

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**  
(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

**BEFORE THE BENCH OF**

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)  
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AAACT2727012W
Legal Name of Applicant		Tata Motors Limited
Registered Address/Address provided while obtaining user id		Tata Motors Limited, Nigadi Bhosari Road, Pimpri, Haveli, Pune 411018
Details of application		GST-ARA, Application No. 104 Dated 24.12.2018
Concerned officer		Dy. Commissioner CGST & Central Excise, Division - II, (Pimpri), Pune -I, Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Factory / Manufacturing
B	Description (in brief)	<ul style="list-style-type: none"><li>• The Applicant is in the business of manufacture and sale of motor vehicles, chassis and parts thereof.</li><li>• The Applicant is launching new passenger vehicle Tata Harrier.</li></ul>
Issue/s on which advance ruling required		(i) classification of goods and/or services or both (v) determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.



**PROCEEDINGS**

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

01. The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by Tata Motors Limited, the applicant, seeking an advance ruling in respect of the following questions.

- 1.1 *Whether Tata Harrier vehicle, which has following specifications, is classifiable under Tariff Item 8703 32 91 or 8703 32 99 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)?*

<i>Particulars</i>	<i>Details</i>
<i>Seating capacity</i>	<i>5 persons including driver</i>
<i>Engine capacity</i>	<i>1956 CC</i>
<i>Fuel</i>	<i>Diesel</i>
<i>Market segment</i>	<i>Utility Vehicle (UV)</i>

Length	4598mm
Ground clearance (Unladen)	205 mm
Ground clearance (Laden)	160 mm

- 1.2 Under Sr. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended, SUV has been defined as under:

S.No.	Chapter/ Heading/Sub heading Tariff item	Description of Goods	Rate of goods and services tax compensation cess
(1)	(2)	(3)	(4)
52B.	8703	Motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles. Explanation. - For the purpose of this entry, SUV includes a motor vehicle of length exceeding 4000 mm and having ground clearance of 170 mm and above.	22%



For a motor vehicle to get covered under above entry as SUV/UV, whether it has to satisfy only the conditions mentioned in main clause i.e. engine capacity above 1500 cc and popularly known as SUV/UV or in addition, it has to also satisfy the conditions mentioned in Explanation" i.e. length exceeding 4000 mm and ground clearance of 170 mm and above? In short, if the vehicle satisfies only the conditions mentioned in main clause but is not satisfying any one or all of the conditions mentioned in Explanation', whether it would still be covered under Entry at Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended?

- 1.3 For the purpose of Cess @ 22% under Sr. No: 52B of Notification No. 1/2017 Compensation Cess (Rate) dated 28.06.2017 as amended, whether the ground clearance of the vehicle is to be considered in laden condition or in unladen condition?
- 1.4 Whether Tata Harrier vehicle whose ground clearance in unladen condition is 205 mm and in laden condition is 1.60 mm, would fall under Sr. No. 52B of the Notification No. 1/2017-Compensation Cess. (Rate) dated 28.06.2017 as amended?
- 1.5 Whether GST Compensation Cess @ 22% under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended, will be applicable to Tata Harrier vehicle?
- 1.6 In addition to the question framed in Application for Advance Ruling, the Applicant also request for ruling on following question: Q. No.(1.4A) Vehicle whose ground clearance in unladen condition is more than 170 mm but below 170mm in laden condition, whether will get covered under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

**02. FACTS AND CONTENTION - AS PER THE APPLICANT**

2.1 The Applicant has submitted that they are eligible to seek an advance ruling, in respect of determination of classification of Tata Harrier vehicle and tax liability to be discharged on it and have therefore made this application.

2.2 The Applicant is in the business of manufacturing and selling of both commercial as well as passenger vehicles and is launching its passenger vehicle Tata Harrier, with the following technical specifications.

Particulars	Details
Seating capacity	5 persons including driver
Engine capacity	1956 CC
Fuel	Diesel
Market segment	Utility Vehicle (UV)
Length	4598mm
Ground clearance (Unladen)	205 mm
Ground clearance (Laden)	160 mm

2.3 They have reproduced Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended as under:

**SCHEDULE**

S.No.	Chapter/ Heading/Sub heading Tariff item	Description of Goods	Rate of goods and services tax compensation cess
(1)	(2)	(3)	(4)
52A.	8703	Motor vehicle of engine capacity exceeding 1500 cc other than motor vehicles specified against entry at S No. 52B	20%
52B.	8703	Motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles. Explanation. - For the purpose of this entry, SUV includes a motor vehicle of length exceeding 4000 mm and having ground clearance of 170 mm and above.	22%

2.4 They have submitted that under Chapter Sub-heading 8703 32 vehicles with only compression-ignition internal combustion piston engine (diesel or semi-diesel) of a cylinder capacity exceeding 1500 cc but not exceeding 2500 cc have been specified.

