

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow-**

ADVANCE RULING NO. UP ADRG 75/2021

Dated 19-03-2021

PRESENT:

1. Shri Abhishek Chauhan

Additional Commissioner, Central Goods and Service Tax

Audit Commissionerate, Lucknow Member (Central Tax)

2. Shri Dinesh Kumar Verma

Joint Commissioner, State Goods and Service Tax Member (State Tax)

1.	Name of the Applicant	M/s Prag Polymers B-1 & A-40/41, Talkatora Industrial Estate, Lucknow-226011
2.	GSTIN or User ID	09AAVFP5915G1ZO
3.	Date of filing of Form GST ARA-01	22.12.2020
4.	Represented by	Shri T.K. Srivastava, Advocate/Authorized representative
5.	Jurisdictional Authority-Centre	Range-V, Division-II, Lucknow
6.	Jurisdictional Authority-State	Lucknow Sector-17
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes SBIN20120900294147

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98
(4) OF THE UPGST ACT, 2017**

1. M/s Prag Polymers, B-1 & A-40/41, Talkatora Industrial Estate, Lucknow-226011, UP (here in after referred to as the applicant) is a registered assessee under GST having GSTN: 09AAVFP5915G1ZO.
2. The applicant is engaged in manufacture and supply of Railway Locomotive parts and Coach Parts as per Railways Drawings approved by RDSO.
3. The applicant has sought advance ruling on following question as per Form GST ARA-01 -
Classification of Coach Work like Switch Board Cabinet for Railway Coaches and Locomotives
4. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

5. The applicant vide letter dated 18.12.2020 have submitted that-

(i) they are intending to supply Switch Board Cabinet for Railway Coaches and Locomotives consisting of all the power/control switchgear for coach lighting, air conditioning, Pantry, Pump Control, Sanitary system and Public address system of Railways.

(ii) The product is to be manufactured strictly as mandated by Railways and according to the approved QAP and drawings to RDSO specification no. RDSO/PE/SPEC/AC/0184-2015 (Rev.0).

(iii) the products are not commercially viable for sales elsewhere as they are specifically designed for Railway Coaches/Locomotives.

(iv) in their opinion, Switch Board Cabinet unit for fitment on Coaches/Locomotives and supplied to railway is to be classified under Heading 8607 of the C.Ex. Tariff/GST Tariff.

(v) in the case of M/s Tool & Gage Co., A-6, Talkatora Industrial Estate, Lucknow, Advance Ruling Authority vide Order No. 44 dated 11.11.2019 has held that classification of the seats and berth, manufactured as per the specific design and layout provided by the Railways and supplied to Railways only and no-where else falls under Chapter 86.07 of the GT Tariff.

(vi) in the case of M/s G S Products, F-1(A), 1st & 2nd Floor, Talkatora Industrial Estate Lucknow, Advance Ruling Authority vide Order No. 31 dated 03.06.2016 has held that classification of the Filter Elements & Air Filter Assembly mentioned in application as parts for Diesel Electric Locomotives for Railways, manufactured as per RDSO specifications and design will be under Tariff Heading 8607

6. The applicant has also requested about the correct rate of GST Tax on the said products, supplied exclusively for use on Railway Rolling Stock vide letter dated 18.12.2020.

7. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter. The Assistant Commissioner, CGST & Central Excise Division-Lucknow II, Lucknow vide his F.No. GEXCOM/TECH/MISC/432/2021-TECH-CGST-DIV-II-LKO-COMMRTE-LUCKNOW47896/2021 dated 05.02.2021 has opined that the Chapter sub heading 8607 is the correct classification for "Switch Board Cabinets" for fitment on Coaches/Locomotives and Rolling stock of Railways.

8. The applicant was granted a personal hearing on 12.03.2021 which was attended by Shri T.K. Srivastava, Authorized representative during which he reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

9. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless a mention is

specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

10. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issue on which advance ruling required-

(1) classification of any goods or services or both;

At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) of the CGST Act 2017. We therefore, admit the application for consideration on merits.

11. We have gone through the submissions made by the applicant and have examined the same. We observe that the applicant has sought advance ruling on the following question-

Classification of Coach Work like Switch Board Cabinet for Railway Coaches and Locomotives.

12. We find that the applicant is registered under the GST Act and intend to supply "Switch Board Cabinet" for Railway Coaches and Locomotive consisting of all the power/control switchgear for coach lighting, air conditioning, pantry, pump control, sanitary system and public address system of Railways for which capability and capacity assessment of the applicant has been done by the RDSO. However, the applicant has not produced any Purchase Order issued by the Railways for supply of Switch Board Cabinet along with application of advance ruling.

13. According to the Customs Tariff Act, 1975, we find that Switch Board Cabinet are classified under HSN 8537. The chapter subheading 8537 cover **Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, incl. those incorporating instruments or apparatus of chapter 90, and numerical control apparatus (excluding switching apparatus for line telephony or line telegraphy).** We find that as per RDSO Specification No. RDSO/PE/SPEC/AC/0814-2015(Rev.0), Switch Board cabinet is equipped with power switchgear, control switchgear, fuses, MPCB, MCB, Relay etc i.e. **two or more apparatus of heading 8535 or 8536.** As such, the product Switch Board cabinet merits classification under HSN 8537.

