

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. V. Borhade, Joint Commissioner of State Tax (Member)

(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax (Member)

GSTIN Number, if any/ User-id		27AAFCC4974P1ZX
Legal Name of Applicant		COMPO ADVICE INDIA PRIVATE LIMITED
Registered Address/ Address provided while obtaining user id		NEAR SHARDACHANDRA PAWAR POLYTECHNIC COLLEGE, GUT NO.325/1, BHALGAON, BEED ROAD, AURANGABAD-431007
Details of application		GST-ARA, Application No. 10 Dated 13.04.2018
Concerned officer		AUR-VAT-C-007, AURANGABAD
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Factory / Manufacturing
B	Description (in brief)	Manufacturer of Brake Lining and Pads
Issue/s on which advance ruling required		(i) classification of goods and/or services or both (ii) applicability of a notification issued under the provisions of the Act
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)

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 COMPO ADVICE INDIA PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following question.

Our product is known as Disc Brake Pads "DBP" is made up of High Capacity Friction Material, both Fibers and Minerals and separately rivet on to Brake Assembly of Motor Vehicles.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the GST 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 MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION - AS PER THE APPLICANT

The submission (Brief facts of the case), as reproduced verbatim, could be seen thus -

FACTS OF THE CASE

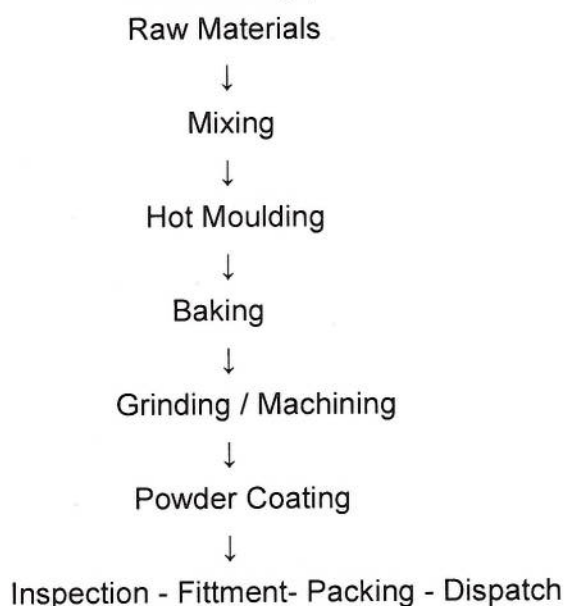
Friction Material Based Brake Lining and Pad are classified Under the Tariff Head 6813 comes under 18% List and Motor Vehicle Brakes and Parts classified under head 8708 comes under 28% List.

Detail note of the Activities carried out by the company in the year 2018-19

Manufacturing Activities

The main manufacturing activity of our company is to manufacture DISC BRAKE PADS for passenger & SUV Vehicles

Manufacturing process:



Details of Raw Materials.

1. Fibers - Mainly fibers such as Rock wool, steel wool and Polyester etc.
2. Binders - Phenolic Resin
3. Fillers - Non organic chemicals such as Barium Sulphate, china clay, Whiting etc.
4. Colouring Matters- Black matt powder and red oxide
5. Stabilizers - Friction Dust. Graphite.
7. Steel Plate - M. S. Back Plate

Details of Finished products & their uses.

Disc Brake Pads are used in passenger and commercial vehicles for its brake application,

This is the first year of the company as commercial production is started from September 2014 and no business were discontinued.

DESCRIPTION OF PRODUCTS.

We at COMPO ADVICS (INDIA) PRIVATE LIMITED. Gut No. 325/1, Bhalgaon, Beed Road, Aurangabad. Dist. Aurangabad – 431 007 are engaged in manufacturing of Non Asbestos Disk Brake Pads in collaboration with Advics Japan.

These Disk Brake Pads are used in Braking system of passenger Cars. We are presently manufacture different types of pads covering around 60 type of Cars.

Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the questions(s) on which advance ruling is required

We would like to know that under which HSN Code our Product to be classified. Under 6813 or under 8708 as there are different rate charged in both code.