Tariff	Description of goods
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8203 32 10	--- Vehicles principally designed for the transport of more than seven persons, including the driver
	---Other:
8703 32.91	----Motor cars
8703 32 92	----Specialized transport vehicles such as ambulances, prison vans and the like
8703 32.99	---- Other

2.5 From the submissions made by the applicant it appears that they are primarily asking whether the classification of the Tata Harrier Vehicle with specifications mentioned above will fall under Sub Heading 8703 32 91 or 8703 32 99. They are of the opinion that that Tata Harrier vehicle would merit classification under Tariff Item No. 8703 32 91

2.6 Secondly whether the Cess rates applicable to their Tata Harrier Vehicle as notified by Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended would fall under 52A attracting 20% cess or under Sr. No. 52B, attracting 22% cess and whether the ground clearance should be based on laden weight or unladen weight.

### 03. CONTENTION - AS PER THE CONCERNED OFFICER

3.1 The jurisdictional office has made submissions in reply to the application. They have with reasonings concluded as under:-

3.1.1 In view of the technical specifications provided by the applicant, i.e., the "engine cylinder capacity" and the type of engine (compression-ignition internal combustion piston engine" - although not mentioned in their application but deemed to be so by virtue of the tariff sub-heading claimed as 8703 32) makes it clear that the vehicle falls under Chapter 8703 3291 (Motor Cars) of the Customs Tariff Act, 1975.

3.1.2 There is a difference between the two entries, i.e., 52A & 52B given in the amendment Notification and the applicant's product matches the description given at Sl. No. 52B, thereby attracting the Compensation Cess of 22%. The applicant's new product 'Tata Harrier' will fall in the same category attracting Compensation Cess as per Sl. No. 52B of the Notn. No. 05/2017 Compensation Cess (Rate) dated 11.09.2017 because they are satisfying the main condition of Sr. No. 52B as well as the conditions mentioned in the Explanation to Sr.No. 52B.

3.1.3 The ground clearance given in under Sr. No. 52B of Notification No. 1/2017 Compensation Cess (Rate) dated 28.06.2017 as amended, **has to be arrived in unladen state. The ground clearance in laden condition cannot be considered as the weight of passengers can vary. Hence no standardization of laden weight can be arrived at.**



3.1.4 The Tata Harrier vehicle whose ground clearance in unladen condition is 205 mm and in laden condition is 160 mm, would fall under Sr. No. 52B of the Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017, as amended and the GST Compensation Cess @ 22% under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017, as amended, will be applicable.

3.1.5 In respect of the additional question raised i.e. 'Vehicle whose ground clearance in unladen condition is more than 170 mm but below 170mm in laden condition, whether will get covered under Sr. No. 52B of Notification No. 1/2017-Compensation.Cess (Rate) dated 28.06.2017?', the answer given by the jurisdictional office is in the affirmative.

#### 04. HEARING

4.1 The Preliminary hearing in the matter was held on 22.01.2019, Sh. Shukla, Head Indirect Tax along with Sh. Sanjay Ekhalande, Dy. G.M. appeared and requested for admission of application as per contentions made in their application. Jurisdictional Officer Sh. Sanjaykumar Sup., Rabge-V, Division - II(Pimpri) Pune - I Commissionerate appeared and made written submissions.

4.2 The application was admitted and called for final hearing on 19.03.2019, Sh. Shukla, Head Indirect Tax appeared made oral and written submissions. The Jurisdictional Officer was not present but written submission was sent by mail on 19.03.2019.

#### 05. OBSERVATIONS

5.1 We have gone through the facts of the case, documents on record and submissions made by both, the applicant as well as the jurisdictional office. The applicant has raised six questions which are being discussed and replied as under:-

**Question. No. 1:-** The first question raised by the applicant is whether Tata Harrier vehicle, with specifications as mentioned above, is classifiable under Tariff Item 8703 32 91 or 8703 32 99 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)?

