

TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Taxes)

Sri Sahil Inamdar (I.R.S), Additional Commissioner (Central Taxes)

A.R.Com/10/2019

Date:02.09.2023

TSAAR Order No.14/2023

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

- 1.** M/s. Versatile Auto Components Private Limited Plot No.262, TSIIC Industrial Park, Phase 3, Pashamylaram, Patancheru Mandal, Sangareddy, Telangana-502 307 (36AADCV2331F1ZN) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
- 2.** At the outset, it is made clear that the provisions of both the CGST Act and the TGST 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 TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
- 3.** It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.
- 4. BRIEF FACTS OF THE CASE:**
 - 4.1** The applicant M/s. Versatile Auto Components Pvt Ltd is a manufacturer of low speed electric two wheeler (below 250 Watts/0.25 KV) and spares & accessories for the same. The applicant has approached the Advance Ruling Authority for the clarifications mentioned in the questions below. Hence the application.
 - 4.2 Company Background**

M/s. Versatile Auto Components Private Limited " is manufacturers and suppliers of Automobile Accessories. Fabricated from superior quality raw materials & engineered to perfection, our products have gained huge appreciation from our customers for their salient attributes like Corrosion Resistance, Durable, Dimension Accuracy, Protection, and Sturdiness etc.
- 5. QUESTIONS RAISED:**

The applicant would like to get clarification regarding which HSN code does our product fall 1. HSN code 87 - electrically operated vehicles, including two & three wheeled electric vechiles-12% GST (CGST-6, SGST -6%) or (IGST 12%).

 2. HSN code 87031010-electrically operated vehicles, including three wheeled electric motor vehicle.
 3. Electrical & mechanical spare parts of electric vehicle.

6. PERSONAL HEARING:

The Authorized representatives of the unit namely Sri. K.Vamsi, CA & AR, chartered accountant & authorized representative attended the personal hearing held on 20.03.2023. The authorized representatives reiterated their averments in the application. Further, the Authorised Representative/Applicant M/s. Versatile Auto Components Private Limited, Sangareddy, reiterated that their case /Similar Case is not pending in any proceedings in the applicant's case under any of the provision of the Act and have not already decided in any proceedings in the applicant's case under any of the provisions of the Act.

7. DISCUSSION & FINDINGS:

The Notification No. 01/2017 Dt: 28.06.2017 as updated upto 01.05.2022 enumerates electrically operated vehicles in Schedule-I as follows:

S.No	Chapter/Heading/Sub-Heading/Tariff item	Description of Goods
242A	87	Electrically operated vehicles, including two and three wheeled electric vehicles. Explanation .- For the purposes of this entry, "Electrically operated vehicles" means vehicles which are run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include E- bicycles.

Further the Circular No.179/11/2002-GST in f.no. CBIC-190354/172/2002-TRU of Govt. of India Ministry of Finance clarified the rate and HSN code of electric vehicles as follows:

"2.2. The explanation of 'Electrically operated vehicles' in entry 242A of Schedule I of notification No. 1/2017-Central Tax (Rate) reads as: 'Electrically operated vehicles which run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include E-bicycles.'

2.3. As is evident from the explanation above, electrically operated vehicle including three wheeled electric vehicle means vehicle that runs solely on electrical energy derived from an external source or from electrical batteries. Therefore, the fitting of batteries cannot be considered as a concomitant factor for defining a vehicle as an electrically operated electric vehicle.

2.4. It is also pertinent to state that the WCO's HSN Explanatory notes have also not considered batteries to be a component, whose absence changes the essential character of an incomplete, unfinished or unassembled vehicle.

2.5. Also, the HSN explanatory notes for Chapter 87 have clearly stated that Motor Chassis fitted with cabs i.e. the chassis fitted with cabin body falls under 87.02 to 87.04 and not in heading 87.06.

2.6. In view of the above, it is clarified that electrically operated vehicle is to be classified under HSN 8703 even if the battery is not fitted to such vehicle at the time of supply and thereby attract GST at the rate of 5% in terms of entry 242A of Schedule I of notification No. 1/2017Central Tax (Rate)"

In view of the above clarification, all electrically operated vehicles including three wheeled electric vehicles are classified under HSN 8703 for the purpose of taxation under GST.

Further the above entry does not have any reference to electrical and mechanical spare parts of the electrical vehicle. The Hon'ble Supreme Court of India (5 Member constitution bench) in VVS Sugars Vs Government of AP (1999) 114 STC 47 held that 'A taxing statute must be interpreted as


it reads, with no additions and no subtractions on the ground of legislative intent or otherwise'. Therefore it cannot be inferred that parts of electrical vehicles fall under the above HSN code. Hence the goods "Electrical and Mechanical spare parts of electrical vehicles" fall under S.No 453 of Schedule-III of Notification no. 01/2017 dt:28.06.2017 i.e., "Goods which are not specified in Schedule I, II, IV, V or VI" falling in any chapter of HSN.

8. In view of the foregoing, we rule as follows:

The applicant would like to get clarification regarding which HSN code does our product fall

Questions	Ruling
1. HSN code 87 - electrically operated vehicles, including two & three wheeled electric vehicles 12% GST (CGST-6%, SGST -6%) or (IGST 12%)	HSN code 8301 and S.No. 242A of Schedule – I of Notification No. 01/2017 dt:28.06.2017 as amended by notification 12/2019 dt:31.07.2019 with effect from 01.08.2019.
2. HSN code 87031010-electrically operated vehicles, including three wheeled electric motor vehicle.	HSN code 8301 and S.No. 242A of Schedule – I of Notification No. 01/2017 dt:28.06.2017 as amended by notification 12/2019 dt:31.07.2019 with effect from 01.08.2019.
3. Electrical & mechanical spare parts of electric vehicle.	Electrical & mechanical spare parts of electric vehicle are not covered by any description in the Notification No. 01/2017. Therefore they fall under residual entry S.No 453 of Schedule-III of Notification no. 01/2017 dt:28.06.2017 i.e., "Goods which are not specified in Schedule I, II, IV, V or VI" falling in any chapter of HSN.


(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER(STATE TAXES)


(SAHIL INAMDAR)
ADDL. COMMISSIONER(CENTRAL TAXES)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To

M/s. Versatile Auto Components
Private Limited Plot No.262,
TSIIC Industrial Park, Phase 3,
Pashamylaram, Patancheru Mandal, Sangareddy,
Telangana-502 307.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Medchal Commissionerate, III Floor, Medchal GST Bhavan, 11-4649/B, Lakdikapul, Hyderabad – 500 004 Copy to:
3. The Assistant Commissioner (ST), Sangareddy-I Circle