M/s Force Motors Limited, Plot No.3, Sector 1, Pithampur Industrial Estate, Pithampur, Dhar, Madhya Pradesh, 454775 (GSTIN 23AAACB7066L1ZM)

Authority for Advance Ruling — Madhya Pradesh

Order Number 17/2019; Case Number 07/2019; order dated 25/09/2019 (c… Dated **25.09.2019**

Q Questions Before the Authority

- Whether to classify Utility Van under chapter heading 8703 or chapter heading 8704 of the GST Tariff.

F Facts

Force Motors manufactures its own engines, chassis, gearboxes, axles and bodies across its range. The applicant makes utility vans, which are goods-carrying vehicles with seating for up to 6 passengers excluding the driver and a load capacity of about 687 kg to 1942 kg. The applicant says these vans are used for transporting fruits, vegetables, machinery, hotel supplies and household goods, with passenger carriage being incidental. The Authority records that the vans were classified as goods transport vehicles under heading 8704 of the Central Excise Tariff before GST.

H Ruling

Classification of utility vans: heading 8703 or 8704	**Chapter Head 8704 of the GST Tariff**	Applies to utility vehicles predominantly designed for transport of goods and meeting the AIS-053 Category N conditions (up to six seating positions excluding driver, fixed passenger seats, goods weight exceeding passenger weight). The order does not state a rate; GST is chargeable at the rate prevailing at the time of supply.

The Authority held that utility vehicles which are **predominantly designed for transportation of goods** and which conform to the Category N conditions of AIS-053 shall merit classification under **Chapter Head 8704** of the GST Tariff. Such vehicles are liable to GST at the rate applicable at the time of supply. The ruling is stated to be valid subject to section 103(2) until it is declared void under section 104(1).

R Reasoning

The Authority admitted the application under section 97(2)(a) because the question concerns classification of goods. It found from the vehicle specifications that the vans are predominantly designed for carrying cargo, with passenger seating as an added facility. It applied the AIS-053 definitions of Category M and Category N and the three conditions in para 3.2, and held the vans satisfy them. It relied on CCE Pune-1 v. Telco Ltd. (2002 (143) ELT 548, Tri-Mumbai), affirmed by the Supreme Court, holding that incidental passenger use does not override the essential character of a goods vehicle, and on Nicholas D'Souza Garage (2015 (320) ELT 579, Tri-Mumbai), where the Supreme Court dismissed the department's appeal. It also noted the VRDE compliance certificate

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

classifying the van as N1.

P Provisions Relied On

- Section 97(2)(a) of the CGST Act / MPGST Act, 2017
- Section 98(4) of the CGST Act / MPGST Act, 2017
- Section 103(2) of the CGST Act / MPGST Act, 2017
- Section 104(1) of the CGST Act / MPGST Act, 2017
- GST Tariff Chapter 87 and headings 8703 and 8704
- Customs Tariff Act 1975, Chapter 87 (as adopted in the GST Tariff)
- Central Excise Tariff Act 1985, heading 8704 (pre-GST classification referred to in para 7.6)
- Automotive Industry Standard AIS-053, paras 3.2 and 3.2.1 (Category M and Category N definitions and conditions)
- Motor Vehicles Act 1988 and Central Motor Vehicles Rules 1989 (VRDE certification, Category N1)
- CCE Pune-1 v. Telco Ltd., 2002 (143) ELT 548 (Tri-Mumbai), affirmed by the Supreme Court
- Nicholas D'Souza Garage, 2015 (320) ELT 579 (Tri-Mumbai), appeal dismissed by the Supreme Court

! For the Practitioner

This order helps manufacturers and dealers of goods-cum-passenger utility vans with up to six passenger seats, since the Authority treats them as heading 8704 goods vehicles when the design is predominantly for cargo. It settles the heading question for vehicles meeting the AIS-053 Category N tests. It does not decide the GST rate, which the order leaves to the rate in force at the time of supply, and it does not address vehicles where passenger carriage is the predominant design purpose. Its validity is expressly subject to section 103(2) and it stands until declared void under section 104(1).

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> order_ms_force_motors_ltd.pdf

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