materials required for manufacturing of this product, are;

- i. Aluminum Tube
- ii. Rubber Hose
- iii. Rubber O-Ring
- iv. Nylon Band
- v. Machine Screw
- vi. Steel & Iron Clamp
- vii. Rubber Bush
- viii. Rubber Insulator

4). The applicant submitted that prior to GST regime the product was classified under the chapter 4009 of the Central Excise Act, 1985, that is for tube, pipes and the hose of vulcanized rubber other than hard rubber with or without their fittings (i.e. joints, elbow, flanges). However, now they submitted that the product is used as part of gas compressor in Heat Ventilation and Air Conditioning system (HVAC) and be classified under CSH 84149011 which is for parts of air or vacuum pumps and compressor, of gas compressors of a kind used in refrigerating and air conditioning appliance and machinery.

5). Accordingly, following questions have been posted by the applicant, in his application dated 27.06.2019 (application completed in all aspect received by the Authority on 27.09.2019), before the Authority: -

- i. Classification of Air Conditioner Hose Assembly (suction / discharge) used as part of Air Conditioner Compressor.
- ii. Applicable tax rate for the classification.

6) The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer his comments/views/verification report in the matter, which was received in this office vide letter पत्रांक - 869/डि०कमि०वा०क० खण्ड - 1गौ०बु०न०/19-20 dated 29.11.2019, wherein briefly describing the term Air Conditioner Hose assembly it was reported that "Air Conditioner Hose Assembly मुख्यतः Air Conditioners का पार्ट तो है परन्तु यह Air Conditioner Compressor का पार्ट नहीं है, बल्कि इससे स्वतंत्र एक डिवाइस है जिसका प्रयोग Air Conditioner Plant में किया जाता है। इसलिए इसे GST Act के schedule IV, Chapter 84 tariff entry 84159000 के अंतर्गत ही वर्गीकृत किया जाना विधिक है, जिसके अंतर्गत इसे 28 प्रतिशत की दर से करयोग्य माना जाना विधिक है। इसलिए Air Conditioner Hose assembly पर 28 प्रतिशत की दर से करदेयता है।"

7) The applicant was granted a personal hearing on 11.12.2019. Shri Varun Khurana, CA, Authorized representatives of the applicant, appeared for hearing.

During the personal hearing he reiterated the submissions already made vide advance ruling application and also submitted additional written submissions, gist of which is as under:

- i. In the excise regime the company was clearing the finished good under CETSH No 40093200 for Air Conditioning Component parts (the applicant adduce excise return and invoices to vindicate their claim).
- ii. The company is currently registered for the supply of following goods:-
 - a. 84159000 - Air conditioning machines, comprising a motor driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated - Parts.
 - b. 76081000 - Aluminium tubes and pipe - of aluminium, not alloyed.
 - c. 76090000 - Aluminium tube or pipe fittings (For example, Couplings, Elbows, Sleeves).
 - d. 40093200 - Tube, pipes and hoses, of vulcanized rubber other than hard rubber, with or without their fittings (For example, joints, elbows, flanges) Reinforced or otherwise combined only with textile materials: with fittings.
- iii. Out of Customer pressure, the company is currently billing under 84159000 - Air conditioning machines, comprising a motor driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated - Parts.
- iv. In reference to the general rules for interpretation of import Tariff Rule 2(a) of Custom Tariff, Act, 1975, the product should be classified in

40093200 with fittings – Reinforced or otherwise combined with other materials. Chapter head 4009 refers to tube, pipes and hoses of vulcanized rubber other than hard rubber, with or without their fittings for example, joints, Elbows, Flanges in Schedule III.

- v. Further as per the Notification No 1/2017-Central Tax (Rate) dated 28th June, 2017 Chapter Heading 4009 mentioned at S. No.119 of Schedule III would attract GST rate of 9% as CGST.

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' 2017.

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 questions sought by the applicant are-

- i. Classification of Air Conditioner Hose Assembly (suction / discharge) used as part of Air Conditioner Compressor.
- ii. Applicable tax rate for the said classification

11) Here, we observe that the Chapter heading 4009 of Custom Tariff Act, 1975 reads as under:-

Tariff Item	Description of Goods	Unit	Rate of Duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
4009	TUBES, PIPES AND HOSES, OF VULCANISED RUBBER OTHER THAN HARD RUBBER, WITH OR WITHOUT THEIR FITTINGS (FOR EXAMPLE, JOINTS, ELBOWS, FLANGES) -Not reinforced or otherwise combined with other material			

4009 11 00	-- Without fittings	Kg.		
4009 12 00	--With fittings	Kg.		-
	- Reinforced or otherwise combined only with metal:			-
4009 21 00	-- Without fittings	Kg.		-
4009 22 00	--With fittings	Kg.		
	- Reinforced or otherwise combined only with textile material:			-
4009 31 00	-- Without fittings	Kg.		
4009 32 00	--With fittings	Kg.		-
	- Reinforced or otherwise combined only with textile material:			-
4009 41 00	-- Without fittings	Kg.		-
4009 42 00	--With fittings	Kg.		