5.2 Chapter 87 of the GST Tariff deals with 'Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof'. Hence the said vehicle as described by the applicant fall under Chapter Heading 87 of the GST Tariff. Motor Cars principally used for transport of persons, other than those of heading 8702, falls under heading 8703 of the Tariff. Heading 8702 motor vehicles for transport of 10 or more persons and in the subject case the motor vehicle is has a capacity of 5 persons and is therefore classifiable under heading 8703.

5.3 The applicant in their application has mentioned that Under Chapter Sub-heading 8703 32 vehicles with only compression-ignition internal combustion piston engine (diesel or semi-

diesel) of a cylinder capacity exceeding 1500 cc but not exceeding 2500 cc have been specified and they have further submitted that the subject vehicle falls under the subject category. Considering the subject vehicle as having a compression-ignition internal combustion piston engine (diesel or semi-diesel) of a cylinder capacity exceeding 1500 cc but not exceeding 2500 cc, we find that the subject Tata Harrier vehicle will be considered as 'motor cars' and classifiable under heading 8703 32 91 of the GST Tariff.

**Question No. 2 :-** The second question raised is, 'for a motor vehicle to get covered under above entry as SUV/ UV, whether it has to satisfy only the conditions mentioned in main clause i.e. engine capacity above 1500 cc and popularly known as SUV/ UV or in addition, it has to also satisfy the conditions mentioned in Explanation" i.e. length exceeding 4000 mm and ground clearance of 170 mm and above? In short, if the vehicle satisfies only the conditions mentioned in main clause but is not satisfying any one or all of the conditions mentioned in Explanation', whether it would still be covered under Entry at Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended?

5.4 The applicant's vehicle has engine capacity of 1956 cc which is above 1500cc and below 2500cc. Hence it is classifiable under 8703 32.91. The question raised by the application is whether their vehicle is covered under Sr. No. 52 B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended. It is seen that for any vehicle to be covered under Sr. No. 52B of the said Notification the motor vehicles should have an engine capacity exceeding 1500 cc and further such motor vehicle is recognized by the public at large as Sports Utility Vehicle, (SUV). We find from the product literature submitted during the hearing and also from the website of the applicant, the subject motor vehicle - Tata Harrier is widely publicized and marketed by the manufacturer as Sports Utility Vehicle and as such, the subject goods satisfies the description of goods mentioned at Column No. 3 of Entry No.52B of the said of the said Notification.

In taxing statute, the word 'include/including' is generally used in interpretation clauses as a word of enlargement, though the use of word include/including in the restrictive sense is not unknown. In view of the specifications given by the applicant we have no doubt that the subject vehicle will attract 22% compensation cess under Sr. No. 52 B of the said Notification. Hence if the vehicle satisfies only the conditions mentioned in main clause but is not satisfying any one or all of the conditions mentioned in Explanation', then it would not be covered under Entry at Sr. No. 52B of the said Notification.

**Question No. 3 :-** The third question raised by the applicant is 'for the purpose of Cess @ 22% under Sr. No: 52B of Notification No. 1/2017 Compensation Cess (Rate) dated 28.06.2017 as

amended, whether the ground clearance of the vehicle is to be considered in laden condition or in unladen condition?

5.5 The rate of tax on the subject vehicle before it is sold to buyers. It is but natural that the ground clearance given in the Notification must be arrived in unladen state, when there are no passengers/driver occupying the vehicle. We are of the opinion and we agree with the submissions of the jurisdictional office in this regard that the ground clearance in laden condition cannot be considered because the same will vary depending on the weight of passengers and luggage occupying the vehicle and will therefore cannot be constant.

**Question No. 4 :-** The fourth question raised by the applicant is whether Tata Harrier vehicle whose ground clearance in unladen condition is 205 mm and in laden condition is 1.60 mm, would fall under Sr. No. 52B of the Notification No. 1/2017-Compensation Cess. (Rate) dated 28.06.2017 as amended?

5.6 In of our views above in response to Q.No. 3 we are of the opinion that the Tata Harrier vehicle whose ground clearance in unladen condition is 205 mm and in laden condition is 160 mm, would fall under Sr. No. 52B of the Notification No. 1/2017-Compensation Cess. (Rate) dated 28.06.2017.

**Question No. 5 :-** Whether GST Compensation Cess @ 22% under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended, will be applicable to Tata Harrier vehicle?

5.7 In view of the discussions made by us in respect of question nos 1 to 5, we find that GST Compensation Cess @ 22% under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 will be applicable in the subject case.

