



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO I-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2017-18/5
(In Application No.: 5, dated 12.01.2018)

Name & Address of the Applicant	: M/s Action Construction Equipment Limited, Dudhola Link Road, Village Dudhola, Palwal-121102 (Haryana)
GSTIN of the Applicant	: 06AAACA6189P1Z5
Date of Application	: 12.01.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	: (a) Classification of goods and services or both
Date of Personal Hearing	: 09.04.18
Present for the Applicant	: Sh Rajan Luthra, CFO & Sh Deepak Bhardwaj, Sr Manager(Indirect Taxation)

1. The applicant has submitted that they are manufacturer of Cranes, Backhoe Loaders, Forklifts, Motor Graders, Compactors, Tower Cranes, Tractors, Harvesters, etc. The applicant raised the question of correct classification of one of their product namely Truck Mounted Cranes (TMC). The applicant submitted that they buy readymade trucks, say, Ashok Leyland, TATA, etc., and on these trucks they manufacture cranes which are mounted/ fixed on these trucks. These cranes have lifting capacity of 20 tonnes, 25 tonnes, 40 tonnes, etc. These cranes are used for lifting heavy loads. The applicant raised the question as to whether these TMC will fall under the chapter heading 8426 or 8705.

Comments of the concerned officer U/S 98(1) OF THE CGST/HGST ACT, 2017

2. The Deputy Excise & Taxation Commissioner (ST), Faridabad (West), vide letter dt.3545/CC-1/FBD(W) dt.19.03.2018, submitted the requisite comments as under:

That the dealer was registered dealer under HVAT Act, 2003 and a manufacturer of motor vehicle industry any other vehicle industry (EAC Code-12306). The dealer started manufacturing of hydraulic mobile tower cranes and truck mounted cranes in the year 2010. Now the dealer has sought advance ruling on whether the products truck mounted cranes fall under heading 8426 ship's derricks: cranes including cable cranes, mobile lifting frames, straddle carriers and works truck fitted with crane OR 8705 special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, cranes, lorries, fire fighting vehicles, concrete-mixtures lorries, spraying lorries, mobile workshop, mobile radiological units).

As per the report of the concerned assessing authority, the dealer either purchases trucks or are provided by the customers themselves, Cranes are manufactured by the dealer and are mounted/ fixed on the trucks. The final product i.e. truck mounted cranes are used for unloading and loading of heavy material. It is a special purpose vehicle (crane lorry) which is engaged in lifting/loading/unloading of heavy loads. However, the Product "Truck Mounted Crane" has got a specific mention in Entry no. 8426 as "Works Trucks fitted with a crane".

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Records of personal hearing – 2nd proviso to Section 98(2) of CGST/HGST Act, 2017

3. Personal hearing in the instant case was conducted on 09.04.18, which was attended by Sh Rajan Luthra ,CFO and Sh Deepak Bhardwaj, Sr Manager(Indirect Taxation). He reiterated the submissions made in their application for advance ruling. After detailed discussions the decision was reserved which is being released today.

Discussions and findings of the Authority

4. The questions raised before the Authority for Advance Ruling have been elaborated in para 1 above. The only aspect to be decided in the instant case is whether the truck mounted cranes (TMC) being manufactured/supplied by the applicant will fall under the chapter heading 8426 or 8705. In order to examine this issue of classification, it is important to go through the relevant details of these chapter headings, as under:

8426 SHIP'S DERRICKS; CRANES INCLUDING CABLE CRANES; MOBILE LIFTING FRAMES, STRADDLE CARRIERS AND WORKS TRUCKS FITTED WITH A CRANE

Overhead travelling cranes, transporter cranes, gantry cranes, bridge cranes, mobile lifting frames and straddle carriers :

8426 11 00	--	Overhead travelling cranes on fixed support u 7.5%
8426 12 00	--	Mobile lifting frames on tyres and straddle carriers u 7.5% -
8426 19 00	--	Other u 7.5% -
8426 20 00	-	Tower cranes u 7.5% -
8426 30 00	-	Portal or pedestal jib cranes u 7.5% -
	-	Other machinery, self-propelled :
8426 41 00	--	On tyres u 7.5% -
8426 49 00	--	Other u 7.5% -
	-	<i>Other machinery :</i>
8426 91 00	--	Designed for mounting on road vehicles u 7.5% -
8426 99	--	<i>Other :</i>
8426 99 10	---	Ropeway and telfers u 7.5% -
8426 99 90	---	Other u 7.5% -

8705 SPECIAL PURPOSE MOTOR VEHICLES, OTHER THAN THOSE PRINCIPALLY DESIGNED FOR THE TRANSPORT OF PERSONS OR GOODS (FOR EXAMPLE, BREAKDOWN LORRIES, CRANE LORRIES, FIRE FIGHTING VEHICLES, CONCRETE-MIXERS LORRIES, SPRAYING LORRIES, MOBILE WORKSHOPS, MOBILE RADIOLOGICAL UNITS)

8705 10 00	-	Crane lorries u 10% -
8705 20 00	-	Mobile drilling derricks u 10% -
8705 30 00	-	Fire fighting vehicles u 10% -
8705 40 00	-	Concrete-mixer lorries u 10% -
8705 90 00	-	Other u 10%

5. From the above, it is evident that chapter heading 8426 covers SHIP'S DERRICKS; CRANES INCLUDING CABLE CRANES; MOBILE LIFTING FRAMES, STRADDLE CARRIERS AND WORKS TRUCKS FITTED WITH A CRANE. Due to the fact that this heading covers Works Trucks fitted with cranes, the concerned jurisdictional officer has also recommended that the impugned product merits classification under chapter heading 8426. At the same time, the said concerned jurisdictional officer has also submitted that the dealer either purchases trucks or are provided by the customers themselves, Cranes are manufactured by the dealer and are mounted/fixed on the



trucks. The final product i.e. truck mounted cranes are used for unloading and loading of heavy material. It is a special purpose vehicle (crane lorry) which is engaged in lifting/loading.

