



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANUJA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2018-19/51
(In Application No.: 51/2018-19, dated 25.01.2019)

Name & Address of the Applicant	: M/s JSL India Pvt. Ltd., Village Pathredi, Bilaspur-Tauru Road, Gurugram, Haryana
GSTIN of the Applicant	: 06AAFCA5161Q1ZC
Date of Application	: 25.01.2019
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	: Clause(d)- admissibility of input tax credit of tax paid or deemed to have been paid
Date of Personal Hearing	: 22.04.2019
Present for the Applicant	: Sh. Pulak Saha (C.A)

Memo No.: 1031/AAR
Dated: 28/8/2020

1. Brief statements of facts:

1.1 M/s. JSL Lifestyle Limited, Village Pathredi, Bilaspur-Tauru Road, Gurugram, Haryana (hereinafter referred to as 'Applicant') is engaged in manufacture and supply of various parts and components of railway coaches to the Indian Railways. The parts and components include roof assembly, retention tank, toilets, side wall assembly, end-walls, carlines, partition profiles, roof-arch etc. (hereinafter referred as 'Rail Coach Components') which are manufactured according to the specifications and drawings provided by the Indian Railways, which are classified under customs tariff item 8607 99 10 of the First Schedule of the Customs Tariff Act, 1975.

1.2 On 23.07.2018, the Indian Railways floated Tender No. 02182123 for supply of parts of railway coaches. The Applicant filed Bid ID No. 8944629 on 13.11.2018, which was accepted by the Indian Railways vide its letter dated 22.11.2018. Relevant documents of the tender had been enclosed as follows:

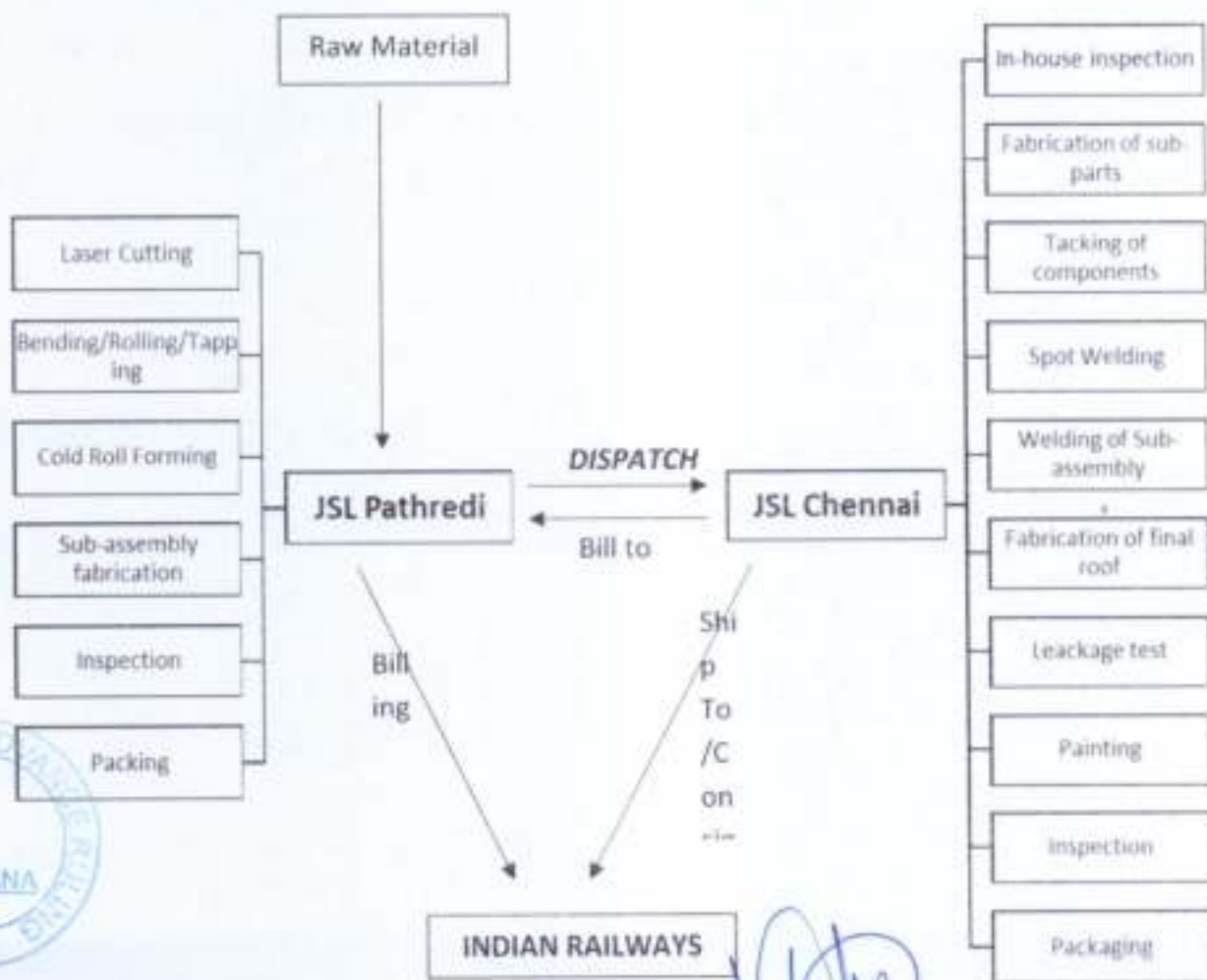
- 1.2.1 A copy of the tender document and acceptance letter;
- 1.2.2 Bill of Material; and
- 1.2.3 Drawings and Specifications.

