

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH**

4, Vibhuti Khand, Gomti Nagar, Lucknow-

ADVANCE RULING NO. UP ADRG 73 /2021

DATED 22/02/2021

PRESENT:

1. Shri Abhishek Chauhan

Additional Commissioner, Central Goods and Service Tax

Audit Commissionerate, Lucknow

....Member (Central Tax)

2. Shri Dinesh Kumar Verma

Joint Commissioner, State Goods and Service TaxMember (State Tax)

1.	Name of the Applicant	M/s Concord Control Systems Pvt. Ltd. 202, Garden View Apartment, 2 nd Floor, 8 Rana Pratap Marg, Hazratganj, Lucknow
2.	GSTIN or User ID	09AAECC2602B1ZC
3.	Date of filing of Form GST ARA-01	23.11.2020
4.	Represented by	Shri Shashank Mittal (CA & Authorized representative)
5.	Jurisdictional Authority-Centre	Range-I, Division-Lucknow-II
6.	Jurisdictional Authority-State	Lucknow, Sector-12
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes HDFC19080900287350

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98
(4) OF THE UPGST ACT, 2017**

1. M/s Concord Control Systems Private Limited, 202, 2nd Floor, Garden View Apartment, 8 Rana Pratap Marg Hazratganj, Lucknow, UP -226001 (here in after referred to as the applicant) is a registered assessee under GST having GSTN: **09AAEC2602B1ZC**.

2. The applicant is engaged in supply of "Bellow Duct" made of Meta Aramid/Para Aramid Fabric with Silicon Rubber Coating on both sides for RMPU for LHB EOG/HOG type AC coaches of Indian Railways.

3. The applicant has sought advance ruling on following questions-

- I. What will be the HSN Code and GST Rate on supply of "below Duct" to RDSO Ministry of Railways for use in Indian Railway Coaches?
- II. Whether the supply of "Bellow Duct" to RDSO Ministry of Railways for use in Indian Railway Coaches will fall under the HSN Code 8607 having GST Rate of 12% or will it fall under the HSN 8424 having GST Rate of 18%.

4. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

5. The applicant has further submitted that chapter 86 of CGST Rate Schedule of Goods specifically deals with the parts supplied to Railways and hence the supply of "Bellow Duct" will fall under the said Chapter 86 and GST rate will be 12%. The applicant has enclosed copy of Purchase Order No. 08192636100495 dated 15.02.2020 along with application for advance ruling.

6. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter. The Assistant Commissioner, CGST & Central Excise Division-Lucknow II, Lucknow vide his C.No.V(930)156/Tech/Range Corr./Lko/2020/02/133 dated 10.02.2021 submitted that "Bellow Ducts" are used to connect air distribution lines of coach (ventilation ducts) to RMU (Roof Mounted AC Package Unit). Though the term coach work, falling under Chapter 86 is not defined, it has to be treated in broad sense and any work which goes to make the coach functionally complete, should be treated as coach work. He further added that on going through the sub-heading of Chapter 86, it is observed that the sub-heading 86079910 (parts of coach work of railway running stock) covers the Parts of coach work. As such, he is of the opinion that the Chapter sub heading 8607 should be the correct classification for "Bellow Ducts" to be supplied by the applicant for use in Indian Railway Coaches and will attract the GST rate as per present Tariff.

7. The applicant was granted a personal hearing on 11.02.2021 which was attended by Shri Shashank Mittal, CA/ Authorized representative during which he reiterated the submissions made in the application of advance ruling.

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 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 Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issues on which advance ruling required-

(1) classification of any goods or services or both;

At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) of the CGST Act 2017. We therefore, admit the application for consideration on merits.

10. We have gone through the submissions made by the applicant and have examined the same. We observe that the applicant has sought advance ruling on the following questions-

1. What will be the HSN Code and GST Rate on supply of "Bellow Duct" to RDSO Ministry of Railways for use in Indian Railway Coaches?
2. Whether the supply of "Bellow Duct" to RDSO Ministry of Railways for use in Indian Railway Coaches will fall under the HSN Code 8607 having GST Rate of 12% or will it fall under the HSN 8424 having GST Rate of 18%.

