

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 1st floor, B-Wing, Mazgaon, Mumbai - 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

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

GSTIN Number, if any/ User-id		27AAAF10796B1ZN
Legal Name of Applicant		IMPERIAL MOTOR STORES
Registered Address/Address provided while obtaining user id		431 Sanghrajka House 4th Floor Dr.D.B.Marg, Opera House, Maharashtra Mumbai - 400 004
Details of application		GST-ARA, Application No. 124 Dated 25.02.2019
Concerned officer		Dy. Commissioner of S.T.(E-812), Nodal -2, Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Wholesale Business
B	Description (in brief)	<p>We are Distributors of Veethree Range of Automotive Dashboard Instruments, Clusters & sensors manufactured by M/s Indication Instruments Ltd., Plot 19, Sector 6, Faridabad-121006 (Haryana). Veethree Dashboard Instruments are mounted on front end of Cars, Trucks, Tractors, Two Wheelers, Three wheelers Compressors etc. as also Stationary Engines.</p> <p>Some Instruments are individually made and supplied to buyers by Indication Instruments Ltd. Also, Indication Instruments Ltd. makes Clusters in which such instruments (basic movements) are clustered together with added features such as Warning Indicators etc. and are empanelled and supplied accordingly to our buyers for mounting as it as on front end of the vehicle/Chassis.</p> <p>Indication Instruments Ltd, have been treating supply of individual instruments covered under CH. 90 under appropriate sub heading and charging IGST or CGST/SGST as applicable @ 18% and supply of clusters under HSN 8.708 @ 29% GST Tax Rate.</p> <p>However, our Competitors are charging CGST/SGST or IGST @ 18% treating supply of clusters as covered. Under HSN 9026/9029.</p> <p>We have to request you to kindly provide us a ruling as to whether clusters are to be treated as covered under CH... 90 under new classification.</p>
Issue/s on which advance ruling required		(i) Classification of any goods or services or both
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 “respectively] by M/s. IMPERIAL MOTOR STORES, the applicant, seeking an advance ruling in respect of the following question.

1. Classification of Instruments Cluster Whether Fall Under 8708 or 9026/9029.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any 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, the expression ‘GST Act’ would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

1. The submissions, as reproduced verbatim, could be seen thus-

“We are Distributors of Veethree Range of Automotive Dashboard Instruments, Clusters & sensors manufactured by: M/s Indication Instruments Ltd., Plot 19, Sector 6, Faridabad - 121 006 (Haryana). Veethree Dashboard. Instruments are mounted on front end of Cars, Trucks, Tractors, TWO Wheelers, Three Wheelers Compressors etc, as also Stationary Engines.

Some Instruments are individually made & supplied to buyers by Indication Instruments Ltd. Also, Indication Instruments Ltd, makes Clusters in which such instruments (basic movements) are clustered: together with added features such as Warning Indicators etc. & are empanelled & supplied accordingly to our buyers for mounting as it as on front end of the Vehicle/Chassis.

Photographs of both individual type Instruments and Clusters, enclosed (Annexure- A).

Indication Instruments Ltd have been treating supply of individual instruments covered under Ch. 90 under appropriate sub heading and charging IGST or CGST/SGST as applicable @ 18%.

But following Supreme Court judgement in 2015 (321) E.L.T.A 130 (SC) & are charging supply of Clusters under HSN 8708 @ 28% GST Tax Rate (copy of their invoice is enclosed. (Annexure- B), relevant portion of the said judgment is given herein below:

IT 17

"Cluster sets comprising of Speedometer, Temp. Gauge, Fuel Gauge, Oil Gauge & Warning Lights are classifiable as parts of Motor Vehicles under heading 8708 of Central Excise Tariff Act, 1985 - Commissioner V/s Premier Instruments and Controls Ltd. - 2004 (174) E.L.T 49 (Tri-Chennai)". This order was maintained by Supreme Court vide their decision reported in 2015 (321) E.L.T.A 130. (S.C).

However, our Competitors are charging CGST/SGST or IGST @ 18% treating supply of clusters as covered under HSN 9026/9029 (copies of some such invoices are enclosed for your look up please). (Annexure- c(i) & C(ii)).

We have to request you to kindly provide us a ruling as to whether Clusters are to be treated as covered under Ch. 90 under new classification.

We are following the honorable supreme court Judgment in the matter of Premier Instruments & Controls Ltd. 2015(321) E.L.T.A130(S.C) (Annexure-D) “

3. CONTENTION – AS PER THE CONCERNED OFFICER

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

“M/s Imperial Motor Stores supply the clusters sets comprising speedometer, temperature gauge, fuel gauge, oil gauge & warning lights.