1.3 As per the tender, the Applicant was required to supply the 'assemblies' (i.e. Roof Assembly, Welding Pin Assembly & End roof Assembly) to the Indian Railways, which were to be manufactured out of 'stainless steel' in coherence with the drawings and specifications provided by the Indian Railways.



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- 1.4 Due to the inconvenience for transportation/ logistics of such "Rail Coach Components" in assembled condition, the Applicant has created a manufacturing facility at Chennai and declared such place as "Additional Place of Business" in their GSTIN 33AAFCA5161Q1ZF in the state of Tamil Nadu.
- 1.5 The rail coach components manufactured at Pathredi would be dispatched in un-assembled condition to Chennai. These un-assembled goods would also be in adherence to the drawings and specifications provided by the Indian Railways.
- 1.6 Upon receipt in Chennai, these goods (in the form of sub-assemblies) would be assembled together to form complete assemblies. In Chennai, the Applicant would only undertake the last-stage processes invoking welding, painting, testing and final inspection of the assemblies. Ultimately, the Chennai unit would deliver the sub-assemblies to the Indian Railways, wherein the goods would be billed to JSL Limited, Pathredi and shipped to the Integral Coach Factory, Chennai.
- 1.7 A pictorial representation of the transaction proposed to be undertaken is provided below:



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2. Issue for Advance Ruling:

2.1 The issue in the present application is in relation to the tariff classification of the goods / sub-assemblies supplied by the Pathredi unit to the Chennai unit, along with the rate of IGST applicable thereupon.

3. Discussion and findings:-

3.1 The applicant have submitted that they are manufacturing parts of railway coaches in Pathredi as per the tender by the Indian Railways and the same is supplied in un-assembled form to its Chennai Unit. These parts would be assembled together by welding/bolting in Chennai and ultimately supplied to the Integral Coach Factory, Chennai therefrom and they have applied for the determination of tariff classification of goods supplied from the Pathredi Unit to Chennai Unit.

3.2 The applicant proposes to manufacture the sub-assemblies in Pathredi which would be dispatched in un-assembled condition to Chennai. These un-assembled sub-assemblies would also be conforming to the drawings and specifications provided by the Indian Railways, each having a unique drawing number. Upon receipt in Chennai, these goods would be assembled together to form complete assemblies i.e. Roof assembly, Roof End assembly etc. In Chennai, the applicant would undertake welding, painting, testing and final inspection of the assemblies.

3.3 Ultimately, the Chennai unit would deliver the assemblies to the Indian Railways, where the goods would be billed to JSL Limited, Pathredi and supplied to the Integral Coach Factory, Chennai. The entire process of assembly in Chennai is being proposed for the sake of convenience of transport and just in time delivery.