03. CONTENTION - AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

SUBMISSION FOR ADVANCE RULLING APPLICATION SR.NO.10 DTD 13.04.2018.

IN CASE OF COMPO ADVICS (INDIA) PVT.LTD. OF BHALGAON DIST AURANGABAD. GSTIN 27AAFCC4974P12X

The dealer is manufacturer in DBP i.e. Disc Brake Pads say Brake Liner for Passenger Cars, SUVs and MUVs. The dealer is Joint Venture with Cutting edge Technology from ADVICS JAPAN. These DBP are sold in SETS and not in Single manner. The dealer's

Company campus photo at Bhalgan, Beed Road, and Dist. AURANGABAD is enclosed herewith for reference.

The dealer is bearing GSTIN vide No.27AAFCC4974P1zX. He is also holding HSN CODE 8708. The Classification of goods is Disc Brake Pads (DBP) and their Central Excise Tariff Heading is 8708 Chapter Heading Tariff Item 8708 speaks as under

"Parts and accessories of the motor vehicles of heading 8701 to 8705 (other than specified Parts of tractors)

The dealer has also submitted manufacturing Activities i.e. FLOW CHART from Raw Material **To finished goods. Copy of the Flow Chart is enclosed herewith for ready reference .The Dealer has also submitted Description of Products (copy enclosed).As per Chapter Heading 8708 under the GST regime wef. 01.07.2017 attracts 28% GST i.e. SGST 14% CGST 14%Total 28%.**

Copy of the rate of tax as per tariff under the GST rules is enclosed herewith for ready reference. Further as per Excise Heading 6813 which speaks as under

"Friction Material and Articles thereof (for example Sheets, Rolls, Strips, Segments, Discs, Washer, Pads)

Not mounted, for Brakes, for clutches or the like with a basis of Asbestos, of other mineral substances or of Cellulose, whether or not combined"

The dealer Compo Advics (India) Pvt. Ltd of Aurangabad manufacturing products is Disc Brake Pads say Brake liner is used for Passenger Cars, SUVs and MUVS is rightly covered by Excise Tariff 8708 And rightly attracts GST 28%

Thus, this office is of the opinion that the dealer's products is leviable under GST regime @ 28%.

04. HEARING

The case was taken up for preliminary hearing on DT. 12.06.2018, with respect to admission or rejection of the application when Sh. Mohan Parashar, G. M. Accounts along with Sh. M Gandhi, taxation Manager appeared and requested for admission of application as per their contentions in ARA application. The jurisdictional officer, Sh. C K Joshi, State Tax Officer (AUR-VAT-C-007) Aurangabad appeared and made written submissions.

The application was admitted and final hearing was held on 04.07.2018 , Sh. Mohan Parashar, G. M. Accounts along with Sh. M Gandhi, taxation Manager appeared and stated that written submissions as made earlier and in their ARA may be considered and issue be decided on merits please. The jurisdictional officer, Sh. C K Joshi, State Tax Officer (AUR-VAT-C-007) Aurangabad appeared and made written submissions.

05. OBSERVATIONS

We have perused the records on file and gone through the facts of the case and the submissions made by the applicant and the department. It is observed that as below:

Through this application applicant would like to know from this authority the appropriate HSN code of the Disc Brake Pad sold by them. As per applicant view point there exist two competing entry with different HSN code Viz 6813 and 8708 and they are subject to different GST Rate. In order to ascertain correct HSN code, applicant has approached this authority with following question:

With respect to chapter Heading 6813 applicant submits that there is specific mention that if, friction material is not mounted, and then the product would fall under Heading 6813. Applicant further submit that in this industry there is general understanding that the word 'Mounting' means mounting on the break system and thus the DBP manufactured by them would merit classification under HSN code 6813. In order to ascertain the correct classification of the product, we reproduce the relevant chapter Heading 6813 as below:



Chapter / Heading / Sub-Heading / Tariff item	Description as per Notification	Heading Description in Custom Tariff	Entire Customs Tariff Heading with sub Heading and Tariff Item	
(1)	(2)	(3)	(4)	(5)
182B 6813	Friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textiles or other materials	FRICION MATERIAL AND ARTICLES THEREOF (FOR EXAMPLE, SHEETS, ROLLS, STRIPS, SEGMENTS, DISCS, WASHERS, PADS), NOT MOUNTED, FOR BRAKES, FOR CLUTCHES OR THE LIKE, WITH A BASIS OF ASBESTOS, OF OTHER MINERAL SUBSTANCES OR OF CELLULOSE, WHETHER OR NOT COMBINED WITH TEXTILE OR OTHER MATERIALS	6813	FRICION MATERIAL AND ARTICLES THEREOF (FOR EXAMPLE, SHEETS, ROLLS, STRIPS, SEGMENTS, DISCS, WASHERS, PADS), NOT MOUNTED, FOR BRAKES, FOR CLUTCHES OR THE LIKE, WITH A BASIS OF ASBESTOS, OF OTHER MINERAL SUBSTANCES OR OF CELLULOSE, WHETHER OR NOT COMBINED WITH TEXTILE OR OTHER MATERIALS
			6813 20	-- Containing asbestos:
			6813 20 10	-- Brake lining and pads
			6813 20 90	-- Asbestos friction materials
				-- Not containing asbestos :
			6813 81 00	-- Brake linings and pads
			6813 89 00	-- Other

We have also gone through Explanatory Notes to the Harmonized System of Nomenclature, pertaining to chapter heading 6813. The relevant portion reads as follows:-

".. owing to its high friction coefficient and its resistance to heat and wear, this material is used for lining brake shoes, clutch disc, etc., for vehicles of all kinds, cranes, dredges or other machinery..."

According to the particular use for which it is intended, friction material of this heading may be in the form of sheets, rolls, strips, segments, discs, rings, washers, pads or cut to any other shape...

The heading excludes:

(a)...

(b) *Mounted brake lining (including friction material fixed to a metal plate provided with circular cavities, perforated tongues or similar fittings, for disc brakes): these are classified as parts of the machines or vehicles for which they are designed (e.g. heading 8708)*

Thus, from the aforesaid Explanatory Notes it is evident that only friction material in different shape is classifiable under heading 6813 and that those mounted are specifically excluded from the purview of said heading;

Considering above Tariff heading we are now required examine the product to be classified by us. Applicant is a manufacturer of Disc Brake Pads which are used in Braking System of Passenger cars. From the manufacturing process flow chart we find that functional part on baking, grinding, machining and powder coating fitted on steel plate. This finished product is ready for being fixed in the brake system of cars. Considering above fact we have no doubt in our mind that the impugned product is not covered by chapter Heading 6813.

Now we have to examine other competitive chapter Heading 8708 which is reproduced as below:

Further the chapter Heading 8708 covers parts and accessories of motor vehicles of Heading 8701 to 8705 provided the parts and accessories fulfil following conditions:

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;
- (ii) They must not be excluded by the provisions of Notes to chapter 87.
- (iii) They must not be more specifically included elsewhere in the nomenclature.

The undisputed fact of the present case is that Disc Brake Pads are being used in Braking System of passenger cars and SUV Vehicles. Further we find that DBP is not excluded from the aforesaid chapter Notes and are exclusively used as parts of motor vehicles of heading 8701 to 8707 and as such merit classification chapter heading 8707.

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-10/2018-19/B-

66

Mumbai, dt.


11/7/2018

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

Question: - We would like to know that "Whether under which HSN Code our Product (Disc Brake Pads "DBP) to be classified under 6813 or under 8708 as there are different rate charged in both code"?

Answer: - The Product i.e. Disc Brake Pads falls under chapter heading 8708 and would be liable to tax @28% (14% each under CGST and MGST Act).




B. V. BORHADE
(MEMBER)


PANKAJ KUMAR
(MEMBER)

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.
5. Joint commissioner of State tax , Mahavikas for Website.

CERTIFIED TRUE COPY


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, 15th floor, Air India building, Nariman Point, Mumbai - 400021