

**PUNJAB AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICE TAX, BHUPINDRA ROAD,
PATIALA - 147001 (PUNJAB)**

ORDER NO. AAR/GST/PB/009

Dated: 29/08/2019.

(An Appeal against this order lies with the Appellate Authority in terms of Section 99 and Section 100 of the CGST Act, 2017 and Section 99 and Section 100 of the PGST Act, 2017 within a period of thirty days from the date of communication of this order.]

I. DETAILS OF THE APPLICANT:

GSTIN	03AADC52845KIZD
Legal Name	Sutlej Coach Products Pvt Ltd.,
Trade Name	Sutlej Coach Products Pvt Ltd., 6th Km Stone, Kapurthala Road, Jalandhar (Punjab)
Issue(s) on which advance ruling is sought	GST Rate on Railway Seat & Parts Thereof exclusively-used by Railways (i.e. M/s RCF)
Personal Hearing Date	27.06.2019
Hearing attended by	Sh. Harvinder Singh, Advocate
Order Date	29/08/2019.

II. BRIEF FACTS OF THE CASE

M/s Sutlej Coach Products Pvt Ltd., 6th Km Stone, Kapurthala Road, Jalandhar (Punjab) are exporter of "Engineering Goods, Automotive Components, Railway Seats, Bus Seats, sports Goods Parts thereof etc" and holding GST Registration No- 03AADCS2 84 SKIZD'.

The applicant states that earlier Central Excise Duty under the Central Excise Act, was being paid at full rate of central excise duty i.e. @ 12.5% on Railway seats under HSN Code No. 9401. Now, with effect from 01-07-2017 under the GST Law, they have doubt on the applicability of GST rate on the supply of Railway seats to M/s Rail Coach Factory (M/s RCF in short) for the reason that as per the version of

M/s Rail Coach Factory, the rate of GST on the supply of railway seats is @ 5% whereas, as per the applicant the rate of GST applicable on 'Railway Seats' is 18%. The applicant has further submitted that as per their understanding the GST Rate on railway seats are as under: -

Description	HS Code	GST Rate	Remarks
Railway Seats	9401	18%	As per M/s RCF, the Rate is 5% under GST HS Code 8607
Parts of Railway Seats	9401	18%	

III. QUESTION(S) ON WHICH ADVANCE RULING IS SOUGHT

Classification and GST Rate on 'Railway Seat & Parts Thereof' exclusively used by Railways (i.e. M/s RCF)

IV. ELIGIBILITY OF THE APPLICATION FOR ADVANCE RULING

The Section 97(2) of the Central Goods and Services Tax Act, 2017, read with Section 97(2) of the Punjab Goods and Services Tax Act, 2017, provides for the issues on which advance ruling can be sought.

97 (2) *The question on which the advance ruling is sought under this Act, shall be in respect*

of,–

- (a) classification of any goods or services or both;*
- (b) applicability of a notification issued under the provisions of this Act;*
- (c) determination of time and value of supply of goods or services or both;*
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) determination of the liability to pay tax on any goods or services or both;*
- (f) whether applicant is required to be registered;*
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

It is observed that the querie of the applicant in para III is related to the question of Classification of Railway Seat & Parts Thereof exclusively used by Railways (i.e. M/s RCF) whether falls under the ambit of Section 97(2) (a) - *classification of any goods or services or both*. Hence, the application of the applicant is eligible for a ruling by the Punjab State Advance Ruling Authority.

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V. SUBMISSIONS BY THE APPLICANT

The applicant vide his application in Form GST ARA – 01 dated 26.11.2018 has, inter-alia, stated that they are exporters of Engineering Goods' Automotive Components, Railway Seats, Bus Seats, sports Goods' Parts thereof etc" and holding GST Registration No- 03AADCS2 84 SKIZD'.