6. In the light of above report and in the light of chapter headings as mentioned above, if the said product is to be examined from the view of being classifying the same under heading 8426, it is necessary that the truck which is being used to mount the crane must be "works truck". Whereas, works trucks are specifically covered under heading 8709

8709 - WORKS TRUCKS, SELF-PROPELLED, NOT FITTED WITH LIFTING OR HANDLING EQUIPMENT, OF THE TYPE USED IN FACTORIES, WAREHOUSES, DOCK AREAS OR AIRPORTS FOR SHORT DISTANCE TRANSPORT OF GOODS.

Thus, it is evident that when the works truck is not fitted with lifting of handling equipment such as crane, it merits classification under chapter heading 8709. However, when it is fitted with crane, it merits classification under heading 8426. Whereas, in their application, the applicant has submitted that they buy readymade trucks say Ashok Leyland, TATA, etc. Such Trucks and Lorries which are meant for transport of goods are covered under chapter heading 8704. Accordingly, classification of the impugned goods under heading 8426 is ruled out, as because the trucks being purchased/used by the applicant for manufacturing truck mounted crane (TMC) are not works truck but these are trucks/lorries which are basically meant for transport of goods. Such Trucks and Lorries are covered under chapter heading 8704 and when crane is mounted upon them to make Truck Mounted Crane, the resultant product will be special purpose vehicles, falling under chapter heading 8705.

7. This matter stands clarified from the judgment of the Hon'ble Tribunal in the case of AUTOMOTIVE COACHES & COMPONENTS LTD. *Versus* COMM. OF C. EX., PONDY [2010 (252) E.L.T: 206 (Tri. - Chennai)]. In this case, the appellants has sought classification under chapter heading 8426, whereas department sought classification under Heading 8705. While deciding the matter, the Hon'ble Tribunal took note of the explanatory notes to Heading 84.26, which reads as under:-

"Certain lifting or handling machines (e.g., ordinary cranes, light breakdown cranes) are often mounted on what is in fact an essentially complete automobile chassis or lorry in that it comprises at least the following mechanical features: propelling engine, gear-box and controls for gear-changing, and steering and braking facilities. Such assemblies **fall to be classified in Heading 87.05** as special purpose motor vehicles, whether the lifting or handling machine is simply mounted on the vehicle or forms an integral mechanical unit with it, unless they are vehicles designed essentially for transport purposes falling in Heading 87.04."

The Hon'ble Tribunal further observed that the above explanatory note providing exclusion from the Heading 84.26 supports the department's view that the impugned goods cannot be classified under Heading 8426 but under Heading 8705 as a special purpose motor vehicle; that the crane lorry and other such special purpose vehicles are included under Heading 8705 vide the explanatory note thereunder.

8. As regards the dependency on HSN explanatory notes, the Hon'ble Supreme Court of India, in the case of LML Ltd. Vs. Commissioner of Customs 2010(258)E.L.T.321(SC)), has observed that HSN Explanatory Notes are a dependable guide while interpreting the Customs Tariff. Hence, the product of the applicant cannot be classified under chapter heading 8426 as the applicant is not using works truck for producing truck mounted crane (TMC). As cranes are being mounted by the applicant on automobile chassis, the resultant product merits classification under chapter heading 8705, in view of HSN

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explanatory notes to Harmonised System of Nomenclature (HSN).

ADVANCE RULING UNDER SECTION 98 OF THE CGST/HGST ACT, 2017

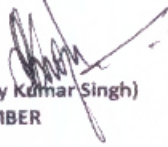
9. The product manufactured/supplied by the applicant, which is resultant of mounting/fixing of crane on readymade trucks/lorries bought by them from truck/lorry manufacturers such as Ashok Leyland, TATA, etc. and known as truck mounted cranes (TMC), is classifiable under heading 8705.

10. It may be noted that in terms of Section 103 of the CGST/HGST Act, 2017, this ruling shall be binding only on (a) the applicant in respect of matter on which the aforementioned ruling has been passed and (b) on the concerned officer or the jurisdictional officer in respect of the applicant and the same shall be binding unless the law, facts or circumstances supporting this ruling have changed.

Ordered accordingly.
To be communicated.

10.04.2018
Panchkula.


(Sangeeta Karmakar)
MEMBER


(Vijay Kumar Singh)
MEMBER

Regd. AD/Speed Post
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Copy to:

- 1) The Deputy Excise and Taxation Commissioner (ST), ~~Palwal~~ Faridabad (West)
- 2) The Assistant Commissioner, Central Tax Division, Palwal.

