

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow-**

ADVANCE RULING NO. UP ADRG 86 /2021

Dated 08-11-2021

PRESENT:

- 1. Shri Abhishek Chauhan**
Additional Commissioner, Central Goods and Service Tax
Audit Commissionerate, LucknowMember (Central Tax)
- 2. Shri Vivek Arya**
Joint Commissioner, State Goods and Service TaxMember (State Tax)

1.	Name of the Applicant	M/s Prag Polymers B-1 & A-40/41, Talkatora Industrial Estate, Lucknow-226011
2.	GSTIN or User ID	09AAVFP5915G1ZO
3.	Date of filing of Form GST ARA-01	12.08.2021
4.	Represented by	Shri T.K. Srivastava, Advocate/Authorized representative
5.	Jurisdictional Authority-Centre	Range-V, Division-II, Lucknow
6.	Jurisdictional Authority-State	Lucknow Sector-17
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes SBIN21080900081010

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

1. M/s Prag Polymers, B-1 & A-40/41, Talkatora Industrial Estate, Lucknow-226011, UP (here in after referred to as the applicant) is a registered assessee under GST having GSTN: 09AAVFP5915G1ZO.
2. The applicant is engaged in manufacture and supply of Railway Locomotive parts and Coach Parts as per Railways Drawings approved by RDSO.
3. The applicant has sought advance ruling on following question as per Form GST ARA-01 -
Classification of Coach Work like DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock
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 vide letter dated 12.08.2021 have submitted that-
 - (1) The Applicant is licensed & approved by Indian Railways for manufacturing of parts of Rolling Stock and Coach work as per design & drawings developed by them. They have also been approved by Railways for DRIVER CAB AIR CONDITIONER UNIT

for EMU/MEMU trains to be supplied to its vendors for its ultimate use by the Indian Railways.

- (2) Accordingly, they are supplying DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains to vendors approved & accepted by Indian Railways as per Specifications.
- (3) This product is to be manufactured Strictly as mandated by Railways specification, according to the approved QAP and drawings of Indian Railways, for its use in EMU/MEMU Trains in Drivers' cabin for the purposes of Air Conditioning (Cooling)
- (4) In their opinion, this manufactured item should be covered under chapter heading 8607 as parts of Coach Work.
- (5) the Chapter note 2 of Ch.86 clearly says heading 8607 applies, inter alia, to (e) Coach work.
- (6) Further, Tariff heading 8607 says: Parts of Railway or tramway locomotive or Rolling Stock - such as bogies, bissel -bogies.
- (7) The Google Search – maintenance Manual for BG Coach -has defined & clarified that the parts and spares used in Coaches/Running Stock shall be defined as PARTS OF COACH WORK/Railway Running stock - the Coach.
- (8) Hence the best suitable classification for DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains is Tariff heading 8607.
- (9) To substantiate the classification, Section note 3 of Chapter XVII may be referred which says “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 chapter. 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.
- (10) In view of the above, it appears correct & justified that the DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains manufactured by them & supplied exclusively to the Indian Railways through its approved vendors and that too exclusively for use in Railway Coaches / Running Stock and parts of Railways Rolling Stock has to be classified as Coach work/ Parts of Rolling Stock material” of CE Heading 8607, of the C.Ex. Tariff/ GST Tariff.
- (11) In the case of Advance Ruling of M/s Tool & Gage Co., A'-6, Talkatora Industrial Estate, LUCKNOW- order No. 44 dated 11/11/19 it has been concluded by the Advance Ruling Authorities of Lucknow on the basis of various analogies of the case laws, as under;
“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.”
- (12) Similarly, in another case vide Order No. 31 dated 03/06/19 in the Advance Ruling case of M/S G S Products, Lucknow, the Note 3 of Chapter XVII of Customs Tariff Act, 1975 has been relied and following observation has been made

“ 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 locomotive as per aforesaid Quality Assurance Plans duly approved by the competent Authority, the same appears to be appropriately covered under Customs Tariff Heading No. 8607 as parts of railway locomotives.”

(13) Therefore, it is requested that;

1. The correct Classification of DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock of Railways (Parts of Coach Work) for the Railways Running Stock – - be given, in order to avoid any dispute in future.
2. That if the above product is supplied to the Indian Railways through other Vendors/suppliers, what would be the provision and the classification of the products.
3. The correct rate of GST Tax on the said products, supplied exclusively to the Indian Railways through its vendors for its Coaches.

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 F.No. GEXCOM/TECH/MISC/432/2021-TECH-CGST-DIV-II-LKO/921 dated 22.10.2021 has opined that the Chapter sub heading 8607 is the correct classification for “Driver Cab Air Conditioning unit for EMU/MEMU manufactured by the applicant for fitment on locomotive and Rolling stock of railways. He also confirmed that no proceeding is pending or decided on the question raised in the application.

7. The applicant was granted a personal hearing on 25.10.2021 which was attended by Shri T.K. Srivastava, Authorized representative during which he reiterated the submissions made in the application of advance ruling and also furnished a copy of Appeal Order No. 16/AAAR/28/06/2021 dated 28.06.2021 passed by the Appellate Authority for Advance Ruling, UP in the case of appeal filed by the applicant.

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 issue 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 question- 'Classification of Coach Work like DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock'

11.1 We find that the applicant is registered under the GST Act and intend to supply 'DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock'. The applicant had arrived classification under HSN 8607 for the product 'DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock'.