The applicant was earlier paying Central Excise Duty (i.e. full rate of central excise duty 12.5%) on Railway seats under Central Excise Act, 1944 under HS Code No. 9401. Now, with effect from 01-07-2017 under GST Law, he has doubt on the applicability of GST rate on the supply of Railway seats to M/s RCF (M/s Rail Coach Factory). The applicant has submitted that as per the version of M/s Rail Coach Factory, the rate of GST on the supply of railway seats is @ 5% whereas, as per their version the rate of GST on " Railway Seats " is 18%.

The applicant has also submitted that GST HSN Code 9401 specifically deals with Seats and applicable Rate of duty is 18% (earlier 28%). However, as per the version / opinion of M/s Rail Coach Factory seat is a part of railway compartment and hence it is required to be cleared under GST HSN Code 8607 and applicable Rate of duty is 5%.

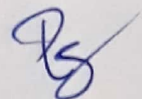
VI. HEARING:

The case was taken up for hearing on 27.06.2019. Sh. Harvinder Singh, Advocate attended the hearing on behalf of the applicant. He also produced the clarification received from CGST office. Since, the M/s. RCF, Kapurthala is still not co-operating despite all the clarifications, they have raised the AAR seeking finality on the issue.

VII. DISCUSSIONS AND FINDINGS

1. In any indirect tax scenario, classification of goods is very important and has very wide implications particularly in case of multi rate tax structure like GST. As such, classification of goods under CGST Act, IGST Act and respective SGST Acts have to be done in accordance with the Harmonized System of Nomenclature (HSN). Further certain HSN appears in more than one tax rate schedule notified by





the government. Hence it becomes utmost important to analyze various provisions regarding classification of goods under Goods and Service Tax law.

2. The classification is not dependent on trade parlance when the parameters are precisely laid down in the Tariff itself, in the description of the Section Notes, Chapter Notes read with the Interpretative Rules, all of which have statutory force.

3. In CCE vs Wood Polymers Ltd (1998)97 ELT 193 (SC) it was held that classification should be done as per the rules of interpretation contained in the Tariff and not as per trade parlance and commercial understanding. However this is so if the rules of interpretation give correct and conclusive answer. Otherwise, one has to look at trade parlance.

4. The Supreme Court in case OK Play (India) Ltd v CCE 2005 (2005) 180 ELT 300 (SC) laid down the parameters for classification of goods as under:

- No single universal test can be applied for correct classification. There cannot be static parameter for correct classification.
- HSN along with explanatory notes provide a safe guide for interpretation of an entry.
- Equal importance to be given to Rules of Interpretation of Excise Tariff
- Functional utility, design, shape and predominant usage have also got to be taken into account while determining classification of an item
- The aforesaid aids and assistance are more important than names used in trade or common parlance in the matter of correct classification

5. The two Chapters under which classification of '**Railway Seats**' for supply to Railways are being considered, fall under two different Sections of the Tariff Act. Section XX, which covers "Miscellaneous Manufactured Articles", is relevant to items classified under Chapters 94 to 96, whereas Section XVII, which covers "Vehicles. Aircraft, Vessels and Associated Transport Equipment", is relevant to items classified under Chapters 86 to 89.

Chapter Heading 8607 does not anywhere clearly classify 'Railway Seats'. It only refers to parts of railway (such as bogies, bissel-bogies, axels and wheels and parts thereof) in a general way; whereas, Chapter Heading 9410 clearly classifies Seats.

In terms of Rule 3(a) of the Rules for Interpretation of Customs Tariff, as applicable to the GST Tariff, "the heading which provides the most specific description shall be preferred to headings providing a more general description".

6. We have further gone through the sub-heading level details of Tariff Heading 9401 and 8607. The Scheme of Classification of Services, published by the GST Council provides the below sub-heading level details of the Tariff Heading 9401 and 8607:

9401	SEATS (OTHER THAN THOSE OF HEADING 9402), WHETHER OR NOT CONVERTIBLE INTO BEDS, AND PARTS THEREOF
94011000	Seats of a kind used for aircraft
94012000	Seats of a kind used for motor vehicles
94013000	Swivel seats and variable height adjustment
94014000	Seats other than garden seats or camping convertible into beds
	Seats of cane, osier, bamboo or similar materials
94015200	Of bamboo
94015300	Of rattan
94015900	Other
94016100	Upholstered
94016900	Other
	Other seats, with metal frames
94017100	Upholstered
94017900	Other
94018000	Other seats
94019000	Parts

