Tata Motors Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 93/2018-19/B- 32, Mumbai, dated 22/03/2019 (as printed; t… Dated **22.03.2019**

Q Questions Before the Authority

- Whether the Tata Harrier (5 seats including driver, 1956 cc diesel, length 4598 mm, ground clearance 205 mm unladen and 160 mm laden) is classifiable under Tariff Item 8703 32 91 or 8703 32 99 of the Customs Tariff Act, 1975.
- Under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017, as amended, must a motor vehicle satisfy only the main clause (engine capacity above 1500 cc and popularly known as SUV/UV), or also the Explanation (length above 4000 mm and ground clearance of 170 mm and above)?
- For the 22% cess under Sr. No. 52B, is the ground clearance to be taken in laden or unladen condition?
- Whether the Tata Harrier, with unladen ground clearance of 205 mm and laden ground clearance of 160 mm, falls under Sr. No. 52B.
- Whether GST Compensation Cess at 22% under Sr. No. 52B will apply to the Tata Harrier.
- Whether a vehicle with unladen ground clearance above 170 mm but laden ground clearance below 170 mm is covered under Sr. No. 52B (additional question raised in further submissions).

F Facts

Tata Motors Limited manufactures and sells motor vehicles, chassis and parts, and was launching the Tata Harrier, a 5-seat diesel utility vehicle with a 1956 cc engine. The company sought advance ruling on the HSN classification of the vehicle and on whether it attracts the 22% compensation cess under Sr. No. 52B (SUVs) or the 20% rate under Sr. No. 52A. The dispute centred on whether ground clearance is measured laden or unladen. After filing, the applicant obtained an ARAI certificate giving laden ground clearance as 176 mm for the XE variant and asked that its application be treated as amended accordingly.

H Ruling

Q1.1 HSN classification of Tata Harrier	**Tariff Item 8703 32 91 (motor cars)**	Based on 1956 cc compression-ignition engine and 5-seat capacity; heading 8702 (10 or more persons) excluded.
Q1.2 Whether Sr. No. 52B needs main clause and Explanation both	**Both must be satisfied**	Vehicle must meet the main clause (above 1500 cc, popularly known as SUV/UV) and the Explanation (length above 4000 mm, ground clearance 170 mm and above).
Q1.3 Ground clearance basis for 22% cess	**Unladen condition**	Laden clearance rejected because it varies with passenger and luggage weight.
Q1.4 Harrier at 205 mm unladen / 160 mm laden falls under Sr. No. 52B	**Yes**	Decided on unladen figure of 205 mm; the 160 mm laden figure is not determinative.

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

Q1.5 22% GST compensation cess applies to Tata Harrier	**Yes, 22%**	Applies under Sr. No. 52B of Notification 1/2017-Compensation Cess (Rate), as amended.
Q1.6 Unladen above 170 mm but laden below 170 mm	**Covered only if unladen ground clearance is 170 mm or above**	The order makes the unladen figure the test; the laden figure is irrelevant.

The authority held that the Tata Harrier is classifiable under 8703 32 91 as motor cars. It held that a vehicle must satisfy both the main clause and the Explanation of Sr. No. 52B to attract the 22% cess, and that ground clearance must be measured in **unladen condition** . On those tests, the Tata Harrier (205 mm unladen) falls under Sr. No. 52B and attracts the 22% cess.

R Reasoning

The authority treated the 1956 cc diesel five-seater as a motor car under heading 8703 and so under 8703 32 91. On Sr. No. 52B, it read the main clause and the Explanation together, so both must be met. It reasoned that ground clearance is a fixed, vehicle-level measure and so must be taken unladen, since laden clearance varies with occupants and luggage. It accepted the marketing material and website describing the Harrier as an SUV in satisfying the 'popularly known as' limb. The ARAI laden figure of 176 mm was held not to change the analysis. The order relies on the Customs Tariff Act, 1975 (Tariff Item 8703 32 91), the GST Tariff heading 8703, and Sr. No. 52A and 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017, as amended.

P Provisions Relied On

- Customs Tariff Act, 1975, Tariff Item 8703 32 91 and 8703 32 99 (First Schedule)
- GST Tariff heading 8703 and heading 8702 (as referred to in the order)
- Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017, as amended, Sr. No. 52A (20%) and Sr. No. 52B (22%…
- Section 97 and Section 98 of the CGST Act, 2017 and MGST Act, 2017
- IS-9435 (referred to in the applicant's ARAI certificate context)

! For the Practitioner

This order is useful for any SUV-type vehicle whose cess treatment turns on the Sr. No. 52B Explanation. It confirms that both the main clause and the Explanation must be satisfied and that ground clearance is read unladen. The order number in the listing (104/2018-19) differs from the document (93/2018-19); 104 is the application number, so the citation should be checked against the signed order. The order is an advance ruling binding only on the applicant and does not decide the position for other vehicles or for the 'popularly known as' test generally. The authority also noted an appeal lies to the Maharashtra Appellate Authority for Advance Ruling.

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 -> ara_order_104_2018_maharashtra_tata_motors_limited.pdf

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