11. We find that the applicant is registered under the GST Act and engaged in supply of "Bellow Duct" made of Meta Aramid/Para Aramid Fabric with Silicon Rubber Coating on both sides. The applicant has received the purchase order No. 08192636100495 dated 15.02.2020 from Integral Coach Factory for supply of Bellows set consisting of 1 No. of Supply Air Bellow, 02 Nos. of Fresh Bellows and 2 Nos. of Return Air Bellow Ducts as per ICF Drg. No. ICF/SK3-7-6-072 Type-I.

12. We find that the applicant has sought advance ruling on HSN code and rate of GST on supply of 'Bellow Duct' as per Form GST ARA-01 whereas in the Purchase Order, there is mention of supply of Bellows set consisting of 1 No. of Supply Air Bellow, 02 Nos. of Fresh Bellows and 2 Nos. of Return Air Bellow Ducts.

13. According to the Customs Tariff Act, 1975 (51 of 1975), we find that Industrial Bellows are classified under HSN 8424. The chapter subheading 8424 cover Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; Fire Extinguishers, whether or not charged, spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines. The applicant has also sought advance ruling as to whether bellow duct will fall under HSN 8424 or HSN 8607. As per entry Sl. No. 325 of Schedule III of the **Notification 1/2017 C.T. (Rate) dated 28.06.2017**, the rate of CGST is 9% with following description-

S.No.	Chapter/Heading /Sub-heading/Tariff item	Description of Goods
325	8424	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines [other than fire extinguishers, whether or not charged]

As such, other than fire extinguishers, the rate of GST on HSN 8424 is CGST 9% & SGST 9% (Total 18%).

14. We find that the applicant had arrived HSN 8607 for their product Bellows set consisting of 1 No. of Supply Air Bellow, 02 Nos. of Fresh Bellows and 2 Nos. of Return Air Bellow Ducts (Bellow Duct as stated by the applicant). There is entry heading **HSN 8607**, with the description - "Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof" and it is covered under Sr. no. 241

of Schedule I of **Notification 1/2017 C.T. (Rate) dt. 28.06.2017**, taxable @ 5% w.e.f 01.07.2017. This schedule entry was amended by inserting Sr. No. 205 G of **Notification 14/2019 dt. 30.09.2019** in the Schedule II of the Notification No. 1/2017-CT (Rate) dated 28.06.2017 and CGST is leviable @ 6% (Total GST 12%).

15. We find that Chapter 8607 of the Customs Tariff cover Parts of Railway or Tramway Locomotives or Rolling Stock. We find that, the classification of goods under Chapter Heading 8607 does not include 'Bellow Sets (or Bellow Duct)'. It only refers to parts of railway such as bogies, bissel-bogies, axels, wheels, brakes, hooks and parts thereof, in a general way; whereas, Chapter Heading 8424 clearly includes '**Bellows**'. Note 2 (e) to Section XVII mentions 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)

(b)

.....

(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.

16. Further, Note 2 of Chapter 86 mentions that "Heading 8607 applies, inter alia, to : (a) axles, wheels (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; and (e) coachwork. The product Bellow Sets (or Bellow Ducts) are not covered in any of the category mentioned in note 2 of Chapter 86. Thus from a reading of Note 2 (e) to Section XVII of the Customs Tariff and Note 2 to Chapter 86 of the Customs, the applicant's product, 'Bellow Sets (or Bellow Ducts)' merit classification under HSN 8424.