Brief information of cluster product is reproduced as below

Instruments clusters are a combination of instrumentation including Speedometer, Tachometer, Odometer, Fuel Gauge, Temp. Gauges, Buzzers & Clock Display etc. With the increased complexity of vehicle electronics, greater functionality requires status information to be displayed to the driver. The instrument cluster is the primary data source for the driver, delivering information about vehicle and engine status .Cluster instruments of vehicle generally have following components

- Speedometer-Mechanical Drive Straight or Angular
- Fuel Gauge-Cross-coil Movement
- Pointer-Solid type
- Illumination And Warning Indicators-Lamps.
- Temperature Gauge
- Clock (12hr - 24hr)
- Distance to empty
- Battery Voltage - Level Indicator
- Service or Maintenance Indication
- Mean And Maximum Speed
- Fuel Consumption (average -instantaneous)
- Pointer And Illumination-Self-illuminated type
- Warning Indicators-LEDS

M/s Imperial Motor Stores stated that the some of the vendors or competitor are supplying cluster @ 18% treating supply of cluster as covered under excise Tariff 9026 or 9029 & some of them are supplying @ 28% treating supply of cluster as covered under Excise Tariff 8708. Excise heading & subheading details of 8708, 9026 & 9029 are elaborated as below.

Tariff Item	Description of goods
8708	PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF HEADINGS 8701 TO 8705
Tariff Item	Description of goods
9026	INSTRUMENTS AND APPARATUS FOR MEASURING OR CHECKING THE FLOW, LEVEL, PRESSURE OR OTHER VARIABLES OF LIQUIDS OR GASES (FOR EXAMPLE, FLOW METERS, LEVEL GAUGES, MANOMETERS, HEAT METERS), EXCLUDING INSTRUMENTS AND APPARATUS OF HEADING 9014, 90.15, 9028 OR 9032
9026 10	For measuring or checking the flow or level of liquids:
9026 10 10	Flow meters
9026 10 20	Level gauges
9026 10 90	Other

9026 20 00	For measuring or checking pressure
9026 80	Other instruments or apparatus:
9026 80 10	Heat meters
9026 80 90	Other
9026 90 00	Parts and accessories
Tariff Item	Description of goods
9029	REVOLUTION COUNTERS, PRODUCTION COUNTERS,TAXIMETERS, MILEOMETERS, PEDOMETERS AND THE LIKE;SPEED INDICATORS AND TACHOMETERS, OTHER THAN THOSE OF HEADING 9014 OR 9015; STROBOSCOPES
9029 10	Revolution counters, production counters, taximeters, mileometers, pedometers and the like:
9029 10 10	Taximeters
9029 10 90	Other
9029 20	Speed indicators and tachometers; stroboscopes:
9029 20 10	Tachometers, non-electrical
9029 20 20	Speedometers, non-electrical
9029 20 30	Stroboscopes
9029 20 90	Other
9029 90 00	Parts and accessories

As per submission of M/s Imperial Motor Stores, it clearly indicates that the person supplying the cluster of vehicles. He is not supplying the separate component of cluster (Such as taximeter, flow meter, level gauge, heat meter, speedometer etc.)

If person supply the individual taximeter, flow meter, level gauge, heat meter, speedometer etc separately then those product surely covered under excise tariff either 9029 or 9026.

But M/s Imperial Motor Stores supplying the cluster - combinations of instrumentation including speedometer, Tachometer, Odometer, Fuel Gauge, Temp Gauges and various Tell Tales, Buzzers & Clock Display etc. Those electronic cluster are generally used in the vehicle & mounted on front end of car, truck, tractor, two wheeler, three wheelers.

Section 2(72) of MGST act 2017 define the Manufacture as

"manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly;

Electronic cluster is the distinct product having distinct name, use from its component. It is manufacture by using various component such as Speedometer, Fuel Gauge, Pointer, Illumination And Warning Indicators-lamps, Temperature Gauge, clock (12hr - 24hr), Battery Voltage -Level Indicator, Service or Maintenance Indication, Mean And Maximum Speed, Warning Indicators-LEDs; etc.

It also note that the various component used for manufacturing of the cluster is having different tax rate under GST period. Dealer cannot supply individual component such as speedometer by detaching it from cluster. Cluster is purely a different manufactured product resulted by way of assembling and connecting various component on single electronic platform and which are solely used in vehicles.



Also Hon. Supreme Court given judgment vide their decision in case of Commissioner V/s M/S Premier Instrument and control Ltd -2004(174) ELT 49 (Tri-Chennai) that Cluster sets comprising of speedometer, temp Gauge, Fuel gauge, oil Gauge and warning lights are classifiable as parts of motor vehicles under heading 8708 of central Excise Tariff act 1985.