14. We find that the applicant had arrived HSN 8607 for their product Switch Board Cabinet. There is entry heading **HSN 8607**, with the description – “Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof” and it is covered under Sr. no. 241 of Schedule I of **Notification 1/2017 C.T. (Rate) dt. 28.06.2017**, taxable @ 5% w. e. f. 01.07.2017. This schedule entry was amended by inserting Sr. No. 205 G of **Notification 14/2019 dt. 30.09.2019** in the Schedule II of the Notification No. 1/2017-CT (Rate) dated 28.06.2017 and CGST is leviable @ 6% (Total GST 12%).

15. We find that Chapter 8607 of the Customs Tariff cover Parts of Railway or Tramway Locomotives or Rolling Stock. We find that, the classification of goods under Chapter Heading 8607 does not include ‘Switch Board Cabinet’. It only refers to parts of railway such as bogies, bissel-bogies, axles, wheels, brakes, hooks and parts thereof, in a general way; whereas, Chapter Heading 8537 clearly includes ‘**Cabinet**’ for electric control and distribution of electricity. Note 2 (f) to Section XVII (which covers Chapter 86 to 89 of the Customs Tariff) mentions that the expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this Section-

- (a)
- (b)
- (c)
- (d)
- (e)
- (f) electrical machinery and equipment (chapter 85).

16. Further, Note 2 of Chapter 86 mentions that “Heading 8607 applies, inter alia, to : (a) axles, wheels (running gear), metal tyres, hoops, and hubs and other parts of wheels; (b) frames, under frames, bogies and bissel-bogies; (c) axle boxes, brake gear; (d) buffers for rolling stock; hooks and other coupling gear and corridor connections; and (e) coachwork. The product Switch Board Cabinet is not covered in any of the category mentioned in note 2 of Chapter 86. Thus from a reading of Note 2 (f) to Section XVII of the Customs Tariff and Note 2 to Chapter 86 of the Customs, the applicant’s product, ‘Switch Board cabinet’ merit classification under HSN 8537.

17. Further, we find that **Circular No. 30/4/2018-GST dated 25.01.2018** of the Government of India, Ministry of Finance, Department of Revenue (Tax and Research Unit),

New Delhi has issued clarification on classification of supplies made to the Indian Railways classifiable under any chapter, other than Chapter 86. As per the said Circular

- only the goods, classified under Chapter 86, supplied to the railways attract 5% GST rate with no refund of unutilised input tax credit and
- other goods [falling in any other chapter], would attract the general applicable GST rates to such goods, under the aforesaid notifications, **even if supplied to the railways.**

18. Therefore, it is very clear that, all goods supplied to Railways would not qualify for the classification under HSN 8607 and any product other than those covered under Chapter 86, are not to be considered as a parts of railway coaches, even if supplied to the railways. Entry 8607 is very restrictive entry for the purposes of consideration of goods to be classifiable as parts of railway bogies to avail the benefit of reduced rate of taxes.

19. In view of the discussions made above, Switch Board Cabinet, though to be used in Railway coaches, cannot be called as parts of railway bogies under Chapter Headings 8607 of the Tariff, due to the specific HSN available for Switch Board Cabinet and therefore, the Switch Board Cabinet merit classification under HSN 8537.

20. In the case of M/s Rishab Industries, the Authority of Advance Ruling of Maharashtra, vide Advance Ruling No. GST-ARA-34/2019-20/B-04 dated 15.01.2020 has held that **Transformers' supplied to Indian Railways, by the applicant, are covered under HSN '8504' and Sr. No. 375 of Schedule III of the Notification 1/2017 Central Tax (Rate) dated 28.06.2017 and therefore subjected to GST@ 18%.**

21. As per Section 9(1) of the CGST Act, 2017, the levy of tax on the supply of goods or services is “at such rates” as may be notified by the Government on the recommendations of the Council. Accordingly, **Notification No. 1/2017-Central Tax (Rate) dated 28-Jun-2017** has been issued to notify the rates. The opening paragraph of the referred notification provides that the stipulated rate in the given Schedules shall apply on the supply of goods which should not only fall in the given tariff item, sub-heading, heading or Chapter but also meet the specified description. Also, last paragraph of the said notification states that “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean as specified in the First Schedule to the Customs Tariff Act, 1975. The Switch Board Cabinet is covered in the Entry no. 388B of Schedule III of **Notification No. 1/2017 C.T. (Rate) dt. 28.06.2017** and attract GST @18% (CGST 9% & SGST 9%).

22. In view of the above discussions, we, both the members unanimously rule as under;

RULING

Que 1. Classification of Coach Work like Switch Board Cabinet for Railway Coaches and Locomotives

Answer- "Switch Board Cabinet" merits classification under HSN 8537.

23. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.

(Dinesh Kumar Verma)
Member of Authority for Advance
Ruling

(Abhishek Chauhan)
Member of Authority for Advance
Ruling

To,

M/s Prag Polymers,
B-1 & A-40/41,
Talkatora Industrial Estate, Lucknow,
226011

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & C. Ex, 7-A, Ashok Marg, Lucknow, 226001
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division-Lucknow II, 12th Floor, Kendriya Bhawan, Aliganj, Lucknow 226024
5. Through the Additional Commissioner, Gr-I, Commercial Tax, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, VibhutiKhnad, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.