17. Classification of goods under GST is done in accordance with the Harmonized System of Nomenclature (HSN). The two HSNs, under which classification of 'Bellow Sets (or Bellow Ducts)' for supply to Railways are being considered by the applicant, falls under two different Sections of the Customs Tariff Act. Section XVI (Chapter 84 and 85), which covers "**Machinery and mechanical appliances; electrical equipments; Parts thereof; Sound Recorders and Reproducers, television Image and Sound Recorders and Reproducers; And Parts and accessories of such articles**", is relevant to items classified under Chapters 84 and 85. Section XVII of the Customs Tariff, (Chapter 86 to 89), which covers "**Vehicles, Aircraft, Vessels and Associated Transport Equipment**", is relevant to items classified under Chapters 86.

18. We find from the above that, the classification of goods under Chapter Heading 8607 does not include 'bellow Sets (or Bellow Ducts). It only refers to parts of railway such as bogies, bissel-bogies, axels, wheels, brakes, hooks and parts thereof, in a general way; whereas, Chapter Heading 8424 clearly includes '**Bellow**'. Thus from a reading of Note 2 (e) to Section XVII of the Customs Tariff and Note 2 to Chapter 86 of the Customs Tariff, the applicant's product, 'Bellow Ducts' are classifiable under HSN 8424.

19. Further, we find that **Circular No. 30/4/2018-GST dated 25.01.2018** of the Government of India, Ministry of Finance, Department of Revenue (Tax and Research Unit), New Delhi has issued clarification on classification of supplies made to the Indian Railways classifiable under any chapter, other than Chapter 86. As per the said Circular, only goods, classified under Chapter 86, supplied to the railways attract 5% GST rate with no refund of unutilised input tax credit and other goods [falling in any other chapter], would attract the

general applicable GST rates to such goods, under the aforesaid notifications, **even if supplied to the railways**. Therefore, it is very clear that, any product other than those covered under Chapter 86, supplied to the railways would not qualify for the HSN 8607 and are not to be considered as a parts of railway coaches, even if supplied to the railways. Entry 8607 is very restrictive entry for the purposes of consideration of goods to be classifiable as parts of railway bogies to avail the benefit of reduced rate of taxes.

20. In view of the discussions made above, subject Bellow Sets (or Bellow Ducts), though to be used in Railway coaches, cannot be called as parts of railway bogies under Chapter Headings 8607 of the Tariff, due to the specific HSN available for Bellow and therefore, the Bellow Sets (Bellow Ducts) merit classification under HSN 8424 and it is covered in the Entry no. 325 of Schedule III of **Notification No. 1/2017 C.T. (Rate) dt. 28.06.2017** and attract GST @18% (CGST 9% & SGST 9%).

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

RULING


22. **Que 1.** What will be the HSN Code and GST Rate on supply of "Bellow Duct" to RDSO Ministry of Railways for use in Indian Railway Coaches?

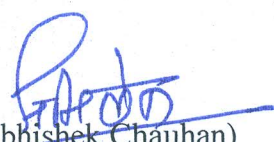
Answer- "Bellow Ducts" merits classification under HSN 8424 attracting GST @18% (CGST 9% & SGST 9%).

Que 2. Whether the supply of "Bellow Duct" to RDSO Ministry of Railways for use in Indian Railway Coaches will fall under the HSN Code 8607 having GST Rate of 12% or will it fall under the HSN 8424 having GST Rate of 18%.

Answer- The supply of "Bellow Duct" to RDSO Ministry of Railways for use in Indian Railway Coaches will fall under the HSN 8424 having GST Rate of 18%.

23. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.


(Dinesh Kumar Verma)
Member of Authority for Advance
Ruling


(Abhishek Chauhan)
Member of Authority for Advance
Ruling

To,

M/s Concord Control Systems Pvt Ltd,
202, Garden View Apartment
2nd Floor, 8 Rana Pratap Marg,
Hazratganj, Lucknow- 226001

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

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 & C. Ex, 7-A, Ashok Marg, Lucknow, 226001
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division-Lucknow II, 12th Floor, Kendriya Bhawan, Aliganj, Lucknow 226024
5. Through the Additional Commissioner, Gr-I, Commercial Tax, ~~Lucknow-I~~ 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 Khnada, Gornti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.