Hence this office feels that the products sold by M/s Imperial Motor Stores is parts of motor vehicle & same will be covered under excise chapter heading number 8708.

As per schedule rate under GST act, products supplied under excise chapter heading 8708 (Parts and accessories of the motor vehicles of headings 8701 to 8705 (other than specified parts of tractors) liable to tax @ 28 % (CGST-14% & SGST-14%).

The entry is as follows:

Chapter/ Section /Heading	Description of Service	CGST	SGST/UTGST	IGST
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705 (other than specified parts of tractors)	14	14	28

Hence this office feels that Electronic cluster product sold by M/s Imperial Motor Stores will be liable to tax @ 28% under GST act.

4. HEARING

Preliminary hearing in the matter was held on 13.03.2019. Sh. Sunil Bhargav and Ms. Suruchi Shroff, employee, appeared and requested for admission of their application. Jurisdictional Officer Sh. C. R. Doke, Dy. Commr. of S.T. (E-812) Nodal 2, Mumbai, also appeared.

The application was admitted and called for final hearing on 07.06.2019. Ms. Suruchi Shroff, employee appeared made oral and written submissions. She was informed that her contention will be considered only if she filed an authority letter. Jurisdictional Officer Sh. C. R. Doke, Dy. Commr of S.T (E-812) Nodal 2, Mumbai appeared & made written submissions. We heard both the sides.

5. OBSERVATIONS

We have gone through the facts of the case, written submission and other documents. The issue put before us is in respect of classification of goods and applicable rate of tax under GST Act which would be on the lines thus –

Applicant, a registered person under GST ACT are engaged in Distribution of Veethree Range of Automotive Dashboard Instruments, Clusters and sensors which are mounted on front end of Cars, Trucks, Tractors, Two Wheelers, Three Wheelers Compressors etc, as also Stationary Engines. We find from the photographs submitted on record that the supply is in the

form of Clusters in which instruments are clustered together with added features such as Warning Indicators & are empanelled for mounting as it is on front end of the Vehicle/Chassis.

We find from the contention of applicant and the submissions made by the jurisdictional officer that "Cluster" consists of Speedometer, Temp. Gauge, Fuel Gauge, Oil Gauge and Warning Lights etc. It is the contention of the applicant that they classified supply of clusters under HSN Code 8708 with applicable rate of GST of 28%, whereas some of the competitors supply impugned goods under HSN 9026/9029 and charging GST at 18%. In order to have a clarity on the classification issue applicant has approached this authority with following questions.

Question :- Classification of Instruments Cluster Whether Fall Under 8708 or 9026/9029.

From a perusal of the submissions of the applicant & the jurisdiction officer, undisputed facts of the present case is that the applicant supply 'clusters' in which several instruments are clustered. Thus, there is no supply of individual instrument. We agree with the contention of the jurisdiction officer that Electronic cluster is the distinct product having distinct name, use from its component. It is manufactured by using various component such as Speedometer, Fuel Gauge, Pointer, Illumination And Warning Indicators-lamps, Temperature Gauge, clock (12hr - 24hr), Battery Voltage Level Indicator, Service or Maintenance Indication, Mean & Maximum Speed, Warning Indicators-LEDs; etc.

'Cluster' is purely a different manufactured product resulted by way of assembling and connecting various component on single electronic platform and which are solely used in vehicles.

This proposition of law as made by the jurisdictional officer gets support from the decision of Hon. Supreme Court which upheld the decision of the Tribunal in case of Commissioner V/s M/s Premier Instrument and Control Ltd – [2004(174) ELT 49 (Tri-Chennai)], that Clusters/sets which did not find place in Chapter 90 and that each set was principally and solely meant for use in motor vehicles. Therefore as held by the Tribunal, Clusters/sets comprising of speedometer, temp Gauge, Fuel gauge, oil Gauge and warning lights are classifiable as parts of motor vehicles under heading 8708.

In this view of the matter we are of the clear opinion that the product sold by *applicant* is parts of motor vehicle. The same will be covered under excise chapter heading number 8708 and is liable to tax @ 28 % (CGST-14% & SGST-14%) as per the entry as below:

Chapter / Section / Heading	Description of Service	CGST	SGST/UTGST	IGST
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705 (other than specified parts of tractors)	14	14	28

5. 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- 124/2018-19/B-

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Mumbai, dt. 10/06/2019

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

Question 1:- Classification of Instruments Cluster Whether Fall Under 8708 or 9026/9029.

Answer :- As per above discussion, we hold that the classification of Instrument Cluster is covered under HSN 8708, as parts of motor vehicles.




B. TIMOTHY
(MEMBER)


B. V. BORHADE
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
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.