3.4 The applicant is supplying their goods i.e. Sub-assembly majorly made of steel to their own unit in Chennai and the parts will be assembled in the unit located in Chennai and would be supplied to the Indian Railways (Billed to M/s. JSL Limited, Pathredi).



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3.5 It has been observed from the GST invoice no. JL1898000594 dated 28.01.2019 that the items mentioned at serial no. 12, 13 i.e Back piece, serial no. 76-79 i.e. RIB and serial no. 81 i.e. Roof arch for GS coaches are parts and sub-parts of sub-assemblies. Thus, it appears that the Pathredi unit has dispatched parts and subparts of the sub-assemblies to the Chennai unit rather than the sub-assemblies.

3.6 From the pictorial representation of the applicant at Para 9 of the application it has also been observed that fabrication of sub-parts and fabrication of final roof will be done at JSL Chennai unit. The dictionary definition of Fabrication is the process of making something from semi-finished or raw materials rather than from ready-made components. In other words, it is the process of **making something** rather than assembling something. Therefore, the process being done at JSL Chennai Unit amounts to work process or manufacturing.

3.7 The applicant in their application have also submitted –

- That, for ease in transit, ***the Applicant will not assemble the sub-assembly in Pathredi. Instead, the parts of sub-assembly would be dispatched to the Chennai unit,*** where the processes of welding of parts would be undertaken. Thus, it is safe to conclude that the Pathredi unit would be manufacturing the sub-assemblies, which would be sent to the Chennai unit in un-assembled condition for final welding, using other components made of steel, rubber, plastic, etc, if required. (Para 30 (iv));
- That, ***in Chennai, these sub-assemblies may either be assembled as such or by adding certain components which may be procured from other suppliers.*** Once all components and sub-assemblies have been assembled, the Chennai unit would undertake the final processes such as **painting, inspection and testing**, after which the railway coach components would ultimately be delivered to the Integral Coach Factory, Indian Railways located in Chennai itself. (Para 25);



3.8 From the above it is clear that, the parts which will be assembled in Chennai Unit are being assembled **by adding some other components procured from other suppliers** and in Chennai the applicant would undertake the process

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involving In-house inspection, Fabrication, welding, painting, leakage testing and final inspection of the assemblies and this process appears to be major process of manufacturing and after that the Coaches will be supplied to Indian Railways. Here in Chennai, assembly operation as well as addition of components is being done to prepare the parent assembly.

3.9 Now, it is pertinent to discuss the General Rules for The Interpretation of The Harmonized System as per WCO to reach the classification of the goods supplied from the Pathredi Unit to Chennai Unit of the applicant. The relevant portions of General Rules for The Interpretation of The Harmonized System is reproduced below :

3.9.1 General Rules for the Interpretation of the Harmonized System:

Classification of goods in the nomenclature shall be governed by the following principles:

RULE 1

The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.

EXPLANATORY NOTE

(I) *The Nomenclature sets out in systematic form the goods handled in international trade. It groups these goods in Sections, Chapters and sub-Chapters which have been given titles indicating as concisely as possible the categories or types of goods they cover. In many cases, however, the variety and number of goods classified in a Section or Chapter are such that it is impossible to cover them all or to cite them specifically in the titles.*

(II) *Rule 1 begins therefore by establishing that the titles are provided "for ease of reference only". They accordingly have no legal bearing on classification.*

(III) *The second part of this Rule provides that classification shall be determined :*

(a) according to the terms of the headings and any relative Section or Chapter Notes, and

*(b) where appropriate, **provided the headings or Notes do not otherwise require, according to the provisions of Rules 2, 3, 4, and 5.***



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(IV) Provision (III) (a) is self-evident, and many goods are classified in the Nomenclature without recourse to any further consideration of the Interpretative Rules (e.g., live horses (heading 01.01), pharmaceutical goods specified in Note 4 to Chapter 30 (heading 30.06)).

(V) In provision (III) (b):

(a) The expression "provided such headings or Notes do not otherwise require" is intended to make it quite clear that the terms of the headings and any relative Section or Chapter Notes are paramount, i.e., they are the first consideration in determining classification. For example, in Chapter 31, the Notes provide that certain headings relate **only** to particular goods. Consequently those headings cannot be extended to include goods which otherwise might fall there by reason of the operation of Rule 2 (b).