8607	PARTS OF RAILWAY OR TRAMWAY LOCOMOTIVES OR ROLLING-STOCK – [such as Bogies, bissel-bogies, axles and wheels, and parts thereof]:
	Bogies, bissel-bogies, axles and wheels and parts thereof :
86071100	Driving bogies and bissel-bogies
86071200	Other bogies and bissel-bogies
860719	Other including parts
86071910	Axles, wheels for coaches, van and wagons
86071920	Axles and wheels for locomotives

86071930	Axle boxes (lubricating or grease box)
86071990	Other parts of axles and wheels
	Brakes and parts thereof :
86072100	Air brakes and parts thereof
86072900	Other
860730	Hooks and other coupling devices, buffers and parts thereof
86073010	Buffers and coupling devices
86073090	Other
	Other
86079100	Of locomotives
860799	Other
86079910	Parts of coach work of railway running stock
86079920	Parts of tramway, locomotives and running
86079930	Hydraulic shock absorbers for railway bogies
86079990	Other

Further, Chapter Note 2 of Chapter 86 of the Indian Customs Tariff states as under:

"2. Heading 8607 applies, inter alia, to:

- (a) axles, wheels, wheel sets (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;
- (e) coach work."

Thus, in view of the above Chapter Note, it is clear that the product 'Seats' is not covered under Chapter 86.

7. Central Board of Excise & Customs has also vide Circular No. 15/90-CX.1 dated 07.05.1990 issued from F.No. 13/2/90-CX.1, has clarified that seats used in Railway Coaches are correctly classifiable under heading 9401. The applicant prior to GST regime were also classifying their product 'Seats for Railway Coaches' under Heading 9401 and clearing the same to M/s Railway Coach Factory.

8. Further, the Heading 9401 "**Seats (Other Than those of Heading 9402), Whether or Not Convertible Into Beds, And Parts Thereof**" is exhaustive. Hence, Seats even if they are meant to be fitted in railways coaches, would be covered under this heading. The entries of the tariff items of the heading reflect the same rationales. The seats for Aircraft (94011000), seats for motor vehicles (84011200)

are also covered by this heading. Therefore, the product 'Seats for Railway Coaches' would be covered in this heading only under 94018000.

9. In view of the foregoing, we rule as under: -

RULING

The product 'Seats for Railway Coaches' manufactured by M/s Sulej Coach Products Pvt Ltd. for M/s Rail Coach Factory fall under Heading 9401 and attract GST at 18%.

9. *N. Bhinder*
Navdeep Bhinder
Member, SGST *27/8/2019*

P. Garg *27/8/19*
Parul Garg
Member, CGST

Through Registered Post

To PB/AAR/19/ *389* Dated: *30/8/2019*

M/s Sulej Coach Products Pvt. Ltd.
6th KM Stone, Village Sangal Sohal, Kapurthala Road,
Jalandhar

Copy to: PB/AAR/19/ *390-95* Dated: *30/8/2019*

1. The Special Secretary, Goods and Service Tax Council, 5th floor, Tower-II, Jeevan Bharti Bldg., Connaught Place, New Delhi w.r.t. F. No. 193/Advance Ruling/ GSTC/2017 dated 01.05.2018.
2. The Chief Commissioner, Central Excise & CGST (CZ), C.R. Building, Sector 17 -C, Chandigarh
3. The Commissioner of State Taxes, Punjab.
4. The Commissioner, CGST, Jalandhar, Camp at GST Bhawan, F-Block, Rishi Nagar, Ludhiana.
5. The Assistant Commissioner of State Taxes, Jalandhar-2
6. The Assistant Commissioner CGST Division-II, Jalandhar C.R. Building, Model Town Road, Jalandhar

Dispatched *28/8/19* *Prab* *30/8/19*