11.2 We understand that the applicant has sought ruling on classification of 'Driver Cab Air Conditioner Unit for EMU/MEMU trains' and applicant has added prefix 'coachwork like' and suffix 'of Railway Rolling Stock' which are wide terms and may include some other products also. We want to make it clear that we are examining classification of 'Driver Cab Air Conditioner Unit for EMU/MEMU trains' only.

12. We find that Chapter 86 of the Customs Tariff cover Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kind. 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.*

13. Further, the note 1 of Chapter 86 reads as under-
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 signalling, safety or traffic control equipment of heading 8530.*

14. The Chapter 8607 of the Customs Tariff is reproduced below-

8607 PARTS OF RAILWAY OR TRAMWAY LOCOMOTIVES OR ROLLING-STOCK

- *Bogies, bissel-bogies, axles and wheels, and parts thereof:*

8607 11 00 -- Driving bogies and bissel-bogies

8607 12 00 -- Other bogies and bissel-bogies

8607 19 -- *Other including parts :*

8607 19 10 --- Axles, wheels for coaches, van and wagons (rolling-stock)

8607 19 20 --- Axles and wheels for locomotives

8607 19 30 --- Axle boxes (lubricating or grease box)

8607 19 90 --- Other parts of axles and wheels

- *Brakes and parts thereof:*

8607 21 00 -- Air brakes and parts thereof

8607 29 00 -- Other

8607 30 - *Hooks and other coupling devices, buffers and parts thereof:*

8607 30 10 --- Buffers and coupling devices

8607 30 90 --- Other

- *Other :*

8607 91 00 -- Of locomotives

8607 99 -- *Other :*

8607 99 10 --- Parts of coach work of railway running stock

8607 99 20 --- Parts of tramway, locomotives and running stock

8607 99 30 --- Hydraulic shock absorbers for railway bogies

8607 99 90 --- Other

15. We reproduce following Foreword to develop understanding of the product 'Driver's Cab Air-conditioning Unit for EMU/MEMU'

(1) the Research Designs and Standards Organisation, Ministry of Railways vide Specification No. RDSO/PE/SPEC/AC/0112-(Rev.0)-2008 (w.e.f. Sept., 2008) for Driver's Cab Air-conditioning Unit for EMU/MEMU has mention of following FOREWORD-

1.1 At present the driver's cab of EMU/MEMUs are non airconditioned and provided with fan/heater. To further increases comfort inside driver's cab, it has been decided to make the cab air-conditioned. This specification lays down the technical requirements, design, manufacture, supply, test and trial of driver's cab air-conditioning unit to be installed on roof of driver's cab of EMU/MEMU for Indian Railway. This specification has been prepared only for development of driver's cab air-conditioning unit. The specification shall be finalized only after successful development, test and trial of the unit.

(2) Similarly, the Integral Coach Factory, Chennai vide Specification No. ICF/ELEC/110 dated 29.06.2009 for MRVC Driver's Cabin Air Conditioning Unit has mention of following FOREWORD-

At present, the Driver's Cab of MRVC Nose Cone is non air-conditioned and provided with fan for ventilation. In order to increase the comfort further inside the cab, it has been decided to make the cab air-conditioned. This specification lays down the technical requirements, design, manufacture, supply, testing and commissioning of driver's cab air-conditioning unit to be installed in Driver's cab of MRVC coaches.

16. We observe that in following cases, the classification of goods supplied to railways have been discussed-

(1) 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”.

(2) 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”.

(3) 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.

(4) 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.”

(5) 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..”.

(6) 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.”

17. Last but not least, we observe that the Appellate Authority For Advance Ruling, Goods and Service Tax, Uttar Pradesh vide Appeal Order No. 16/AAAR/28.06.2021 dated 28.06.2021 has also held that the “Switch Board Cabinet” 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 Heading 8607 of the Customs Tariff Act, 1975.

18. In the instant case, we observe that the “DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock” would be manufactured by the applicant, strictly as per the specification and design provided by the Indian Railways (RDSO) and meant to be solely used in railway rolling stock and nowhere else. Accordingly, we observe that the ratio of the above referred judgments is squarely applicable in the instant case and the “DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock” are classifiable under Tariff heading 86079920 i.e. “Parts of tramway, locomotives and running stock”.

19. We find that in Form GST ARA-01, the applicant has sought ruling on the question “classification of Coachwork like DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock” only but in their letter dated 12.08.2021, the

applicant has also sought ruling on the questions that if the above product is supplied to the Indian Railways or through other vendors/suppliers, what would be provision and classification of the products and rate of GST on said products supplied to Railway through its vendors. We are of the view that question mentioned in statutory 'Form GST ARA-01' is to be answered only and other questions raised in forwarding letter are not worth consideration by the Authority of Advance Ruling.

20. Accordingly, we pass the following ruling -

RULING

Question- 'Classification of Coach Work like DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains of Railway Rolling Stock'.

Answer- The "classification of DRIVER CAB AIR CONDITIONER UNIT for EMU/MEMU trains", manufactured as per the specific design and layout provided by the Railways and supplied to the Indian Railways only and no-where else, falls under Chapter 86.07 of the GST Tariff.

21. 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.


(Vivek Arya)

Member of Authority for Advance
Ruling


(Abhishek Chauhan)

Member of Authority for Advance
Ruling

To,

M/s Prag Polymers,
B-1 & A-40/41,
Talkatora Industrial Estate, Lucknow-226011

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 II, 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, VibhutiKhnad, Gomti Nagar, Lucknow - 226010, within 30 days from the date of service of this order.