**Question no. 6 :-** The applicant raised an additional question in their further submissions as to whether vehicle whose ground clearance in unladen condition is more than 170 mm but below 170mm in laden condition, will get covered under Sr. No. 52B of Notification No. 1/2017-Compensation.Cess (Rate) dated 28.06.2017?"

5.8 In view of the discussions made above, we would say that to get covered under Sr. No. 52B of Notification No. 1/2017-Compensation.Cess (Rate) dated 28.06.2017, the ground clearance should be more than 170 mm in unladen condition.

5.9 The applicant has submitted that subsequent to filing of subject Application for Advance Ruling, ARAI has issued Certificate for Compliance under Central Motor Vehicle Rules by Tata Harrier XE model vehicle, specifying Minimum Ground Clearance as 176 mm (laden) in

accordance with IS -9435 and in the absence of this ARAI Certificate at the time of filing of subject Application, Applicant had mentioned Ground Clearance in laden condition as 160 mm. They have requested to treat their Application amended to this effect more specifically question nos. (1.1), (1.4) and (1.5) framed in the Application.

We have already discussed above that the ground clearance must be considered only on the basis on unladen weight and are firmly of the opinion that the minimum ground clearance must be considered only on the basis of unladen condition.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

**ORDER**

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 93/2018-19/B- 32 Mumbai, dt. 22/03/2019

For reasons as discussed in the body of the order, the questions are answered thus -

**Question 1.1** Whether Tata Harrier vehicle, which has following specifications, is classifiable under Tariff Item 8703 32 91 or 8703 32 99 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)?

**Answer :-** In view of the above discussions Tata Harrier vehicle, is classifiable under Tariff Item 8703 32 91 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)

**Question 1.2** Under Sr. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended, SUV has been defined as under:

S.No.	Chapter/ Heading/Sub heading Tariff item	Description of Goods	Rate of goods and services tax compensation cess
(1)	(2)	(3)	(4)
52B.	8703	Motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles. Explanation. - For the purpose of this entry, SUV includes a motor vehicle of length exceeding 4000 mm and having ground clearance of 170 mm and above.	22%

For a motor vehicle to get covered under above entry as SUV/ UV, whether it has to satisfy only the conditions mentioned in main clause i.e. engine capacity above 1500 cc and popularly known as SUV/ UV or in addition, it has to also satisfy the conditions mentioned in Explanation" i.e. length exceeding 4000 mm and ground clearance of 170 mm and above? In short, if the vehicle satisfies only the conditions mentioned in main clause but is not satisfying any one or all of the conditions mentioned in Explanation', whether it would still be covered under



Entry at Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended?

**Answer :-** To be covered under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017, the vehicle must satisfy the conditions mentioned in main clause as well as the conditions mentioned in the Explanation

**Question 1.3** For the purpose of Cess @ 22% under Sr. No: 52B of Notification No. 1/2017 Compensation Cess (Rate) dated 28.06.2017 as amended, whether the ground clearance of the vehicle is to be considered in laden condition or in unladen condition?

**Answer :-** The ground clearance given in the Notification must be arrived in unladen condition.

**Question 1.4** Whether Tata Harrier vehicle whose ground clearance in unladen condition is 205 mm and in laden condition is 160 mm, would fall under Sr. No. 52B of the Notification No. 1/2017-Compensation Cess. (Rate) dated 28.06.2017 as amended?

**Answer :-** Answered in the positive.

**Question 1.5** Whether GST Compensation Cess @ 22% under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended, will be applicable to Tata Harrier vehicle?

**Answer :-** Answered in the positive.

**Question 1.6** Vehicle whose ground clearance in unladen condition is more than 170 mm but below 170mm in laden condition, whether will get covered under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017?

**Answer :-** In view of the discussions made above, we would say that to get covered under Sr. No. 52B of Notification No. 1/2017-Compensation.Cess (Rate) dated 28.06.2017, the ground clearance should be 170 mm or above in unladen condition.



  
**B. TIMOTHY**  
(MEMBER)

  
**B. V. BORHADE**  
(MEMBER)

**CERTIFIED TRUE COPY**

**Copy to:-**

1. The applicant.
2. The concerned Central / State Officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Jurisdictional Commissioner of Central Tax. Churchgate Mumbai
5. Joint commissioner of State Tax , Mahavikas for Website.

  
**MEMBER**  
ADVANCE RULING AUTHORITY  
MAHARASHTRA STATE, MUMBAI

**Note :-** An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai - 400021.