M/s Resistoflex Dynamics Pvt. Ltd, B-103, Sector-5, Noida, Uttar Pradesh (GSTN 09AACCR3766P1ZN)

Authority for Advance Ruling — Uttar Pradesh

Order No. 26 dated 20.02.2019 (order number and date as printed on the… Dated **20.02.2019**

Q Questions Before the Authority

- Whether the air-springs imported by the Applicant are classifiable under HSN heading 8607 (parts of coach work of railway running stock) and thus covered under Entry No. 241 of Schedule I of the GST rate notifications?
- If the answer to the first question is affirmative, what is the applicable rate of tax under the GST notifications?
- If the answer to the first question is negative, whether the air-springs imported by the Applicant's competitors are classifiable under HSN heading 8607?
- If the answer to the first question is negative, what is (1) the correct classification of the air-springs imported by the Applicant and (2) the applicable rate of tax under the GST notifications?
- If the answer to the first question is negative, whether the Applicant can also be eligible for classifying imported goods under HSN heading 8607 like its competitors?

F Facts

The Applicant manufactures air-spring assemblies for Indian Railways to RDSO specifications, for fitment between the railway bogie and coach as part of the suspension system. It imports the air-springs (the rubber bellow component) from a foreign manufacturer specified in the approval documents, and places purchase orders on that supplier. The Applicant contends the imported air-springs are parts of railway coach work under heading 8607 and so attract 5% tax under Entry 241.

H Ruling

Q1: Whether imported air-springs classify under HSN 8607 and fall under Entry 241	**No. It will not be appropriate to classify air springs under 8607.**	Based on the goods being rubber air bellows, excluded from Chapter 86 by Section Note 2(a) to Section XVII.
Q1 (answer): first question	**Negative.**	Being negative, the rate question in Q2 was not considered.
Q2: Applicable rate if Q1 is affirmative	**Not answered.**	Q1 was answered in the negative, so Q2 does not arise.
Q3: Whether competitors' air-springs classify under 8607	**Not answered. Held out of purview of section 95(a).**	The Authority relied on the definition of advance ruling in section 95(a), which concerns the Applicant's own supply.

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

Q4: Correct classification of the Applicant's air-springs and rate	**Tariff item 40169590; GST rate 18% (9% CGST + 9% SGST).**	Classification under Chapter 4016 follows the Customs Tariff classification, applied through Notification No. 1/2017-Central Tax (Rate).
Q5: Whether the Applicant can be eligible for 8607 like its competitors	**Not answered. Held out of purview of section 95(a).**	Treated as outside the advance ruling mandate.

The Authority ruled that it is not appropriate to classify the air-springs under heading 8607, so the first question is answered in the negative and the second question does not arise. The goods are most suitably classifiable under tariff item 40169590 and attract GST at 18% (9% CGST + 9% SGST). The questions on competitors' classification and on the Applicant's eligibility to claim 8607 were held to be outside the scope of an advance ruling under section 95(a).

R Reasoning

The Authority accepted that the air-springs are compounded rubber air bellows, and held that heading 8607 cannot apply because Section Note 2(a) to Section XVII excludes articles of vulcanised rubber other than hard rubber (heading 4016) from the expression 'parts and accessories'. Under explanations (iii) and (iv) to Notification No. 1/2017-Central Tax (Rate), tariff classification follows the First Schedule to the Customs Tariff Act, 1975, including Section and Chapter Notes, and the goods are classified under 40169590 in the Customs Tariff. The Authority therefore placed them under Chapter 4016 for GST at 18%. The questions on competitors and on the Applicant's eligibility were treated as outside the scope of section 95(a) because they do not concern the Applicant's own supply.

P Provisions Relied On

- Section 98, CGST Act, 2017 (advance ruling proceedings)
- Section 95(a), CGST Act, 2017 (definition of advance ruling; referring also to section 97(2) and section 100(1))
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, explanation (iii) (tariff item, heading and chapter as in the Custo…
- First Schedule to the Customs Tariff Act, 1975
- Section Note 2(a) to Section XVII of the Customs Tariff (parts and accessories exclude articles of vulcanised rubber other tha…
- Chapter 40 definition of vulcanised rubber and Note 4 to Chapter 40 (as referred to by the Authority)
- HSN heading 8607 and heading 4016 (as considered)
- Tariff item 40169590
- Entry 241, Schedule I of the GST rate notifications (as claimed by the Applicant; not decided)

! For the Practitioner

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This order is useful for practitioners classifying rubber-based railway components such as air-springs, bellows or similar vulcanised rubber articles. It indicates that Chapter 86 coverage is displaced where the goods are vulcanised rubber articles, so reliance on heading 8607 and the 5% rate under Entry 241 is unlikely to succeed for such goods. It does not decide whether other manufacturers' classifications are correct, nor whether a taxpayer may claim the same treatment as competitors, since the Authority declined both questions as outside section 95(a). The order is also an advance ruling binding only on the Applicant and the department for this applicant's supply.

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 -> up_aar_26_20.02.2019_rdpl.pdf

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