(b) The reference to Rule 2 in the expression "according to the provisions of Rules 2, 3, 4 and 5" means that :

- (1) goods presented incomplete or unfinished (e.g., a bicycle without saddle and tyres), and
- (2) goods presented unassembled or disassembled (e.g., a bicycle, unassembled or disassembled, all components being presented together) whose components could individually be classified in their own right (e.g., tyres, inner tubes) or as "parts" of those goods, are to be classified as if they were those goods in a complete or finished state, **provided the terms of Rule 2 (a) are satisfied and the headings or Notes do not otherwise require.**

RULE 2

(a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that Article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.



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3.9.2 The explanatory notes to Rule 2(a) for Incomplete or unfinished articles & for Articles presented unassembled or disassembled is under:

RULE 2 (a)

(Incomplete or unfinished articles)

(I) *The first part of Rule 2 (a) extends the scope of any heading which refers to a particular article to cover not only the complete article but also that article incomplete or unfinished, provided that, as presented, it has the essential character of the complete or finished article.*

(II) *The provisions of this Rule also apply to blanks unless these are specified in a particular heading. The term "blank" means an article, not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used, other than in exceptional cases, for completion into the finished article or part (e.g., bottle preforms of plastics being intermediate products having tubular shape, with one closed end and one open end threaded to secure a screw type closure, the portion below the threaded end being intended to be expanded to a desired size and shape).*

Semi-manufactures not yet having the essential shape of the finished articles (such as is generally the case with bars, discs, tubes, etc.) are not regarded as "blanks".

(III) *In view of the scope of the headings of Sections I to VI, this part of the Rules does not normally apply to goods of these Sections.*

(IV) *Several cases covered by the Rule are cited in the General Explanatory Notes to Sections or Chapters (e.g., Section XVI, and Chapters 61, 62, 86, 87 and 90).*

RULE 2 (a)

(Articles presented unassembled or disassembled)

(V) *The second part of Rule 2 (a) provides that complete or finished articles presented unassembled or disassembled are to be classified in the same heading as the assembled article. When goods are so presented, it is usually for reasons such as requirements or convenience of packing, handling or transport.*

(VI) *This Rule also applies to incomplete or unfinished articles presented unassembled or disassembled provided that they are to be treated as complete or finished articles by virtue of the first part of this Rule.*



3.10 From the explanatory note VII mentioned above, it is clear that complete or finished articles presented **unassembled or disassembled** are to be classified in

the same heading as the assembled article only if there is assembly operation is involved. But in the present case **assembly operation as well as addition of components** is being done to prepare the parent assembly and thereafter being supplied to Indian Railways. Therefore, the goods supplied from Pathredi Unit to Chennai Unit cannot be classified in the same heading as the assembled article is classified.

3.11 Further, as per para 4 of the Circular No. 30/4/2018-GST dated 25.01.2018 issued by CBIC, it has been clarified that:

Only the goods classified under Chapter 86 supplied to the Railways attract 5% GST rate with no refund of unutilized input tax credit and that

Other goods (falling in any other chapter) would attract the general applicable rates to such goods, even if supplied to railways.

3.12 In view of the above, it is clear that the goods which would be supplied from the unit at Pathredi to the unit situated in Chennai cannot be classified under chapter 86; hence, they would attract the general applicable rate of duties as per the classification of each item in their respective chapters.


4. **Ruling:**

So, in light of the above discussion and findings, the Ruling of the Authority on the question raised in the application is as under:

4.1 The goods which would be supplied from the unit at Pathredi to the unit situated in Chennai cannot be classified under chapter 86 and hence, they would attract the general applicable rate of duties as per the classification of each item in their respective chapters.

Ordered accordingly.
To be communicated.

24.04.2019
Panchkula.


(Sangeeta Karmakar)
Member CGST



(Madhubala)
Member SGST

Regd. AD/Speed Post

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Copy to:

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o/c 2. Deputy Excise and Taxation Commissioner (ST), Gurugram.