Further, the exclusion clause under the Chapter 40 of the Customs Tariff Act, 1975, is as follows:

"2.This Chapter does not cover:

- (a) goods of Section XI (textiles and textile articles);
- (b) footwear or parts thereof of Chapter 64;
- (c) headgear or parts thereof (including bathing caps) of Chapter 65;
- (d) mechanical or electrical appliances or parts thereof of Section XVI (including electrical goods of all kinds), of hard rubber;
- (e) articles of Chapter 90, 92, 94 or 96; or
- (f) articles of Chapter 95 (other than sports gloves, mittens and mitts and articles of headings (4011 to 4013)".

12) Now, coming to the Chapter Heading 8415 of Custom Tariff Act, 1975, the same reads as under:-

Tariff Item	Description of Goods	Unit	Rate of Duty	
			Standard	Preferential Areas

(1)	(2)	(3)	(4)	(5)
8415	AIR CONDITIONING MACHINES, COMPRISING A MOTOR – DRIVEN FAN AND ELEMENTS FOR CHANGING THE TEMPERATURE AND HUMIDITY, INCLUDING THOSE MACHINES IN WHICH THE HUMIDITY CANNOT BE SEPARATELY REGULATED			
8415 10	-Of a kind designed to be fixed to a window, wall, ceiling or floor, self-contained or "split-system";			
8415 10 10	---Split system			-
8415 10 90	--- other			-
8415 20	- Of a kind used for person in motor vehicles			-
8415 20 10	--- For buses			
8415 20 90	--- Other			
	-Other			
8415 81	--Incorporating a refrigerating units and a valve for reversal of the cooling or heat cycle (reversible heat pumps):			
8415 81 10	--- Split air conditioner two tones and above			
8415 81 90	--- Other			
8145 82	--Other, incorporating a refrigerating unit:			
8415 82 10	--- Split air conditioner two tones and above			
8415 82 90	--- Other			
8415 83	--Not incorporating a refrigerating unit:			
8415 83 10	--- Split air conditioner two tones and above			
8415 83 90	--- Other			
8415 90 90	-Parts			

13) Further, Rule 2(a) of the General Rules For the Interpretation reads as under:-

"2(a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled."

Moreover as per the Rule 3(a) of the Rules of Interpretation, the heading which provides the most specific description shall be preferred to heading having more general description.

14). Here, we also observe that in the case of Collector of Central Excise, Bangalore Vs. Aerolex Hose Industries {1995 (79)E.L.T. 301 (Tribunal)} the Hon'ble Tribunal has observed that:-

"The hose assemblies are made of vulcanised rubber other than hard rubber, what is excluded from the purview of Chapter 40 by Chapter Note 2(d) are only goods of hard rubber. It cannot be denied that the hose assemblies are part of the excavators, as commercially understood or in Engineering or indeed common parlance, since the excavator is not complete and cannot be used without them.. But this does not lead to the conclusion that these are parts classifiable under Chapter 84. As against description in Heading 84.31, description in Heading 40.09 is more specific".

15). In the instant case, we observe that the hoses are made up of vulcanised Rubber other than hard rubber, as communicated by the applicant. Further as per the facts mentioned in the application for advance ruling the product under question is a part of gas compressor and not of air conditioners. Further prior to GST regime the applicant was also classifying the said product under the Chapter Heading 4009. In view of above discussion, we observe that the impugned product shall be aptly classifiable under Chapter Heading 4009 and accordingly liable to such GST rate as prescribed under Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017 (as amended).

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



RULING

16) The Advance Ruling on question posed before the Authority is answered as under:

The product 'Air Conditioner Hose Assembly' as described in the application will merit classification under Chapter Heading 4009 of the GST Tariff and would be chargeable to GST at applicable rate under the said tariff entry, presently read with Notification No. 01/2017-Central tax (Rate) dated 28.06.2017 (Sl. No. 119 of Schedule-III).

17) 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 Sunchirin Auto Parts India Private Limited,
Plot No. 347G, Sector Udyog Kendra Extension-II,
Ecotech-3, Greater Noida Industrial Area,
Gautam Budh Nagar,
Uttar Pradesh- 201 306



AUTHORITY FOR ADVANCE RULING -UTTAR PRADESH

Order No. 47

Date: 20-12-19

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, Gautam Budh Nagar, Uttar Pradesh.
4. The Assistant Commissioner, CGST & Central Excise, Division-I, Gautam Budh Nagar, Uttar Pradesh;
5. Through the Additional Commissioner, Commercial Tax, Gautam Budh Nagar Zone, Noida, 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.

